

Friday, October 16, 2020

# Louisiana Independent Pharmacies Association

## What's New and What to Watch

LIPA Newsletter:  
Bringing you the latest news and information concerning independent pharmacies and the profession at-large....



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### Dates to Know

- October 18th—LPA/LIPA Continuing Education via Zoom
- October 18th/19th—Virtual NCPA 2020 Annual Convention
- November 18th—Board of Pharmacy Meeting

Members,

The second week of October has been very busy. The Second Extraordinary Session is ongoing and we are closely monitoring new filings and existing bills for amendments that may impact our members. The Office of Group Benefits (OGB) emergency contract for pharmacy benefit manager (PBM) services for their 230,000 members in 2021 has dominated our calendars. As we reported last week, the Joint Legislative Committee on the Budget (JLCB) denied a request by OGB and the Division of Administration to approve an emergency one-year contract with CVS/Caremark. After that denial, OGB began discussions with MedImpact for a one-year contract with the same conditions and projected savings contained in the proposed contract with CVS/Caremark.

On Tuesday, both OGB Management and their Policy & Planning Committee unanimously recommended approval of the MedImpact one-year emergency contract for 2021 PBM services. JLCB delayed hearing the proposed contract on Wednesday because they received the contract late and JLCB members did not have time to review its terms. On Thursday morning, JLCB approved the contract with MedImpact without objection. That approval will settle the issue for the 2021 emergency contract, but issues with PBM services for OGB beyond 2021 remain.

**CVS Communication Relative to OGB Contracting with MedImpact** First, it's important to explain the full story and distinguish between two very different matters—and PBM contracts—that seem to have become conflated:

1) OGB issued an RFP in February 2020 for a three-year PBM contract. In July, it was awarded to CVS and is currently being protested by two of the unsuccessful proposers, including MedImpact. Further contract negotiations are on hold until the protest is resolved by the Division of Administration or the court system.

2) After the protests were filed, OGB issued a one-year emergency contract for PBM services, scheduled to begin on January 1, 2021, after the existing contract with MedImpact expired. State law regarding non-competitive contracts and emergency contracts were used as justification for this award.

All recent discussions with JLCB only address the one-year emergency contract; not the “the fair and competitive process” that resulted in the three-year contract award to CVS that is currently under protest.

The CVS communications regarding LIPA and its members are currently circulating around [LinkedIn](#), the [CVS website](#), and the state's major newspapers.



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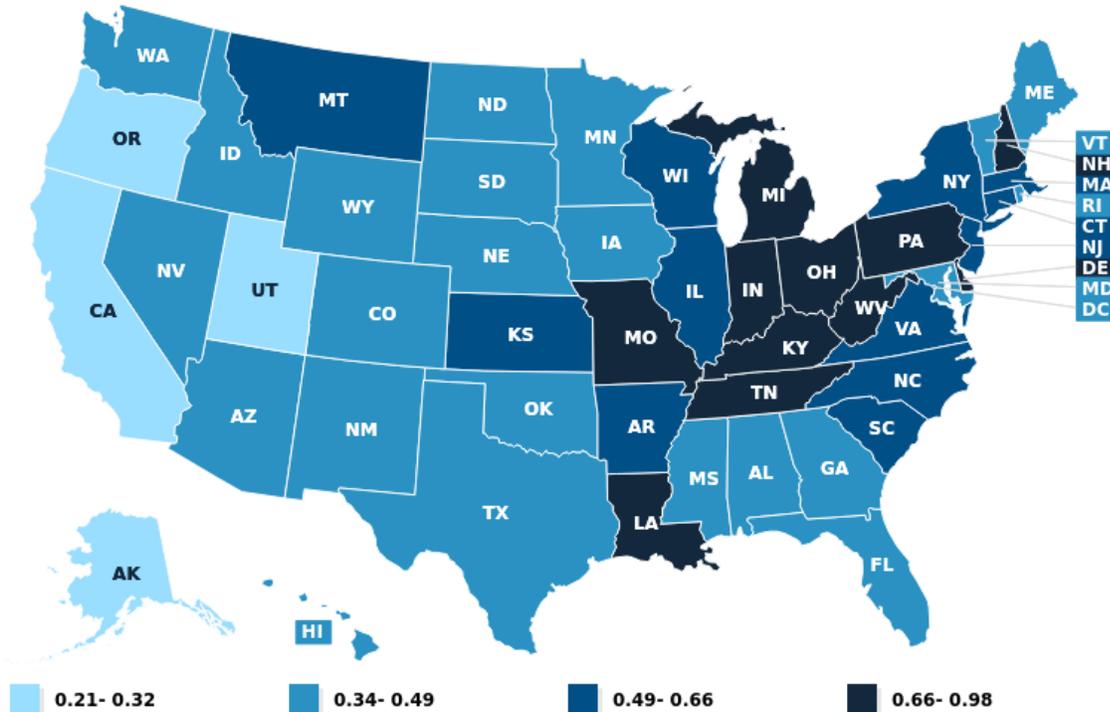
- On October 13<sup>th</sup>, Dr. Alan Lotvin, Executive Vice President at CVS Health and President of CVS Caremark posted the following on **LinkedIn**, the social media network for the business community: *“We recognize the value we provide in helping people access the medicines they need at a price they can afford. After a fair and competitive process, we were excited to bring a projected value of more than \$100M in prescription drug cost savings to Louisiana’s state employees, retirees and their families. Unfortunately, special interest groups attempting to line their own pockets inserted themselves – preventing our contract from advancing in the Bayou State. We’re taking a stand against this unjustified meddling from special interest groups and the dangerous precedent it sets in Louisiana and potentially beyond. Our full statement is [here](#).”*
- On October 15<sup>th</sup>, a full-page letter was run on Page A-6 of the Baton Rouge **Advocate**, the Acadiana **Advocate**, and the New Orleans **Advocate/Times Picayune**.

