



April 16, 2026

Chair Lisa Swain  
Assembly Appropriations Committee  
New Jersey Legislature  
P.O. Box 068  
Trenton, NJ 08625-0068

**Via Electronic Communication**

Re: Assembly Bill 1502 – Recommendations to Strengthen PBM Reform

Dear Chair Swain:

Aimed Alliance is a non-profit health policy organization that seeks to protect and enhance the rights of health care consumers and providers. We commend New Jersey for its leadership in working to improve oversight of pharmacy benefit manager (PBM) compensation practices; however, we believe additional improvements are needed to ensure the legislation translates into meaningful benefits for patients. Specifically, we recommend the legislation be amended to: (1) require pass-through of rebates to consumers; (2) strengthen formulary placement requirements; (3) ban spread pricing; (4) increase formulary transparency requirements; and (5) include enforcement mechanisms.

**A. Require Pass-Through of Rebates**

PBMs are third-party companies hired by health insurers, employers, and government programs to manage prescription drug benefits. PBMs first became part of the prescription drug supply chain in the 1960s when private insurers began carving out prescription drug coverage as a separate benefit from general medical care. At the time, insurers started relying on PBMs to handle a variety of administrative tasks from issuing prescription drug ID cards and electronic record keeping to larger responsibilities like processing pharmacy claims and managing prescription drug formularies. While the role of PBMs was initially narrow, over the last few decades, prescription drug benefits have become more complex, resulting in PBMs taking on a much larger role.<sup>1</sup>

PBMs are typically compensated through fees for managing pharmacy benefits, but they also negotiate rebates with drug manufacturers in exchange for preferred formulary placement. PBMs often receive a percentage of these rebates. As drafted, A.B. 1502 limits PBM compensation only by prohibiting fees tied to rebates, but it fails to address the treatment of rebate dollars themselves. The bill does not require PBMs to pass rebates through to plans or patients, allowing them to continue collecting and retaining rebate revenue. To meaningfully address PBM compensation practices and improve affordability, A.B. 1502 should require 100 percent of rebates and other price concessions to be passed through to benefit patients.

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<sup>1</sup> Aimed Alliance, *Pharmacy Benefit Managers: Their Role, Their Impact, and the Need for Reform*, <https://aimedalliance.org/wp-content/uploads/2025/09/AA-PBM-FactSheet-Sept2025.pdf>.

Rebate pass-through requirements ensure that PBMs transfer 100 percent of negotiated drug manufacturer rebates, fees, and discounts to health plan sponsors rather than retaining them. Crucially, it is important to clarify that health plans must also ensure these rebates are used to benefit consumers. This clarification ensures that savings directly benefit consumers in the form of lower premiums, out-of-pocket costs at the pharmacy counter, or both, rather than allowing PBMs and health plans to retain rebates for profit.

An increasing number of states have recognized this disconnect and have enacted rebate pass-through requirements. As of 2026, at least nine states require rebates or equivalent price concessions to be passed through to plans or patients at the point of sale.<sup>2</sup> By adopting a similar requirement, New Jersey would join these states in recognizing that rebates should be passed through to lower costs for patients, rather than relying on fee restrictions that leave rebate retention unaddressed.

## **B. Strengthen Formulary Placement Requirements**

A.B. 1502 would prohibit a PBM from recommending or advising a plan sponsor or carrier to place a higher-cost prescription drug in a more favorable formulary position than a lower-cost generic or biosimilar when that recommendation is based “solely on the cost” of the drug. While Aimed Alliance is supportive of ensuring access to lower cost generics and biosimilars when medically appropriate, this narrow standard is unlikely to meaningfully affect PBM behavior as it is difficult to enforce.

In practice, when establishing formularies, PBMs can point to additional factors, such as contracting arrangements, to justify formulary placement. These additional factors can be used to “rubber-stamp” a PBM’s reasoning and circumvent the “solely on cost” standard. As a result, the provision is unlikely to materially alter formulary design or curb rebate-driven decision-making.

