

# Post Election Health Policy

## What Self-Funded Employers Need to Know



### Information and Resource Sheet

If you want to dig deeper on the policy issues we discussed in our webinar, here are resources that can help:

### Federal Issue Resources:

- ✓ Side by Side Comparison of Major Pharmacy Benefit Manager Reform Bills: McDermott+
- ✓ No Surprises Act Compliance Page: DOL EBSA
- ✓ Transparency in Coverage Compliance Page: CMS
- ✓ The Lower Costs More Transparency Act Section by Section
- ✓ The Braun Sanders Healthcare PRICE Transparency Act

## State Issue Quick Takes:



### The PBM Bill

PBM reform is a hot topic in Congress and in statehouses around the country, but the legislation introduced in Wisconsin is primarily intended to address concerns raised by independent pharmacies regarding what they deem as unfair business practices by PBMs (and employer plans by extension).

The bill includes numerous provisions. One provision would prohibit PBMs working with employers, from offering incentives to use mail order. Under the legislation, PBMs would not be able to lower premiums, deductibles, copays or benefits to encourage the use of a specific retail, mail order or other pharmacy provider. The bill also includes “any willing provider” language that would bar PBMs from keeping pharmacies that want to participate out of their networks, assuming they are willing to accept the same payment as other network pharmacies.

The bill also includes the copay accumulator proposal described below, and would clarify that PBMs are fiduciaries.



### Copay Accumulator Legislation

A proposal introduced both as a standalone bill and rolled into the PBM reform bill last session would require PBMs to apply amounts paid by third parties for brand name prescription drugs to any calculation of enrollees’ cost sharing responsibilities including out-of-pocket maximums. The third parties are namely pharmaceutical manufacturers when they offer drug coupons or other pharmaceutical sourced drug-related financial assistance programs. Employers are concerned this would undermine health plan cost sharing requirements and put an end to “copay accumulator” or “copay maximizer” pharmacy benefit designs utilized by some Wisconsin employers and PBMs to manage their drug spend.

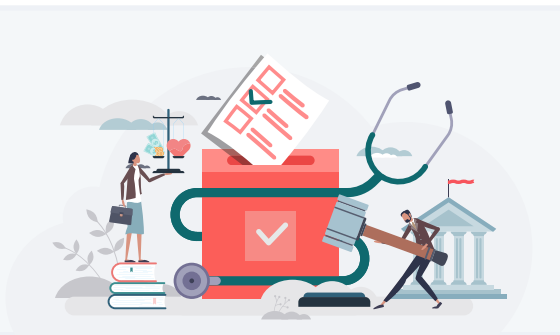
Employers are concerned the proposal removes any incentive for drugmakers to price name brand medications lower, as the coupons can be used to shield consumers from higher priced products. It also undermines deductibles, copays and coinsurance that are important components in a value-based benefit design strategy to steer enrollees toward higher value alternatives.

Learn more at  
the-alliance.org | 800.223.4139 | info@the-alliance.org

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### Ban on White Bagging

White bagging, or alternative sourcing of medications, is when employers work with their preferred pharmacy partners to send an enrollee's clinician administered medication directly to the site of care, when it is both safe and cost effective to do so. This allows employer plans to bypass hospital markups on expensive specialty medications, which according to studies are 200-400% on average and growing when hospitals provide the medications through their own pharmacies.

A proposal introduced during the 2021-22 session would have prohibited health plans, insurance intermediaries, PBMs and affiliated partners from alternative sourcing of clinician administered medications. The legislation expressly requires health plans to authorize, pay or approve a covered drug that is typically administered in a clinical setting in nearly every situation, and prohibit benefit limitations, higher copays or coinsurance, or penalties applicable to clinician administered drugs obtained from hospital pharmacies.

Employers were instrumental in stopping the ban on white bagging from passing during the 2021-22 session, and it was not introduced last session. However, we understand the author of the legislation is interested in bringing it back in 2025-26.



### Prompt Pay Bill

Under current law, section 146.905 of the Wisconsin Statutes prevents Wisconsin healthcare providers from offering to reduce or eliminate copays, coinsurance or deductibles that are required under an insurance policy. Legislation introduced last session would repeal 146.905.

Hospitals have said they are pursuing the legislation so they can offer prompt pay discounts to patients. However, the latest proposal doesn't include any language defining either "prompt" or "discounts" - meaning that providers would be empowered to wipe out all patient cost sharing for services. Employers that have implemented high value plan designs to steer enrollees to high value care have expressed significant concerns about the legislation.



### Healthcare Price Transparency

Legislation introduced last session would codify federal transparency requirements for hospitals into state law. This would give the state of Wisconsin Department of Health Services (DHS) the authority to investigate, audit and enforce transparency requirements at the state level. The Department would also be responsible for issuing a report every biennial session recommending amendments to the bill.

Importantly, the legislation would require hospitals to release a list of prices for 300 shoppable services that could be used by employers to compare prices across hospitals. An alternative proposal that was discussed last session would enable the state's All Payers Claims Database (called WHIO) to create a web-based portal employers could use to compare all-inclusive prices for 300 shoppable services.