

SB 547-FN - AS INTRODUCED

2026 SESSION

26-2130

05/09

SENATE BILL **547-FN**

AN ACT relative to regulation and transparency of pharmacy benefit manager practices.

SPONSORS: Sen. Rosenwald, Dist 13; Sen. Rochefort, Dist 1; Sen. McGough, Dist 11; Sen. Fenton, Dist 10; Sen. Watters, Dist 4; Sen. Altschiller, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Miles, Hills. 12; Rep. Nagel, Belk. 6; Rep. Weber, Ches. 5; Rep. Burroughs, Carr. 2; Rep. M. Pearson, Rock. 34

COMMITTEE: Health and Human Services

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ANALYSIS

This bill amends the definitions of pharmacy benefit manager and rebate and adds additional terms governing pharmacy benefit manager business practices. The bill states that pharmacy benefit managers have a fiduciary duty to the health carrier client and are prohibited from retaining any portion of spread pricing.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty-Six*

AN ACT relative to regulation and transparency of pharmacy benefit manager practices.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Findings. The general court finds better regulation of the pharmaceutical market to be in the  
2 public interest for the following reasons:

3 I. Prescription drug costs are a major driver of health care spending in New Hampshire,  
4 accounting for 23 percent of total health care expenditures in commercial insurance;

5 II. There is a lack of meaningful competition, with the top 3 largest pharmacy benefit  
6 managers (PBMs) managing 80 percent of prescription drug claims;

7 III. In the aggregate, the big 3 PBMs generate significant income on certain generic drugs  
8 from spread pricing, billing plan sponsor clients more than they reimburse pharmacies for drugs;

9 IV. Highly concentrated and vertically integrated PBM-insurer-pharmacy entities have the  
10 ability and incentive to offer preferential treatment to their affiliated businesses, which may  
11 disadvantage unaffiliated and independent New Hampshire pharmacies and increase prescription  
12 drug costs;

13 V. While the prescription drug supply chain has competitive elements, the lack of visibility  
14 into pricing structures, negotiations, and distribution channels prevents a full understanding of how  
15 well those market forces operate in New Hampshire;

16 VI. Increased transparency is an essential prerequisite for ensuring affordability, fiscal  
17 discipline, and informed decision-making;

18 VII. Over half of New Hampshire residents are worried about affording their prescription  
19 medications;

20 VIII. More than 25 percent of residents skip doses, cut pills in half, or do not fill  
21 prescriptions at all due to cost concerns.

22 2 Pharmacy Benefit Managers; Definitions. Amend RSA 402-N:1 to read as follows:

23 402-N:1 Definitions.

24 In this chapter:

25 I. ***“Affiliate” of, or “affiliated” with, a specific person or other corporate entity***  
26 ***means a person or other corporate entity that directly, or indirectly through one or more***  
27 ***intermediaries, controls, or is controlled by, or is under common control with, the person or***  
28 ***other corporate entity specified.***

29 ***I-a. “Aggregate retained rebate ratio” means the sum total dollar amount of all***  
30 ***rebates received from a manufacturer or other entity by a pharmacy benefit manager for***  
31 ***prescription drug utilization by covered persons which is not passed on to the pharmacy***

1 *benefit manager's health carrier clients or affiliates divided by the sum total dollar*  
2 *amount of all rebates received from a manufacturer or other entity by a pharmacy benefit*  
3 *manager for prescription drug utilization by covered persons of a pharmacy benefit*  
4 *manager's health carrier clients or affiliates.*

5 *I-a.* "Claims processing services" means the administrative services performed in connection  
6 with the processing and adjudicating of claims relating to pharmacist services that include:

7 (a) Receiving payments for pharmacist services.

8 (b) Making payments to pharmacists or pharmacies for pharmacist services.

9 II. "Commissioner" means the commissioner of the insurance department.

10 *II-b.* "*Cost share/cost sharing*" means the amount paid by a covered person as  
11 *required under the covered person's health benefit plan.*

12 *II-c.* "*Covered person*" means "*covered person*" as defined in RSA 420-J:3.