Most concerning was the allegation that *“special interest groups included a well-funded and well-organized group of independent pharmacists in Louisiana and that these lobbyists and special interests trying to protect their own profits won and derailed a contract that had been awarded fair and square.”* While there is much in CVS Caremark’s letter that we take issue with, the assertion that the emergency contract had been awarded “fair and square” is simply not true as the procedures for entering into emergency contracts (such as getting more than one price quote) were not followed.

They were right about one thing – LIPA is especially interested in ensuring Louisianans in all 64 parishes continue to have access to the pharmacy of their choice, that pharmacy has a fair shot at being in the providers preferred network, and that patients continue to receive personal services at their “bricks and mortar” pharmacy rather than being steered to an out-of-state mail order pharmacy or SilverScripts.

**How Do Louisianans Stack Up for Reliance on Mail Order Pharmacy?** Have you ever wondered how Louisiana ranks among states for mail order drugs? Check out this graphic from the highly regarded Kaiser Family Foundation for 2019 [Number of Mail Order Prescription Drugs Per Capita](#)

**Number of Mail Order Prescription Drugs Per Capita: Mail Order Rx Drugs Per Capita, 2019**



SOURCE: Kaiser Family Foundation’s State Health Facts.



As you can see from this map, Louisiana is an outlier, with the highest per capita use of mail order prescription drugs in the Deep South. Even the so-called “frontier states” have less per-capita reliance on mail order pharmacy than Louisiana, and the per capita rate in Louisiana is more than double that of neighboring Texas. Strong-arming patients to use mail order pharmacy is an issue that LIPA has been very vocal about. Just imagine where we would be without our collective efforts to make certain patients actually have a say in the matter, such as getting language in the Louisiana Medicaid MCO contracts that prohibits requiring Medicaid patients to use mail order currently in Section 7.17.3 of the Contracts: *Mail Order/Mail Service Pharmacy The MCO cannot require its members to use a mail service pharmacy.* Keep in mind that the above per capita mail order numbers were pre-COVID and we know that health insurers along with the federal government have strongly encouraged the mail order pharmacy option so the percentage has likely increased.

**What’s Next for PBM Services for State Employees/Families and Retirees?** To recap, the three-year contract award to CVS for PBM services is on hold due to protests being filed. The next step is a decision on the protests of the award to CVS/Caremark by the Chief Procurement Officer, Paula Tregre. If any party disagrees with Ms. Tregre’s decision, they can appeal it to Commissioner of Administration. Finally, if any party disagrees with the Commissioner’s decision, they can appeal it to the 19<sup>th</sup> Judicial District Court in Baton Rouge. This process allows the following possibilities:

- the award of the three-year contract to CVS/Caremark could be upheld,
- the contract could be awarded to one of the parties that protested the award, or
- the original Request for Proposal could be cancelled entirely and reissued.

Of particular interest, despite requirements in Title 39, the Division of Administration is occasionally extending decisions on protests well past the deadlines allowed by La. R.S. 39:1671. The Chief Procurement Officer and Commissioner of Administration are each given fourteen-day window (which can be extended) to issue a decision under state law. For recent large contracts, we have seen decisions take months or up to a year due to a myriad of issues, including most recently COVID-19. We look forward to an amicable resolution, but it is likely the interested parties will be left in limbo for the foreseeable future.

We believe an amicable resolution could be to include OGB in any future RFP for a single Medicaid PBM. Other states include their state employees with the Medicaid population and doing so would achieve administrative efficiencies for providers which has long been cited as a way to contain rising health care costs. LIPA and our pharmacists have learned a lot about the importance of contract language and will have suggestions for both OGB and LDH.

