

Publications

May 22, 2024 • Updates

Recent Regulatory Actions Against Unlicensed Pharmacy Benefit Managers in West Virginia

The West Virginia Office of the Insurance Commissioner (“WV OIC”) recently took regulatory actions against four unaffiliated Pharmacy Benefit Managers (“PBMs”) that were operating in West Virginia without a PBM license. These regulatory actions are summarized below:

- On February 7, 2024, the WV OIC entered into a Consent Order with a PBM that allegedly had been doing business in West Virginia without a PBM license, in violation of W. Va. Code § 33-51-1, *et seq.* In the Consent Order, the WV OIC alleges it had received information that the PBM was operating in West Virginia without a PBM license. The PBM indicated to the WV OIC that it was not aware that West Virginia had enacted a law licensing PBMs and had understood the proposed law to only require a PBM license if it were providing pharmacy benefits management for health plans located in the State of West Virginia. The Consent Order added that the PBM did not provide services to any plan based in West Virginia and managed pharmacy benefits for 58 covered lives in the state.

Under the terms of the Consent Order, the PBM is in the process of applying for a PBM license in West Virginia. The PBM also agreed to the payment of an administrative fine in the amount of \$30,000.

- On March 4, 2024, the WV OIC entered into a Consent Order with a PBM that allegedly had been doing business in West Virginia without a PBM license in violation of W. Va. Code § 33-51-1, *et seq.* The WV OIC indicates it received information that this PBM was operating in West Virginia without a PBM license. The PBM acknowledged that it had been operating in West Virginia as a PBM since at least October of 2023.

The PBM and the WV OIC agreed to resolve the matter under the Consent Order by the PBM agreeing to obtain a West Virginia PBM license as soon as possible and to the payment of an administrative fine in the amount of \$23,000.

- On March 7, 2024, the WV OIC entered into a Consent Order with a PBM which

Related People

- Steven L. Imber
- Jennifer L. Osborn
- Justin T. Liby

Related Capabilities

- Insurance
- Third Party Administrator (TPA) Licensing & Compliance Services

allegedly had been doing business in West Virginia without a PBM license, in violation of W. Va. Code § 33-51-1, *et seq.* According to the WV OIC, it received information that this PBM was operating in West Virginia without a PBM license. The PBM acknowledged it had been operating in West Virginia as a PBM without a PBM license since June of 2023.

The WV OIC and the PBM entered into the Consent Order in which the PBM agreed to obtain its West Virginia PBM license as soon as possible and agreed to the payment of an administrative fine in the amount of \$26,000.

- On March 11, 2024, the WV OIC Commissioner entered into a Consent Order with a PBM which allegedly had been doing business in West Virginia without a PBM license in violation of W. Va. Code § 33-51-1, *et seq.* The WV OIC also indicated that it received information that this PBM was operating in West Virginia without a PBM license. The PBM acknowledged it had been operating in West Virginia without a PBM license since at least April of 2023.

The Consent Order stated that this PBM had already submitted its application to become licensed as a PBM and required that the PBM shall work to complete the application process. The PBM also agreed to pay an administrative fine in the amount of \$29,000.

For More Information on Our TPA and PBM Teams

Polsinelli's TPA and PBM teams provide TPA and PBM licensing services, TPA and PBM regulatory and compliance services, drafting and negotiating of administrative services agreements and a number of other TPA and PBM services. Our teams include attorneys who were former in-house counsel for TPAs, as well as attorneys who were formerly insurance regulators. By leveraging its extensive experience representing TPAs and PBMs, our TPA and PBM teams help clients avoid the learning curve and related cost implications that can be experienced by working with companies or attorneys less familiar with the regulatory and compliance needs of TPAs and PBMs. To learn more about our TPA and PBM Licensing and Compliance practices or to contact a member of our TPA and PBM Licensing and Compliance services teams, please visit our Third Party Administrators page on our website.