13 III. "Health carrier" means "health carrier" as defined in RSA 420-J:3, XXIII.

14 IV. "Health benefit plan" means "health benefit plan" as defined in RSA 420-J:3, XIX.

15 *IV-a.* "*Mail order pharmacy*" means a pharmacy whose primary business is to  
16 *receive prescriptions by mail, telefax or through electronic submissions and to dispense*  
17 *medication to covered persons through the use of the United States mail or other common*  
18 *to contract carrier services and that provides any consultation with patients electronically*  
19 *rather than face to face.*

20 *IV-b.* "*Network pharmacy*" means a retail or other licensed pharmacy provider that  
21 *contracts with a pharmacy benefit manager.*

22 V. "Pharmacist" means an individual licensed as a pharmacist by the pharmacy board.

23 VI. "Pharmacist services" means products, goods, and services, or any combination of  
24 products, goods, and services, provided as a part of the practice of pharmacy.

25 VII. "Pharmacy" means the place licensed by the pharmacy board in which drugs, chemicals,  
26 medicines, prescriptions, and poisons are compounded, dispensed, or sold at retail.

27 VIII. ~~(a) "Pharmacy benefits manager" means a person, business, or other entity, including a~~  
28 ~~wholly or partially owned or controlled subsidiary of a pharmacy benefits manager, that, pursuant to~~  
29 ~~a contract with a health carrier, manages the prescription drug coverage provided by the health~~  
30 ~~carrier, including, but not limited to, providing claims processing services for prescription drugs,~~  
31 ~~performing drug utilization review, processing drug prior authorization requests, adjudication of~~  
32 ~~grievances or appeals related to prescription drug coverage, contracting with network pharmacies,~~  
33 ~~and controlling the cost of covered prescription drugs.~~

34 (b) "Pharmacy benefits manager" shall not include any:

35 (1) Health care facility licensed in this state;

36 (2) Health care professional licensed in this state;

1           ~~(3) Consultant who only provides advice as to the selection or performance of a~~  
2 ~~pharmacy benefits manager;~~

3           ~~(4) Service provided to the Centers for Medicare and Medicaid Services; or~~

4           ~~(5) Health insurer licensed in this state if the health insurer or its subsidiary is~~  
5 ~~providing pharmacy benefits management services exclusively to its own insureds.]~~

6           ***"Pharmacy benefit manager" means a person, business, or other corporate entity that,***  
7 ***pursuant to a contract or under an inter-affiliate agreement with a health carrier, a self-***  
8 ***insurance plan, or other third-party payer, either directly or through an intermediary,***  
9 ***manages the prescription drug coverage provided by the health carrier, self-insurance***  
10 ***plan, or other third-party payer including, but not limited to, the processing and payment***  
11 ***of claims for prescription drugs, the performance of drug utilization review, the processing***  
12 ***of drug prior authorization requests, the adjudication of appeals or grievances related to***  
13 ***prescription drug coverage contracting with network pharmacies, and controlling the cost***  
14 ***of covered prescription drugs.***

15           IX. "Rebate" means ~~[a discount or price concession attributable to the utilization of a~~  
16 ~~prescription drug that is paid by the pharmaceutical manufacturer of the drug directly to a~~  
17 ~~pharmacy benefits manager or health carrier after the pharmacy benefits manager or health carrier~~  
18 ~~processes a claim from a pharmacy for a prescription drug manufactured by such pharmaceutical~~  
19 ~~manufacturer. "Rebate" shall not include bona fide service fees, administrative fees, or any other~~  
20 ~~amount which does not qualify as a rebate under this paragraph.]~~ ***all discounts or price***  
21 ***concessions paid by a pharmaceutical manufacturer to a pharmacy benefit manager or***  
22 ***health carrier after the pharmacy benefits manager or health carrier processes a claim***  
23 ***from a pharmacy for a prescription drug manufactured by such pharmaceutical***  
24 ***manufacturer, including discounts and other price concessions that are based on actual or***  
25 ***estimated utilization of a prescription drug. Rebates shall include discounts or price***  
26 ***concessions based on the effectiveness of a drug as in a value-based or performance-based***  
27 ***contract.***

