

PHARMACY BENEFIT MANAGER LICENSE

Frequently Asked Questions

PHARMACY BENEFIT MANAGER

What is considered a pharmacy benefit manager (PBM)?

Definition can be found at [KRS 304.9-020](#) or [KRS 304.17A-161](#).

Kentucky defines a PBM as:

"Pharmacy benefit manager" means an entity that, on behalf of a health benefit plan, state agency, insurer, managed care organization providing services under KRS Chapter 304, or other third-party payor:

- (a) Contracts directly or indirectly with pharmacies to provide prescription drugs to individuals;
- (b) Administers a prescription drug benefit;
- (c) Processes or pays pharmacy claims;
- (d) Creates or updates prescription drug formularies;
- (e) Makes or assists in making prior authorization determinations on prescription drugs;
- (f) Administers rebates on prescription drugs; or
- (g) Establishes a pharmacy network.

[KRS 304.17A-161](#) defines "maximum allowable cost" to mean, "the maximum amount that a pharmacy benefit manager will reimburse a pharmacy for the cost of a generic drug and does not include a dispensing or professional fee". The Department recognizes that there are different pricing methodologies for generic drugs including but not limited to MAC pricing. However, the statutory definition is not limited to a specific pricing methodology. Rather, it is broadly defined to reference the reimbursement amount for a generic drug.

Does every PBM require a license?

Yes. Effective January 1, 2017, every PBM must have a license to operate in Kentucky.

What happens if a PBM doing business in Kentucky does not have a Kentucky issued PBM license?

The PBM will not be authorized to operate in Kentucky until proper license is obtained; and is subject to a fine of up to \$10,000 per violation, per [KRS 304.99-020](#) and [KRS 304.99-025](#).

APPLICATION

Where can I find the PBM License Application?

Direct link for the Pharmacy Benefit Manager License Application can be found at the following link: http://insurance.ky.gov/ppc/Documents/DOI_PBMLicenseApplication2020.pdf.

What should accompany the PBM License application?

A fee of one thousand dollars (\$1,000), made payable to the Kentucky State Treasurer, must accompany the **annual** application. The fee may also be paid through your [eServices](#) account. If the application is

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submitted after March 31st an additional penalty fee of five hundred dollars (\$500) should be included. To pay application fees through eServices, a **“Business Entity – License Administrator” account is required. Allow 48 hours after receipt of application to pay these fees under “pay pending fees” from the eServices menu.**

An application is incomplete, (lacking information that has been requested by the Department or information that was not included in the original submission for the year, including any subsequent requests for additional information). If the Department has not received all renewal information by 5/31, the license will expire, with retroactive date of 3/31. There will be a gap in licensure and a fine for doing business with no license during that time.

Please supply all supporting documentation including Provider Agreement templates if any responsibilities are delegated and Pharmacy Agreement templates. Please note that any delegated entities must be Kentucky Licensed prior to the approval of your submitted renewal.

- Documents to support Section 5 of the application also must be submitted with the application. The Department requests that the **PBM Review Guide** - http://insurance.ky.gov/ppc/Documents/DOI_PBMReviewGuide11-2019.pdf - is completed and submitted with all required information needed for licensure to ensure compliance with federal and state requirements. This includes specific policies and details such as proof of financial responsibility.

Where is the completed application including all supporting documentation sent?

Applications and supporting documentation should be sent to Kentucky Department of Insurance, Health & Life Division, Attn: Health Policy Utilization Review Branch, PO Box 517, Frankfort, KY 40602 or it may be submitted via email to is DOI.PharmacyBenefitManager@ky.gov with the PBM License Number included in the Subject Line for identification purposes.

Can the PBM application or policy updates be filed electronically?

Yes, the Department can receive applications and policy updates as pdf attachments through email. If the application attachment is large, it will be necessary to separate it into smaller files in order email. The Department also accepts large applications through MOVEit that is preferable. If your company does not have a MOVEit account, please send an email request to us at DOI.PharmacyBenefitManager@ky.gov when you are ready to send the application in. The MOVEit system will create a temporary account for you and send a “Welcome” email with a temporary password. You will also receive the email that the Department sent, making MOVEit easily accessible to all Commonwealth clients. Temporary accounts are good for 30 days from last login by the user. **Please include a redline version and a clean copy of any policy or procedure updates.**

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An eServices “Business Entity – License Administrator” account is required to pay the application fee. Allow 48 hours after receipt of application to pay these fees under “pay pending fees” from the eServices menu.

GENERAL QUESTIONS

Where can I find out information about PBM licensure in Kentucky?

[Kentucky Department of Insurance \(KDOI\)](#) website or [Agent Licensing page](#) has information. You can find documents related to PBM licensure under the Forms and Documents, including the PBM License Application, PBM Application Guide and PBM Frequently Asked Questions.

Is a Utilization Review (UR) registration number a requirement for PBM licensure? The UR registration number is on the application and my organization does not perform utilization review.

Any PBM that performs Utilization Review (UR) as defined in [KRS 304.17A-600](#) shall be registered as a private review agent in accordance with [KRS 304.17A-607](#). If the PBM does not perform UR services for their clients, then they would not be required to obtain a UR registration. Therefore, the UR registration number field on the application would be not applicable.

