



PATIENT'S RIGHT TO PHARMACY CHOICE COMMISSION

Insurance Commissioner, Glen Mulready

400 NE 50th Street
Oklahoma City, OK 73105

405.521.2828
oid.ok.gov

Mark Lewandowski, Chair
Jim Consedine, Member
Gregory Huenergardt, Member

Melanie Maxwell, Member, Co-Chair
Rose Thomas-Bendel, Member
Kimberly Baker, Member

PATIENT'S RIGHT TO PHARMACY CHOICE COMMISSION SPECIAL MEETING - MINUTES December 16, 2021

The Pharmacy Choice Commission Committee, established pursuant to the provisions of the Act, held a special session meeting on December 16, 2021 at 10:00 a.m. The meeting was held in person from the offices of the Oklahoma Insurance Department at 400 NE 50th St. Oklahoma City, Oklahoma. In compliance with the Open Meeting Act, 25O.S. 301 et seq. the agenda for this meeting was posted at the main entrance of the Oklahoma Insurance Department at 400 NE 50th St. Oklahoma City, Oklahoma and transmitted to the offices of the Pharmacy Choice Commission members.

The December 2021 Meeting was called to order by Mark Lewandowski, Chairman of the Pharmacy Choice Commission. Other Commission members present were as follows:

Gregory Huenergardt
Rose Thomas-Bendel
Melanie Maxwell
Kimberly M. Baker

In Attendance:

Kelli Price, Oklahoma Insurance Department, PBM Division
Cate Brantley, Oklahoma Insurance Department, PBM Division
Sherry Standerfer, Oklahoma Insurance Department, Legal Division
Ashley Scott, Oklahoma Insurance Department, Executive Division

- I. Call to Order and Commission roll call was made at 10:00 o'clock am.
- II. Correction to last months meeting. The July 15, 2021 Meeting Minutes were approved. September and October 2021 are still in process of being prepared and will be presented to Commission members upon completion.
- III. A discussion occurred regarding the Oklahoma Attorney General's appointment to the Commission. Commissioner Mulready contacted the Attorney General as a follow up. The Attorney General hopes to have new member appointed soon.
- IV. Present Pharmacy Choice Commission members were provided with binders that included PBM related statues and rules as well as the Judicial Code of Conduct.
- V. Kelli Price provided an update regarding Legal referrals. As of the end of November 2021, 32 cases were referred to Legal for enforcement; closed 11 files; closed out several more regarding licensing; and 5 new applications for PBM license were submitted.



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- VI. Kelli Price provided update to the PCMA v. Mulready case in the United States District Court, Western District of Oklahoma. A decision from Judge Jones still has not been issued. However, the Attorney plans to submit a notice to the Judge of a decision from the 8th Circuit Court regarding ERISA and Medicare Part D.
- VII. Minimum fines and Penalties were discussed. The recommendation from the Commission were as follows:

<i>Violation Type</i>	<i>Minimum Fine/Penalty Recommendation</i>
Transaction Fee charged	\$25 minimum plus restitution
MAC Pricing	\$1000 per occurrence
Network/GeoAccess	Tabled
Choice Restriction--Referred to PBM Owned	\$5,000 per occurrence
Choice Restriction--Referred to PBM Owned Specialty Pharmacy	\$10,000 per occurrence
Partial Referral List (Referred to Non-PBM owned)	\$3,000 per occurrence
Network Enrollment/Participation/Credentialing Charge	\$1,000 per occurrence
Consumer Share Differential Mail vs. Retail	\$500 per occurrence
PBM denied preferred contract to pharmacy	\$5,000 per occurrence
Contract Restrictions Against Consumers	\$10,000 per occurrence
PBM--Retro Claim Adjustment	\$1,000 per occurrence
Retail Paid Less than PBM Owned	\$5,000 per occurrence
Late (untimely) response by a PBM to a Complaint	\$10,000 per occurrence & possible revocation
Operating without a License	\$10,000 per day

The Commission has requested that the minimum fine/penalties be placed in writing and voted on in January 2022 meeting.



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VIII. Meetings have been scheduled for 10:00 o'clock am on the third Thursday of each month for 2022 at the office of the Insurance Commissioner, 400 NE 50th Street, Oklahoma City, Oklahoma 73105. The specific dates are as follows:

January 20, 2022
February 17, 2022
March 17, 2022
April 21, 2022
May 19, 2022
June 16, 2022
July 21, 2022
August 18, 2022
September 15, 2022
October 20, 2022
November 17, 2022
December 15, 2022

IX. No questions or comments from Commissioner members, Oklahoma Insurance Department staff or audience members were asked.

X. Meeting was adjourned at 2:30 o'clock pm.


Sherry M. Standerfer
Legal Assistant