28           X. ***"Retail pharmacy" means a chain pharmacy, a supermarket pharmacy, a mass***  
29 ***merchandiser pharmacy, an independent pharmacy, or a network of independent***  
30 ***pharmacies that is licensed as a pharmacy by the state of New Hampshire and that***  
31 ***dispenses medications to the public.***

32           XI. ***"Spread pricing" means any amount charged or claimed by a pharmacy benefit***  
33 ***manager to a health carrier that is in excess of the amount the pharmacy benefit manager***  
34 ***paid to the pharmacy that filled the prescription.***

35           3 New Section; Pharmacy Benefit Manager Business Practices. Amend RSA 402-N by inserting  
36 after section 4-a the following new section:

37           4-b Pharmacy Benefit Manager Business Practices.

1 I. A pharmacy benefit manager has a fiduciary duty to a health carrier client or affiliate and  
2 shall discharge that duty in accordance with the provisions of state and federal law.

3 II. A pharmacy benefit manager shall perform its duties to health carrier clients or affiliates  
4 with care, skill, prudence, diligence, and professionalism.

5 III. A pharmacy benefit manager shall notify a health carrier client or affiliate in writing of  
6 any activity, policy, or practice of the pharmacy benefit manager that directly or indirectly presents  
7 any conflict of interest with the duties imposed in this section.

8 IV. A pharmacy benefit manager shall not require pharmacy or other provider accreditation  
9 standards or certification requirements inconsistent with, more stringent than, or in addition to  
10 requirements of the New Hampshire board of pharmacy or other state or federal entity.

11 V. A health carrier or pharmacy benefit manager is prohibited from penalizing, requiring, or  
12 providing financial incentives, including variations in premiums, deductibles, copayments, or  
13 coinsurance, to covered persons as incentives to use specific retail, mail order pharmacy, or another  
14 network pharmacy provider that is an affiliate of the pharmacy benefit manager.

15 VI. No pharmacy benefit manager may retain any portion of spread pricing.

16 4 Pharmacy Benefit Manager Reporting. RSA 402-N:6, I is repealed and reenacted to read as  
17 follows:

18 I. Each pharmacy benefit manager shall submit a quarterly report to the commissioner  
19 containing a list of health benefit plans it administered and the rebates it collected from  
20 pharmaceutical manufacturers that were attributable to patient utilization in the state of New  
21 Hampshire during the prior calendar year. This paragraph shall not apply to Medicaid, the  
22 Medicaid Care Management Program, the Ryan White HIV/AIDS Program administered by the  
23 department of health and human services, or self-funded plans such as the state employee health  
24 benefit plan. The report submitted to the commissioner shall include the following information in a  
25 format and with a data dictionary developed and published by the commissioner through bulletin:

26 (a) The aggregate amount spent on pharmaceuticals prior to rebates for all health  
27 carrier clients or affiliates collectively and for each health carrier client or affiliate individually and  
28 further itemized by pharmacy, therapeutic class, and drug or product name;

29 (b) The aggregate number of rebates and total value of all rebates that the pharmacy  
30 benefit manager received from all pharmaceutical manufacturers for all health carrier clients or  
31 affiliates collectively and for each health carrier client or affiliate individually and further itemized  
32 by therapeutic class, and drug or product name;

33 (c) The aggregate administrative fees that the pharmacy benefit manager received from  
34 all manufacturers for all health carrier clients or affiliates collectively and for each health carrier  
35 client or affiliate individually;

36 (d) The aggregate retained rebates that the pharmacy benefit manager received from all  
37 pharmaceutical manufacturers and did not pass through to health carriers; and

1 (e) The aggregate retained rebate ratio for all health carrier clients or affiliates  
2 collectively and for each health carrier client or affiliate individually and further itemized by  
3 pharmacy, therapeutic class, and drug or product name.

