

# HB 1237 SIGNED INTO LAW

## Colorado Will Capture Historic Prescription Drug Savings through PBM Reverse Auction for Public Sector Workers

The largest and most direct source of savings on state prescription drug spending **without resorting to cost-shifting to public sector employees or cutting public employee benefits** is to procure a pharmacy benefit manager (or “PBM”) through a dynamically competitive PBM reverse auction and to hold the selected high-value PBM accountable to the state with ongoing, automated, validation of 100% of PBM claims. Over the course of two successive PBM reverse auctions, the State of New Jersey has reduced its total drug spending by approximately 20 percent or \$2.5 billion over five years. New Hampshire, Maryland, Louisiana, and Minnesota are following suit with their own legislation to enable PBM reverse auctions for procurement of prescription medicines in public employee health plans.

Prescription drug savings are captured almost immediately. NJ Governor Phil Murphy (D) reported that the state’s first PBM reverse auction conducted by his predecessor, Governor Chris Christie (R), saved the state an unprecedented 25 percent of its total public employee drug spend in the first year, without any significant changes to the public employee prescription drug formulary or benefits. In fact, the savings resulting from the state’s PBM reverse auction and automated PBM invoice review reversed a decades-long period of relentless growth in overall public employee health care premiums and actually lowered premiums for state and local government employees, including first responders, and public-school teachers.

### STATE POLICY ELEMENTS

State employee health plans purchase prescription drugs from PBMs, financial intermediaries with whom states contract to manage public employee prescription benefits. In its essence, a well-designed PBM reverse auction creates a transparent marketplace for PBMs competing dynamically with one another on the basis of the cost of their bids over multiple bidding rounds to win a contract with the state. The PBM reverse auction has been described aptly as an “eBay for prescription drug pricing plans.” These are the elements:



#### A STATE-DRAFTED, BEST-IN-CLASS PBM CONTRACT

A successful PBM reverse auction begins with the state’s drafting of a detailed, high-value PBM contract. Each PBM must accept the specific, state-determined terms, in advance, as a condition for being permitted to participate in the state’s reverse auction.<sup>1</sup> This enables “apples-to-apples” comparison of the cost to the state of each PBM’s prescription drug pricing proposal. (This comparison of PBM proposals based on value doesn’t actually occur in the conventional PBM request for proposal or “RFP” process of most states. In the conventional RFP process, PBMs each respond to a state RFP with their own proprietary drug formularies, contract terms, and complex pricing schemes, leaving to state administrators the difficult task of what has been described as “comparing apples to oranges to lemons.”)

1. Among contract term options, the state cost of conducting the reverse auction can be “zeroed” by assessing the actual cost of conducting the reverse auction to the winning PBM – effectively shifting the prescription drug plan procurement cost from the state to its prospective PBM vendor.

# 2



## STATE DEPLOYMENT OF A PRESCRIPTION DRUG PRICING ANALYTICS PLATFORM

“Big data” pharmacy cost analytics technology – similar in architecture to the pricing engines that PBMs use to generate complex, profit-driving drug pricing algorithms they typically offer their state customers – is deployed on behalf of the state to calculate and compare the cost of PBM bids in each reverse auction bidding round. (The deployment on behalf the state of drug pricing analytics technology comparable to the PBMs’ has been described as “leveling the technology playing field between PBMs and their state customers.”)

# 3



## DYNAMIC, ONLINE COMPETITION BETWEEN PBMs

The ranked cost of each PBM’s bid is projected online over the life of the prospective PBM contract and – **very important** – to each of the competing PBMs after each round of bidding. PBMs then know the cost of the lowest bids that they must underprice to win award of the state’s business, creating an intense downward, competitive pressure on PBM drug pricing over multiple, transparent rounds of dynamic, competitive bidding. (Rather than expecting a state to outsmart or out-negotiate a PBM over terms of its own drug pricing algorithms – a challenge at which state administrators and their consultants are typically outgunned and ill-equipped to succeed – the PBM reverse auction compels PBMs into intensive competition to outsmart and underbid one another over multiple rounds of competitive bidding.)

# 4



## RECORD TIME AWARD OF THE HIGH-VALUE PBM CONTRACT

Because the PBMs’ online bids are digitalized, the prescription drug pricing offer of the winning PBM automatically populates the state-written contract. (By contrast, under the traditional state RFP process, the state’s processes for soliciting and choosing between disparate PBM proposals and then negotiating with a chosen PBM typically takes months, or even years, before award of a PBM contract – usually to the incumbent and frequently following one or more contract extensions. A benefit of deploying a 21st century, technology-guided PBM reverse auction process is that a very robust, dynamic competitive process of selection and award of the PBM contract, **based on highest value or lowest cost to the state**, takes place over the course of just a few weeks.)

# 5



## ASSURANCE OF ONGOING PBM ACCOUNTABILITY TO THE STATE THROUGH AUTOMATED, 100% OF INVOICED CLAIMS REVIEW

The prescription drug pricing analytics platform used to calculate, compare, and rank cost of PBM bids in the reverse auction is readily redeployed to assure continuous PBM accountability for delivering value to the state through conduct of automated, ongoing, real-time validation of the of the accuracy 100% of invoiced claims in accordance terms of the PBM’s contract with the state. This feature enables states to flag and reconcile PBM overcharges very quickly. (By contrast, most states conduct, at best, a yearly retrospective audit of a small sample of invoiced PBM prescription drug claims, making reconciliation of billing discrepancies – almost always overcharges – quite difficult and potentially expensive for the state to resolve.)