Kentucky Department of Insurance

Health Product Review

PBM Provider Agreements Checklist

(Checklist must be submitted with filing – attach as a PDF if filing electronically via SERFF)

Statute/Rule	Description	Yes	No	N/A	Page #
General Requirements					
KRS 304.14-120 806 KAR 14:007 KRS 304.17A-527 806 KAR 17:300	**Filing Requirements** – All provider agreements, subcontract agreements, and risk-sharing arrangement filings must comply with this statute and regulation. **All provider agreements (including PBM agreements), subcontracts, risk-sharing arrangements, and leased network agreements must be filed with the Department in accordance with the statutes and regulations for each legal entity utilizing the contracts/agreements.**				
KRS 304.4-010 806 KAR 4:010(25)(26)(27)	**Filing Fees** – All provider agreements, subcontract agreements, and risk-sharing arrangement filings must submit the appropriate fee as outlined in this statute and regulations.				
Mandated Benefits					
KRS 304.17A-527(1)(a)	**Hold Harmless** – A clause for managed care plans provides that a member is not responsible for payments to a provider under any circumstance, as outlined in this statute.				
KRS 304.17A-270	**Any Willing Provider** – A clause allowing any provider who meets the terms and conditions for participation to become a participating provider in accordance with this statute.				
KRS 304.17A-525(2)	**Soliciting Applications for Provider Participation** – A clause allowing all providers who desire to apply for participation in the plan the opportunity to apply at any time during the year or annually, as applicable.				
KRS 304.17A-527(1)(c)	**Survivorship** – There must be a provision that states the hold harmless and continuity of care shall survive the termination of the agreement.				
KRS 304.17A-728(1)	**Products/Markets Identified** – A provision identifying the products and markets applicable to any discount as provided in the contract.				
KRS 304.17A-726	**Payment of Claims** – Claims must be processed in accordance with this statute.				
KRS 304.17A-527(1)(e)	**Subcontract Agreements** – A clause in the provider agreement that if a provider subcontracts with another provider to provide services, the subcontract must meet all the above provisions and be filed with the Department.				
KRS 304.17A-527(1)(d)	**Fee Schedule Disclosure** – A clause requiring the insurer, upon request, to provide or make available to a participating provider the payment or fee schedule or other information sufficient to enable the provider to determine the manner and amount of payments under the contract prior to final execution or renewal of the contract and provide any change in such schedules at least 90 days prior to effective date of amendment.				
KRS 304.17A-577(2)	**Changes to Fee Schedule** – Any change to payment or fee schedules shall be made available to providers at least 90 days prior to the effective date of the amendment.				

PROVIDER AGREEMENTS (HEALTH BENEFIT PLANS) CHECKLIST (continued)

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KRS 304.17A-235	**Material Change to Agreement** – If an insurer issuing a managed care plan makes a material change to an agreement with a provider, the insurer shall provide at least 90 days written notice of the material change. **In accordance with KRS 304.17A-235(3)(f), if the amendments are incorporated into the agreement the Department would consider it a material change to the agreement which requires the revised agreement be filed with the Department for review (see Filing Requirements statutes and regulations for timeframes) prior to sending to the provider.**				
	Terms and Conditions – Any terms and conditions an insurer requires a provider to meet for participation in the provider network must be filed with the Department for review.				
KRS 304.17A-705(2)	**Pharmacy Benefits Administrator/Manager** – Any contract between an insurer and its pharmacy benefits administrator/manager that requires claims to be submitted electronically shall require that payment is to be made electronically to the participating provider or its designee for clean claims submitted electronically or if electronic payment is requested by the provider.				
KRS 304.17A-705(3)	**Participating Pharmacy** – Any contract between an insurer and a participating pharmacy or its contracting agency that requires claims to be submitted electronically shall require that payment is to be made electronically to the participating provider or its designee for clean claims submitted electronically or if electronic payment is requested by the provider.				
Prohibited Provisions					
KRS 304.17A-560	**Most Favored Nation** – No insurance contract with a provider shall contain provisions that allow the provider to have a better rate than other providers except where the Commissioner has determined that the market share of the insurer is nominal.				
KRS 304.17A-530 KRS 304.17A-164(3)	**GAG Rule** – A managed care plan may not contract with a health care provider to limit the provider's **(including PBM/pharmacies)** disclosure to an enrollee of a medical condition, treatment options, or financial costs/incentives.				
KRS 304.17A-164(2)	**-** An insurer or pharmacy benefit manager shall not require an insured purchasing a prescription drug to pay a cost-sharing amount greater than the amount the insured would pay for the drug if he or she were to purchase the drug without coverage .				
806 KAR 9:360 806 KAR 17:575(3) KRS 304.17A-161(3)	**Pricing Appeal Provision-** A pharmacy benefit manager's maximum allowable cost pricing appeal shall be readily accessible to contracted pharmacies electronically through publication on the pharmacy benefit manager's website, and in either the contracted pharmacy's contract with the pharmacy benefit manager or through a pharmacy provider				

PROVIDER AGREEMENTS (HEALTH BENEFIT PLANS) CHECKLIST (continued)

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	manual distributed to contracted pharmacies, pharmacy service administration organizations, and group purchasing organizations				
KRS 304.17A-162(1)	**Appeals Reimbursement-** Identify to contracted pharmacies the sources used by the pharmacy benefit manager to calculate the drug product reimbursement paid for the covered drugs available under the pharmacy health benefit plan administered by the pharmacy benefit				
KRS 304.17A-728(2)	**Discounted Fees** – An insurer or entity shall not reimburse on a discounted fee basis unless the disclosure is provided in the contract.				
KRS 304.17A-525(4) & KRS 304.17A-270	**Termination Without Cause** – An insurer may not reserve the right to terminate a provider contract without cause.				