**NADAC Pricing for Brand Drugs** We continue to closely monitor Medicaid reimbursement (which uses NADAC pricing) and the feedback from our members is that for brand name drugs, NADAC pricing can be inadequate. We and our members who serve on the Medicaid Pharmacy Advisory Committee are having ongoing discussions with the Louisiana Medicaid Pharmacy leadership regarding what we are seeing and they informed us that they have raised the issue of NADAC pricing for brand drugs with both CMS and CMS’s contractor Myers and Stauffer. One explanation for inadequate reimbursement for brand drugs is the very **small** national [not Louisiana-specific, as AAC was] sample size that Myers and Stauffer use for the monthly random sample Retail Price Survey of chain and independent pharmacies that is used to update NADAC pricing. The only way to make sure that data for Louisiana pharmacies is reflected in averaging is for our pharmacies to **respond** to the NADAC Retail Price should your pharmacy be included in one of the monthly samples. **The stakes are high folks.** To see what you will be given the opportunity to submit (data for the month prior to the survey), see the explanatory document available at this [link](#).

**Speaking of Important Surveys . . .** Be on the lookout on Monday of next week for an e-mail from LDH with the link to a questionnaire from LDH titled **Louisiana Department of Health COVID-19 Vaccine Questionnaire**. Pharmacies who are not part of a large chain will have until Friday, October 30<sup>th</sup> to complete and submit 1) the Vaccine Questionnaire plus 2) CDC Provider Enrollment Forms (CDC COVID-19 Vaccination Program Provider Agreement and also Supplemental COVID-19 Vaccine Redistribution Agreement if you have multiple locations) These are CDC-created forms and will be “fillable”. Here is a [preview](#) of the current draft of the Questionnaire (20 total questions). Seven of the questions concern dry ice, while five of the questions concern nursing homes/ long term care facilities. Please complete the questionnaire and enrollment forms and return them promptly. We are seeing [news](#) today (Friday, 10/16) that Pfizer could have their COVID-19 vaccine ready for distribution by late November. The nursing home/long term questions seem especially important as this will be one of the priority populations to receive the COVID vaccine.



Regarding COVID-19 vaccines in nursing homes, **Politico** is [reporting this afternoon](#) that the Trump Administration has announced a vaccine deal for long-term care facilities. *“Two national pharmacy chains [CVS and Walgreens] will administer an eventual coronavirus vaccine to high risk groups including seniors and staff at long-term care facilities with no out-of-pocket cost.”* The President referred the deal in a Florida speech on “protecting seniors” Friday afternoon (10/16). Under the arrangement, the companies would send personnel into the facilities to provide the inoculations in-house. It will be up to the retail pharmacies to schedule and coordinate the on-site clinics with each facility. According to the **Politico** story, “the health department [HHS] believe it will take three visits over two months to administer a two-dose vaccine to seniors and staff.” **You may wish to initiate discussions with long term care facilities and nursing homes in your community regarding providing this service if you have not already done so.**

**Heads Up on Possible Louisiana Medicaid PDL Changes** LDH has created a one-page document—recently shared with the Pharmacy Advisory Committee—showing Louisiana Medicaid PDL changes they are currently considering to maximize rebates. [While this has not been finalized, it provides insight into LDH’s thinking and we know that these PDL decisions have inventory implications for you.](#)

- NEW: adding proposed preferred brand over generic Fall 2020: Symbicort (inhalation); Sabral tablet (oral); Trileptal Suspension (oral); Affinitor (oral); Advair Discus (inhalation); Tegretol XR (oral); Depakote Sprinkle (oral); Carbatrol (oral); Elidel (topical; Felbital tablet (oral)
- Brand Over Generic Product **Removed** Fall 2020: Procentra (oral)
- Current Spring Brand Over Generic: Revatio Suspension (Oral); Copaxone 20 Mg/Ml ( Subcutane), Natroba (Topical); Transderm-Scop (Transderm); Humalog Vial/Pen (Subcutane); Novolog Mix Vial/Pen (Subcutane); Novolog Pen. /Vial/Cart (Subcutane); Tracleer Tablet (Oral); Suboxone Film (Sublingual)
- Considered Brand Over Generic but **Not** Pursuing Fall 2020: Mitigare, Ventolin Inhaler, Makena, Aderall XR (Oral) and Concerta

**Status of Pharmacy Bills Introduced in Special Session** [Senator Regina Barrow](#) announced this week that she will not move two pharmacy bills she introduced during the Special Session: [SB 51](#) that “provides for immunizations, including the COVID-19 vaccine, to be administered by pharmacists” and [SB 63](#) “that provides for pharmacists to test or screen and initiate therapy for certain health conditions including COVID-19.” We would note that the provisions contained in SB 51 relative to pharmacists being able to provide immunizations to patients age three and older without a prescription are included in the August 19<sup>th</sup> [third amendment to the PREP Act](#) and valid as long as the COVID-19 public health emergency is in place. At the rate things are going nationally with COVID increasing in the majority of states (Wednesday and Thursday were Ohio’s two highest days ever for new COVID cases, for example), the public health emergency could well be extended at least an additional 90 days beyond January 2021, when the current COVID declaration of emergency is set to expire. These two Pharmacist Bills could be introduced again in the 2021 Regular Legislative Session.



