Michigan Office of Administrative Hearings and Rules
MOAHR-Rules@michigan.gov

AGENCY REPORT TO THE JOINT COMMITEE ON ADMNINISTRATIVE RULES (JCAR)

1. Agency Information

Agency name:
Insurance and Financial Services

Division/Bureau/Office:
Insurance

Name of person completing this form:
Ryan Durkin

Phone number of person completing this form:
517-284-8609

E-mail of person completing this form:
DurkinR@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:
Sarah Wohlford

2. Rule Set Information

MOAHR assigned rule set number:
2023-10 IF

Title of proposed rule set:
Pharmacy Benefit Manager Licensure and Regulation Act

3. Purpose for the proposed rules and background:

Pursuant to the pharmacy benefit manager licensure and regulation act, 2022 PA 11, the general purpose of these rules is to establish the following: fees for license applications and renewals; the license renewal schedule; standards regarding fines; suspension of licensure, restriction of licensure, and revocation of licensure.

4. Summary of proposed rules:

The pharmacy benefit manager licensure and regulation act, 2022 PA 11, mandates that the Director of the Department of Insurance and Financial Services promulgate rules that are necessary or required to implement the act, including rules regarding fines, suspension of licensure, restriction of licensure, and revocation of licensure. Consistent with the pharmacy benefit manager licensure and regulation act, 2022 PA 11, the proposed rules establish the following: the application contents and fee, the license renewal schedule and fee, and standards regarding fines, suspension of licensure, restriction of licensure, and revocation of licensure.

5. List names of newspapers in which the notice of public hearing was published and publication dates:

Lansing State Journal: May 16, 2023
Detroit Free Press: May 16, 2023
Daily Press (Escanaba): May 16, 2023

6. Date of publication of rules and notice of public hearing in Michigan Register:

5/15/2023

7. Date, time, and location of public hearing:

6/9/2023 10:00 AM at First Floor Forum , Michigan Library & Historical Center, 702 West Kalamazoo Street, Lansing, Michigan 48915

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1437

9. List of the name and title of agency representative(s) who attended the public hearing:

Sarah Wohlford, Senior Deputy Director
Karen Dennis, Director, Office of Insurance Rates and Forms
Michele Riddering, Director, Office of Insurance Licensing, Investigations, and Audits
Adryne Boynton, Manager, Office of Insurance Licensing, Investigations, and Audits
Ryan Durkin, Administrative Law Specialist

10. Persons submitting comments of support:

Jill McCormack and Steven C. Anderson, FASAE, CAE, IOM, submitted comments on behalf of the National Association of Chain Drug Stores indicating support.

11. Persons submitting comments of opposition:

The Department received comments indicating opposition by Miguel S. Rodriguez (on behalf of American Pharmacies), Eric Roath, PharmD, MBA (on behalf of Michigan Pharmacists Association), Anne Cassity (on behalf of National Community Pharmacists Association), and Peter Fjelstad (on behalf of Pharmaceutical Care Management Association).

12. Persons submitting other comments:

The Department did not receive any other timely comments.

13. Identify any changes made to the proposed rules based on comments received during the public comment period:

	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for Rule Change and Description of Change(s) Made	Rule number & citation changed
1	Peter Fjelstad, Director, State Affairs, Pharmaceutical Care Management Association		Delete the entire provision as this is unsupported by law.	Rule 500.31(1)(b) defined "client," a word that is not defined in the Pharmacy Benefit Manager Licensure and Regulation Act, 2022 PA 11 (the "Act"), based on the Act's definition of "pharmacy benefit manager," see MCL 550.817(l). Since the agency has revised Rule 500.33(2)(c)(i) in response to public comment (see below), the definition of "client" is no longer necessary.	R 500.31(1)(b)
2	Peter Fjelstad, Director, State Affairs, Pharmaceutical Care Management Association		Delete the provision because it is too burdensome for a pharmacy benefit manager to list all businesses that it "intends to contract" with. Alternatively, substitute this requirement with the following: "At the time of application, a list of health plans or carriers that a	The agency amended Rule 500.33(2)(c)(i) to change "[a] list of every client on whose behalf the applicant intends to contract to provide pharmacy health services to residents of this state" to "[a] list of every health plan or carrier on behalf of which the applicant contracts with a	R 500.33(2)(c)(i)

			PBM contracts with to provide pharmacy health services to individuals covered by the health plan or carrier.”	pharmacy or a pharmacy services administration organization to provide pharmacy health services to individuals covered by the health plan or carrier.” The revised rule reduces the administrative burden of the disclosure and adheres more closely to the definition of “pharmacy benefit manager” in the Act, MCL 500.817 (l). The agency did not adopt the suggested language verbatim because it contained undefined terms and was not sufficiently clear.	
3	Peter Fjelstad, Director, State Affairs, Pharmaceutical Care Management Association		Delete the entire provision as it is too broad and would be difficult for a company to quantify.	The agency deleted this provision to avoid unnecessary regulatory burden. Because of this deletion, the former Rule 500.33(2)(c)(iii) is now Rule 500.33 (2)(c)(ii).	R 500.33(2) (c)(ii)

4	Miguel S. Rodriguez, General Counsel, American Pharmacies		Add a new subrule (2)(c)(iv) to Rule 500.33 to require a pharmacy benefit manager to disclose whether the events referenced in Section 11(4) and Section 11(5)(e)-(f), MCL 550.821, have occurred so that the Director is informed and remains apprised of any such occurrences.	The agency added a new paragraph to subrule (2)(c) to implement the commenter's suggestion, which the agency agrees would help the Director enforce Section 11(4) and Section 11(5)(e)-(f) of the Act, MCL 550.821, by enhancing reporting requirements in a manner that is not unduly burdensome.	R 500.33(2)(c)(iii)

14.Date report completed:

8/31/2023