



ADMINISTRATIVE RULES OF MONTANA



6.6.7902 NETWORK ADEQUACY

- (1) A PBM must establish and maintain a pharmacy network that is sufficient in numbers to ensure all pharmacist services are accessible without unreasonable delay, within a reasonable proximity to the business or personal residence of an enrollee or an injured worker of a workers' compensation insurance carrier, and with sufficient choice based on the availability of retail pharmacies.
- (2) Each pharmacy network offered by a PBM will be considered a separate pharmacy network.
- (3) The commissioner may consider reasonable criteria or standards to determine the sufficiency and adequacy of a pharmacy network, including:
 - (a) whether the pharmacy network includes at least 80% of retail pharmacies;
 - (b) the criteria the PBM used to build a pharmacy network, including the criteria used to select pharmacies for participation in the pharmacy network;
 - (c) the criteria the PBM used to build any preferred pharmacy network, including the criteria used to place pharmacies in subsets, groups, or tiers;
 - (d) the criteria the PBM used to select pharmacies to dispense specialty drugs in the pharmacy network;
 - (e) the access standards and other information provided in the PBM's application and reports; and
 - (f) the willingness of retail pharmacies in the applicable geographic service area to contract with the PBM based upon the same or similar terms and conditions applicable to pharmacies of the same type participating in the pharmacy network. The commissioner may require the PBM to submit credible evidence documenting a retail pharmacy's refusal to contract based upon the same or similar terms and conditions applicable to pharmacies of the same type participating in the pharmacy network.
- (4) A PBM may decline to select a pharmacy to be in a pharmacy network if the pharmacy fails to meet legitimate and reasonable selection criteria of the PBM.
- (5) A PBM may not use mail-order pharmacies to meet network adequacy requirements for a pharmacy network.
- (6) A PBM may not require an enrollee or an injured worker of a workers' compensation insurance carrier to use any pharmacy, including a mail-order pharmacy, in which the PBM has an ownership interest, either directly or indirectly through an affiliate, holding company, or subsidiary, for prescriptions, refills, or specialty drugs regardless of day supply.

- (7) A PBM may use a restricted pharmacy network as long as the PBM otherwise meets the network adequacy requirements set forth in these rules.
- (8) A PBM must monitor, on an ongoing basis, the ability and capacity of the pharmacy network to furnish pharmacist services to an enrollee or an injured worker of a workers' compensation insurance carrier.

Authorizing statute(s): 33-1-313, 33-2-2409, 33-2-2412, MCA

Implementing statute(s): 33-2-2402, 33-2-2403, 33-2-2409, MCA

History: NEW, 2021 MAR p. 1899, Eff. 1/1/22.