4 II. Information reported to the commissioner pursuant to this section shall be confidential  
5 and protected from disclosure under the commissioner's examination authority and shall not be  
6 considered a public record subject to disclosure under RSA 91-A. However, based on this reporting,  
7 the commissioner shall annually publish on the insurance department's website a pharmacy benefit  
8 manager transparency report containing such summary information as is necessary to promote  
9 transparency, support competitive markets, and inform decision-making by state policymakers.  
10 Reports meeting these standards shall not be considered to violate RSA 350-B, the uniform trade  
11 secrets act, even if they provide summary information at the level of individual pharmacy benefit  
12 managers and allow comparisons to be made between pharmacy benefit managers.

13 5 Severability Clause. If any provision of this act or the application of this act to any person or  
14 circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act  
15 which can be given effect without the invalid provision or application, and to this end, the provisions  
16 of the act are declared severable. In addition, in the event of an enactment by the United States  
17 Congress of a law that preempts the operation of any provision of this act, any remaining provisions  
18 of this act that are unaffected by the congressional enactment shall remain in effect.

19 6 Effective Date. This act shall take effect October 1, 2026.

**SB 547-FN- FISCAL NOTE**  
**AS INTRODUCED**

AN ACT relative to regulation and transparency of pharmacy benefit manager practices.

**FISCAL IMPACT:**

<b>Estimated State Impact</b>				
	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>
<b>Revenue</b>	\$0	Indeterminable Increase (not provided by agency)	Indeterminable Increase (not provided by agency)	Indeterminable Increase (not provided by agency)
<i>Revenue Fund(s)</i>	General Fund and Internal Service Fund			
<b>Expenditures*</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source(s)</i>	General Fund, Highway Fund, and Various Agency Funds			
<b>Appropriations*</b>	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

\*Expenditure = Cost of bill

\*Appropriation = Authorized funding to cover cost of bill

<b>Estimated Political Subdivision Impact</b>				
	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>
<b>County Revenue</b>	\$0	\$0	\$0	\$0
<b>County Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Local Revenue</b>	\$0	\$0	\$0	\$0
<b>Local Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable

**METHODOLOGY:**

This bill modifies definitions related to pharmacy benefit managers, establishes new business practice requirements including a fiduciary duty to health carrier clients, prohibits the retention of spread pricing, and repeals and reenacts pharmacy benefit manager reporting requirements to the Insurance Commissioner while expressly exempting the self funded state employee health benefit plan from these reporting requirements.

The Insurance Department states this bill imposes new requirements on health carriers and pharmacy benefit managers. To the extent these requirements increase administrative or contractual costs for carriers, such costs may be passed on to consumers in the form of higher premiums. Increased premiums may result in increased Insurance Premium Tax revenue to the

State. To the extent counties and municipalities purchase health insurance, they could see an increase in their health insurance premiums.

The Department of Administrative Services states this bill may impact the State Employee Health Benefit Plan; however, the fiscal impact is indeterminable. The Department indicates it is not able to compare what the health plan would pay under a fully transparent pricing model required by this bill with the pricing model currently used to purchase pharmacy benefit manager services. While the bill requires increased transparency regarding pharmacy benefit manager pricing and business practices, the total fees paid by the health plan under a future contract could be higher or lower than current costs.

The Department further states it is unable to determine whether the bill restricts the flexibility currently available to the Commissioner of Administrative Services to select the most advantageous pharmacy benefit manager pricing model as the pharmacy benefit manager industry continues to evolve. The potential fiscal impact will depend on future market conditions, contractual terms, collective bargaining agreement provisions, enrollment levels, and prescription drug utilization. The current pharmacy benefit manager contract expires in December 2026, and any new contract would be subject to the bill's provisions.

**AGENCIES CONTACTED:**

Insurance Department and Department of Administrative Services