



## The State of New Hampshire Insurance Department

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Christopher R. Nicolopoulos  
Commissioner

### Bulletin

Docket No: INS 21-001-AB

To: All entities operating as Pharmacy Benefits Managers  
From: Christopher R. Nicolopoulos, Commissioner *CRN*  
Date: January 4, 2021  
Re: Registration of all Pharmacy Benefits Managers – Clarification of Registration Requirements discussed in INS 19-028-AB

On December 19, 2019, the New Hampshire Insurance Department (Department) issued Bulletin INS 19-028-AB (“Registration of all Pharmacy Benefits Managers”) detailing new requirements established by RSA 402-N. RSA 402-N, effective January 1, 2020, requires all Pharmacy Benefits Managers (PBMs) to register with the Department. The Department is sharing the following questions and answers to better clarify registration and licensure requirements relating to PBMs.

**Q. Is a PBM that conducts utilization review required to obtain a Medical Utilization Review license?**

A. Yes, registering as a PBM does not absolve the PBM of other licensure and registration requirements. If the PBM engages in utilization review as defined in RSA 420-E:1, then the PBM must also obtain medical utilization review license.

**Q. Is a PBM applying for a Medical Utilization Review License required to be accredited by either the Utilization Review Accreditation Commissioner (URAC) or the National Committee for Quality Assurance (NCQA)?**

A. No, although accreditation may be advisable, a PBM is not required to obtain accreditation. However, a PBM performing utilization review is required to adopt “the Utilization Review Accreditation Commission (URAC) standards, the National Committee for Quality Assurance (NCQA) standards, or other similar standards acceptable to the commissioner.” RSA 420-E:3, II. Whether a PBM is accredited is one factor the Department considers when determining whether an applicant meets licensure requirements.

**Q. Is an entity that provides pharmacy benefit management services exclusively in the workers’ compensation industry required to register with the Department as a PBM?**

A. No, an entity that provides these services exclusively in the workers’ compensation industry does not meet the definition of a PBM necessitating registration under RSA 402-N. As defined in RSA 402-N:1, a PBM is a person, business, or other entity that contracts with a health carrier. RSA 402-N provides that “‘health carrier’ means ‘health carrier’ as defined in RSA 420-J:3, XXIII.” In the context of RSA 420-J, a health carrier is an entity that 1) offers a managed care plan in New Hampshire that complies with RSA 420-J; 2) is subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner; and 3) contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services. A workers’ compensation insurer that does not offer a managed care plan in accordance with RSA 420-J would not be a “health carrier” within the meaning of RSA 402-N.

**Q. Is a PBM that provides services exclusively for self-insureds required to register with the Department as a PBM?**

A. No, as defined in RSA 402-N:1, a PBM is a person, business, or other entity that contracts with a health carrier. RSA 402-N provides that “‘health carrier’ means ‘health carrier’ as defined in RSA 420-J:3, XXIII.” In the context of RSA 420-J, a health carrier is an entity that 1) offers a managed care plan in New Hampshire that complies with RSA 420-J; 2) is subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner; and 3) contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

**Q. Is a PBM that provides services exclusively for self-insureds subject to any other registration or licensure requirements with the Department?**

A. Yes, the PBM may still need to obtain other certificates of authority. Although the PBM would not meet the definition of a PBM required to register under RSA 402-N, the PBM may meet the definition of an “administrator” under RSA 402-H:1 requiring a certificate of authority. Similarly, the PBM may also need to obtain a medical utilization review license in accordance with RSA 420-E.