Does Section 3 of the PBM License Application require a person (or persons) be listed?

Section 3 of the PBM License Application requires an **individual** licensed administrator to be listed as primary contact responsible for regulatory compliance for the PBM. [KRS 304.9-133](#) requires that one individual licensed administrator be on file at all times. If the individual administrator license expires, there is a 30-day limit for re-licensing of this individual, or listing a new licensed administrator. Therefore, it is prudent to have more than one individual designated as primary contact responsible for regulatory compliance on behalf of the PBM.

Can a business entity be listed in Section 3 of the PBM License Application?

No, a business entity is not permitted to serve as primary contact for regulatory compliance on behalf of the PBM. Section 3 of the PBM License Application requires an individual (or individuals) licensed as administrators to be designated as primary contact(s) responsible for regulatory compliance on behalf of the PBMs.

What happens when we meet all requirements for PBM License?

Once the license is made active, an email message regarding “active” license status will be sent to the business email address listed in Section 1 (Demographic Information) of the PBM License Application. A Kentucky specific identification number (DOI ID) will be issued to the PBM. Please use this DOI ID number with any and all correspondence related to the PBM.

To create a Kentucky eServices account to access all license details, visit this link on our website: <https://insurance.ky.gov/doeservices/UserRole.aspx>.

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Where can the status of a PBM license be found?

The status of the license will be found in the PBM's eServices account under the "reports" section towards the bottom of the page. If you have any issues with the account, please call the helpdesk at 502-782-5238.

Can a paper copy of the PBM license be printed?

Yes. Per industry demand, electronic Services are provided for the licensee's use in eServices. Therefore, an authorized individual acting on behalf of the entity must [access](#) eServices to print the license by clicking on Print License located under the reports section on the eServices Menu.

Authorized individuals, acting on behalf of the entity, may create a new eServices user account by selecting the "Business Entity – Licensing Administrator" account type. These accounts require Information Technology staff to contact the "Approving Officer/Manager" listed in that section. Verification for new user accounts may take up to 3 business days.

Is an Annual Report required?

All pharmacy benefit managers licensed to do business in Kentucky shall transmit at least annually by March 31 to the department a Pharmacy Benefit Manager Annual Report. Please find the Annual Report [here](#). Or, it can be submitted electronically if you have an eServices account. The reporting period will be for January 1st through December 31st of the prior year.

eSERVICES QUESTIONS

Is eServices a secure website?

Yes, eServices is a secure website.

How do I access eServices once a username and password has been obtained?

Click on "eServices" from the menu on the Kentucky Department of Insurance Website - http://insurance.ky.gov/PPC/New_Default.aspx.

An authorized individual acting on behalf of the entity must first [create a new eServices user account](#) - as "Business Entity – Agent Licensing Administrator" account type.

FINANCIAL RESPONSIBILITY PROOF

What is required as 'Proof of Financial Responsibility' with respect to the \$1 million?

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An insurance policy declarations page showing the details of the Errors and Omissions policy, or surety / cash bond will serve as proof. Some insurers have a generic form to provide proof of errors and omissions insurance coverage.

THIRD PARTY ADMINISTRATOR QUESTIONS

Does a PBM that pays claims need a Third Party Administrator (TPA) license in addition to PBM license?

The answer to this question depends on what functions the entity performs. Since KDOI is not aware of every individual function performed by the entity, it is impossible to issue one 'yes' or 'no' answer to this question. However, the standard answer is as follows:

Each entity should review the definition of PBM and make determination that every function the entity performs falls solely under the PBM license. If the entity performs additional functions that fall outside of the definition of PBM, such as work for others, then the entity may fall outside of the PBM license authority, and the administrator license would be required in addition to the PBM License.

Also note: All individuals who will be designated to the PBM license must maintain an active administrator license in Kentucky.

What happens if the only individual PBM's TPA license expires?

There is a 30-day limit for re-licensing of this individual, or listing a new licensed administrator. Failure to maintain a designated individual within this timeline will result in termination of the PBM License, and will require a new application and fee.

How do individuals apply for TPA license?

License application for individual administrators may be completed through www.NIPR.com, or by paper application printed from this link:

<http://insurance.ky.gov/PPC/Documents/8301IndAppForm061920.pdf>. The TPA license fee is \$50, payable to KY State Treasurer.

Kentucky resident applicants must order a criminal background report from the Kentucky Court of Justice website, by **using these specific instructions**:

- Apply for criminal background report online through the KY Administrative Office of the Courts (AOC) at <http://kcoj.kycourts.net/PublicMenu/Default.aspx?header=AOC+FastCheck>. The non-refundable fee payable by credit card or electronic check.
 - Select **Register** to create account. You will receive an email to verify your email address.
 - Select **AOC FastCheck** then **Add a New Batch**.
 - Under Category, select **Licensing**;
 - Under Group, select **Dept. of Insurance (DOI)**;
 - Under Reason, select **Licensing**.
 - Follow the directions to complete your request to ensure the Department of Insurance receives an official copy of your report. **Please note: If you do not follow these specific**

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instructions, the Department of Insurance will not receive the official copy of your background check and you will need to re-apply for a new report correctly. Online requests are processed within two business days of being received.