**Flu Vaccines Are in the Spotlight This Week** LDH kicked off their “[Roll Up Your Sleeves, Louisiana!](#)” flu immunization campaign this week, encouraging everyone six months of age and older to get a flu shot before **the end of October**. Both Governor Edwards and LDH Secretary Dr. Courtney Phillips were photographed earlier this week [getting their flu shot](#). You may wish to check out the poster and graphics suitable for social media on the LDH webpage as well as talking points for “flu messaging”. The LDH webpage also includes a “Vaccine Finder” [here](#) that links to the CDC site Vaccines.org. **If you are administering flu shots, are you listed?? Is the information for your pharmacy current and accurate?** Also, LDH has

resumed distribution of their state Influenza Surveillance Report which are not published during the summer months. The CDC national map continues to show Iowa as the state with the highest incidence of reported flu-like illness.

**The Latest on Those \$200 Medicare Drug Savings Cards** We have been closely following developments regarding the one-time \$200 Medicare drug savings cards that President Trump wants to make available to Medicare beneficiaries to make prescription drugs more affordable. With approximately 635,000 Medicare recipients in Louisiana having Part D coverage either through a standalone Medicare drug plan or their Medicare Advantage Plan, we are potentially looking at many millions of dollars. If just half of Louisiana’s Medicare Part D enrollees received the savings card, we’re talking about \$63.5 M available to help with Medicare Part D out-of-pocket costs! The premise for providing the savings cards—which seems unlikely due to first and foremost, the close to \$8 B price tag—is that if patients with Medicare had money for their out-of-pocket drug costs, they would demonstrate better medication adherence and reduce health care costs elsewhere in the system (such as in the Emergency Room).



The first inkling of drug savings card was in news reports [see for example this one on the [Bloomberg](#) news site] of negotiations between PhRMA and White House Chief of Staff Mark Meadows, in which PhRMA balked at Meadows' request that PhRMA send \$100 Medicare drug cards to seniors prior to the November 3<sup>rd</sup> election and walked away. Since then we have seen reports that while the cards could logistically be mailed prior to the Presidential election, planning was underway to send "letters" announcing that the cards would be arriving.

A **Washington Post** published a [story](#) yesterday afternoon titled "*President Trump's Medicare discount cards face uncertain path*" that provides a good snapshot of where things currently stand. According to WP reporting:

- Uncertainty exists, whether the discount cards are "legal, proper, or will ever exist"
- HHS Secretary Azar and CMS Administrator Verma say they were not consulted prior to the President's announcement, but Ms. Verma is working on a plan to implement
- **Politico** saw a draft plan last week with the following elements:
  - Cost estimate is now closer to \$8 B than \$7 B figure initially floated
  - Cards would only go to people who do **not** get "Extra Help" with Medicare out-of-pocket costs (because they have limited income and resources)
  - Recipients of the cards would have two years to spend the benefits
  - The cards would go out by January 1
  - The government would pay \$51 M to buy, mail, and track use of the cards
  - Mailing the letters would cost \$19 M
  - The Medicare call center would need \$18 M to support higher volume to a Medicare call-in center because consumers will have question.
- *The cards — and letters telling people they will be arriving — cannot be issued unless a plan is approved by the White House's Office of Management and Budget.*

The politics aside, one thing we can all agree on is that out-of-pocket costs for prescription drugs create a hardship for many of our Medicare enrollees! We have had some initial discussions about a prescription drug discount card that Louisiana independent pharmacies could brand and will have more information on that in the coming weeks.

**Louisiana Pharmacists Association Virtual Conference on Sunday** The Louisiana Pharmacists Association will hold a virtual (Zoom) CPE opportunity this Sunday, October 18<sup>th</sup>. LIPA will serve as faculty for the first session (8:15 AM to 9:45 AM (1.5 CPE hours)) and will discuss **Regulatory Issues Facing Independent Pharmacies**, with the following Objectives for both pharmacists and pharmacy techs:

- Identify laws which have passed in Louisiana that protect patients.
- List Medicaid and Medicare regulations.
- Describe current pharmacy audit procedures as required by Louisiana law.
- List direct and indirect remuneration fees in Medicare.
- Identify network contracts available to independent pharmacies.

