

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
NEW 11 NYCRR 451
(INSURANCE REGULATION 221)**

REGISTRATION OF PHARMACY BENEFIT MANAGERS

I, Adrienne A. Harris, Superintendent of Financial Services, pursuant to the authority granted by Financial Services Law Sections 102, 201, 202, 301, 302, and 306; Insurance Law Sections 301, 316, 2902, 2903, and 2904; Public Health Law Section 280-a; and Chapter 828 of the Laws of 2021, as amended by Chapter 128 of the Laws of 2022, do hereby promulgate the following new Part 451 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 221), to take effect upon publication of the Notice of Adoption in the State Register, to read as follows:

(ALL MATERIAL IS NEW)

Part 451: Registration of Pharmacy Benefit Managers

Section 451.1 Registration of pharmacy benefit managers

(a) Definitions.

(1) As used in this section, the terms “controlling person”, “health plan”, “pharmacy benefit manager”, “pharmacy benefit management services” and “superintendent” have the same meanings as defined by Public Health Law section 280-a.

(2) As used in this section, the term “a substantial number of beneficiaries who work or reside in this state” means where 50 percent or more of the beneficiaries of the health plan work or reside in New York.

(b) A pharmacy benefit manager applying for a registration prior to January 1, 2023 shall pay to the superintendent a non-refundable registration application fee of \$8,000. A pharmacy benefit manager applying for a registration on or after January 1, 2023 shall pay to the superintendent a non-refundable registration application fee of \$4,000. Payment of the fee shall be made electronically in a manner provided by the superintendent.

(c) Each entity seeking to register as a pharmacy benefit manager shall electronically file with the department an application on an electronic form and in a manner prescribed by the superintendent to be published and made available on the department’s publicly accessible Internet website on or before June 1, 2022. Each pharmacy benefit manager that submits an application on or before June 1, 2022, including payment of the non-refundable registration application fee, shall be deemed to hold a temporary registration valid until the department makes a determination on the registration application.

(d) The application form for a pharmacy benefit manager registration shall require the pharmacy benefit manager to submit information to the department including:

(1) the name of the pharmacy benefit manager;

(2) the address, contact telephone number, and website for the pharmacy benefit manager;

(3) the federal employer identification number for the pharmacy benefit manager;

(4) the name, address, email address and telephone number of the primary contact person authorized to act on behalf of the pharmacy benefit manager;

(5) the name, address, email address and telephone number of the pharmacy benefit manager's agent for service of process in this State;

(6) the name, position and email address of each individual who is a controlling person of the pharmacy benefit manager, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee; and (i) if the pharmacy benefit manager is a partnership or other unincorporated association, each partner or member; (ii) if the pharmacy benefit manager is a corporation, each of its officers, , and stockholders; (iii) if the pharmacy benefit manager is a limited liability company, each officer, manager, or member;

(7) all basic organizational documents of the pharmacy benefit manager, including any operating agreements, articles of incorporation, articles of association, charter, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the New York Secretary of State and other applicable documents and all amendments to such documents;

(8) the bylaws, rules, regulations or other primary document regulating the internal affairs of the pharmacy benefit manager;

(9) a copy of the pharmacy benefit manager's standard, generic contract template, including provider manual or other appropriate items incorporated by reference that the pharmacy benefit manager uses for contracts entered into by the pharmacy benefit manager with pharmacists, pharmacies or pharmacy service administration organizations in New York in administration of pharmacy benefits for insurers; and

(10) such other information the superintendent deems necessary.

(e) A pharmacy benefit manager shall notify the department within 30 days of a change in any of the information disclosed to the department on a registration application.

(f) The exemption provided for in 11 NYCRR 6.3 shall apply to filing under this section as if those filings were listed in 11 NYCRR 6.2(a).

Section 451.2 First annual report of pharmacy benefit managers

Each pharmacy benefit manager shall electronically file a first annual report with the department pursuant to Insurance Law section 2904 no later than July 1, 2022 on a form and in a manner prescribed by the superintendent. The exemption provided for in 11 NYCRR 6.3 shall apply to this annual report as if this filing were listed in 11 NYCRR 6.2(a).

Section 451.3 Duty, accountability and transparency

Pursuant to the authority granted to the superintendent by Public Health Law section 280-a(2)(g) to limit the duties, obligations, requirements and other provisions relating to pharmacy benefit managers under Public Health Law section 280-a(2), the duties, obligations and requirements contained in Public Health Law section 280-a(2)(b), (c), (d), (e), and (f) shall not apply to pharmacy benefit managers until January 1, 2023.

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

CERTIFICATION

I, Adrienne A. Harris, Superintendent of Financial Services, do hereby certify that the foregoing is the new Part 451 to Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 221), entitled Registration of Pharmacy Benefit Managers, signed by me on August 16, 2022, pursuant to the authority granted by Financial Services Law Sections 102, 201, 202, 301, 302, and 306; Insurance Law Sections 301, 316, 2902, 2903, and 2904; Public Health Law Section 280-a; and Chapter 828 of the Laws of 2021, as amended by Chapter 128 of the Laws of 2022, to take effect upon the publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on June 8, 2022. No other publication or prior notice is required by statute.

Signed copy filed with Department of State

Adrienne A. Harris
Superintendent of Financial Services

Date: August 16, 2022