To better protect patients, Aimed Alliance recommends revising this language to prohibit formulary designs or recommendations that impose higher patient out-of-pocket costs when clinically appropriate lower-cost alternatives are available, unless the placement is supported by clear, evidence-based clinical justification that is consistent with generally accepted standards of care and the individualized determination of the prescribing provider. Requiring PBMs to reconcile their formulary placement recommendations with current peer-reviewed clinical guidelines provides a measurable benchmark to track compliance. As such, this amendment strengthens the proposed law and provides a meaningful and measurable oversight marker on PBM activity.

## **C. Ban Spread Pricing**

Although A.B. 1502 would move to a flat-fee PBM compensation model, it does not explicitly prohibit spread pricing. Spread pricing occurs when a PBM charges a health plan more for a prescription drug than it reimburses the pharmacy and retains the difference as profit, often without transparency to plans, patients, or regulators. When spread pricing is permitted, plans may pay more for medications than necessary, and those higher costs are ultimately passed on to patients

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<sup>2</sup> National Academy for State Health Policy, *State Pharmacy Benefit Manager Legislation*, <https://nashp.org/state-tracker/state-pharmacy-benefit-manager-legislation/>.

through increased premiums, deductibles, or cost-sharing. Without a clear ban, A.B. 1502 falls short of addressing PBM compensation practices by allowing PBMs to continue extracting revenue through mechanisms not captured by the bill's compensation limits, undermining its goal of promoting transparency and reducing patient costs.

To address this practice, A.B. 1502 should prohibit PBMs from charging pharmacies an amount for dispensing a prescription drug that exceeds the amount paid by the PBM to the pharmacy. A substantial number of states have already enacted legislation to explicitly prohibit spread pricing. As of 2026, at least 16 states have enacted laws banning spread pricing.<sup>3</sup> By amending the bill to include an explicit ban, New Jersey would join a growing number of states that have recognized the need to eliminate these opaque PBM pricing practices and ensure that savings are passed through to plans and patients rather than retained as hidden profit.

#### **D. Increase Formulary Transparency Requirements**

To ensure that formulary design supports informed decision-making by patients and providers, A.B. 1502 should include explicit requirements that PBMs disclose key coverage information in the formulary. Specifically, PBMs should be required to clearly disclose: (1) applicable cost-sharing requirements for each covered drug; (2) whether the drug is subject to utilization management requirements such as prior authorization or step therapy; and (3) the clinical criteria or coverage standards upon which formulary placement and utilization management determinations are based. Requiring this information to be readily accessible would promote transparency, allow prescribers and patients to better anticipate coverage barriers and out-of-pocket costs, and help ensure that clinical decision-making is supported by evidence-based guidelines.

#### **E. Include Enforcement Mechanisms**

Finally, while the bill includes certification and disclosure requirements, it lacks enforcement mechanisms or penalties for noncompliance. Enforcement is essential to ensure that these reforms produce meaningful cost savings for the system and patients. To ensure accountability, the legislation should establish clear and annual audit requirements and authority, and meaningful civil penalties for violations, granting regulators sufficient scope and consequences to deter misconduct and ensure compliance. Moreover, Aired Alliance urges the legislation to be amended to ensure a private right of action for consumers to allow them to directly challenge the policies, practices, and non-compliance that impact their access to and affordability of care.

#### **F. Conclusion**

In sum, Assembly Bill 1502 represents an important step toward improving oversight of PBM practices in New Jersey. Strengthening the bill to include rebate pass-through requirements, strengthen formulary placement requirements, ban spread pricing, and include enforcement mechanisms would significantly enhance its impact for consumers, caregivers, and providers. Together, these reforms would help ensure that negotiated savings benefit patients directly, reduce

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<sup>3</sup> *Id.*

hidden costs imposed on plans and consumers, and promote greater transparency and accountability in PBM practices.

We respectfully urge the Legislature to consider these amendments to better protect patients, support affordability, and advance New Jersey's leadership in meaningful PBM reform. If you have any questions, please contact Aired Alliance at [policy@aimedalliance.org](mailto:policy@aimedalliance.org).

Sincerely,

Olivia Backhaus  
Staff Attorney