DOL FINAL RULE: PHARMACY BENEFIT MANAGER FEE TRANSPARENCY

Executive Summary | October 29, 2026

Bottom line. The Department of Labor final rule requires covered PBMs and PBM-affiliated brokers or consultants to disclose compensation to fiduciaries of large, self-insured ERISA group health plans. It is designed to expose rebates, spread pricing, pharmacy recoupments and other financial incentives, and to provide enforceable rights to examine underlying records. The regulation applies to plan years beginning on or after July 1, 2027. (Final rule, pp. 1–6, 330–350.)

1. Coverage is targeted—not universal

The rule generally covers self-insured ERISA plans sponsored by employers averaging at least 100 employees in the prior calendar year, or qualifying plans averaging at least 100 participants. Fully insured plans and certain plans affiliated with drug manufacturers, distributors, wholesalers, PBMs or rebate aggregators are excluded. Covered providers generally must reasonably expect at least $1,000 in compensation. (pp. 330–332, 347–348.)

2. Advance contract-level disclosures are mandatory

Before a contract is entered, extended or renewed, the PBM must provide written descriptions of services and reasonably expected compensation. For extensions or renewals, disclosure 90 calendar days ahead is explicitly deemed reasonable. Both aggregate and service-level direct compensation are covered, including reasonable allocations for bundled arrangements. (pp. 333–334.)

3. Manufacturer rebates and related remuneration must be itemized

PBMs must identify expected and subsequent actual rebates, fees, alternative discounts and other remuneration from manufacturers, distributors, wholesalers and rebate aggregators—both in aggregate and by formulary drug. Reports must distinguish what is passed to the plan or sponsor from what is retained by the PBM and related entities. (pp. 334, 339–340.)

4. Spread pricing disclosure reaches the individual drug and claim

Initial disclosures must identify the plan charge, pharmacy reimbursement and resulting spread for each formulary drug by National Drug Code, with expected totals by drug and retail, mail-order or specialty channel. Ongoing reports provide claim-level spread figures and aggregate breakdowns. (pp. 335, 340–341.)

5. Pharmacy clawbacks and price-protection payments are exposed

PBMs must disclose copay clawbacks and other retroactive pharmacy reimbursement recoupments, including affected transaction counts. They also must report inflation or price-protection payments and distinguish retained amounts from amounts passed through. (pp. 335–336, 341–342.)

6. Formulary decisions and affiliate steering face greater scrutiny

The rule requires disclosure of formulary-placement incentives, their relationship to plan and participant interests, therapeutically equivalent alternatives omitted where specified manufacturer-related compensation is retained, and arrangements steering patients to PBM-affiliated pharmacies. Certain material formulary changes trigger advance notice and a termination right. (pp. 335, 337–338.)

7. Net drug pricing methodology must be provided

For each formulary drug by National Drug Code and pharmacy channel, the PBM must disclose the plan's net price for a course of treatment or fill after applicable remuneration. If a dollar figure is not ascertainable, it must provide the methodology and an objective way to verify its accuracy. (pp. 338–339.)

8. Actual compensation reporting occurs semiannually—or quarterly on request

Written reports are due no later than 30 calendar days after each six-month period, or each quarter if requested by the plan. If aggregate compensation in a category exceeds estimates by 5% or more (or a lower agreed threshold), the PBM must identify and explain the overage. Machine-readable data must also be provided on request. (pp. 339–345.)

9. Plans receive substantial independent audit rights

At least annually, the plan may select its own auditor without PBM restrictions. PBMs must supply reasonably necessary records, claims and transaction-level data, including relevant pharmacy, manufacturer and rebate-aggregator contracts. Requests must be acknowledged within 10 business days; production generally must occur within 60 calendar days. Plans pay their auditor; PBMs pay to provide the records. (pp. 343–345.)

10. ERISA fiduciary accountability becomes more concrete

Disclosure is a condition of satisfying the ERISA section 408(b)(2) service-arrangement exemption. The rule includes a good-faith error correction provision (generally 30 days after discovery) and a conditional fiduciary exemption requiring a written correction request and, if not remedied, DOL notice and a documented decision about contract continuation. (pp. 346, 348–350.)

Implications for hospital and health-system employers

Hospital systems sponsoring covered self-insured employee plans should inventory PBM contracts and broker affiliations, align renewal calendars with advance-disclosure timing, request quarterly reporting where warranted, secure machine-readable data, and plan independent reviews of rebate retention, specialty-drug economics, spreads and affiliated-pharmacy steering. These steps may strengthen contract negotiation and fiduciary oversight; the rule itself does not mandate reduced drug prices.

Critical distinction from separate 2026 legislation

This final rule primarily mandates fee transparency and audit rights. The Consolidated Appropriations Act, 2026 separately requires specified manufacturer-related rebates and remuneration to be passed through beginning with plan years on or after August 3, 2028, and establishes additional retrospective PBM reporting requirements on that later schedule. These obligations should not be described as taking effect under this DOL regulation in July 2027. (Final rule, p. 5.)

Source: U.S. Department of Labor, Employee Benefits Security Administration, "Improving Transparency into Pharmacy Benefit Manager Fee Disclosure," final rule, RIN 1210-AB37, uploaded pre-publication version, 350 pages. Page references refer to that version; Federal Register publication controls if minor technical differences arise.