

**PHARMACY BENEFIT MANAGER APPLICATION CHECKLIST
2023**

This checklist must be submitted with the Pharmacy Benefit Manager Application.

These standards are summaries only. Review of the entire statute may be necessary. Complete the far-right column to direct reviewers to the page of your submitted documents that demonstrates compliance with the described standard.

FILER: PLEASE TYPE INFORMATION IN THE AREA DIRECTLY BELOW.				
Company name:				
Federal ID Number:				
(DOI reviewer) Check as completed	Standard	Reference (§ 44 refers to Neb. Rev. Stat. Chapter 44, Nebraska's Insurance Code)	Description	Applicant: Provide page number and specific reference to the contract provision
Pharmacist/Pharmacy Participation Contracts Application Question 9(f)				
<input type="checkbox"/>	Maximum Allowable Cost (MAC) price list	§ 44-4608(1)(c)	Contract states how pharmacies can access the MAC list; must be in a readily accessible format that can be used by the contracted pharmacy.	
<input type="checkbox"/>	MAC price list updated at least every seven business days	§ 44-4608(1)(a)	Contract includes commitment that MAC list will be updated at least every seven business days with changes in price from previous list specifically noted.	
<input type="checkbox"/>	MAC price lookup	§ 44-4608(1)(a)	Contract states the means a pharmacy can use to review a current price in an electronic, print, or telephonic format within one business day of any such change at no cost to the pharmacy.	
<input type="checkbox"/>	Prices not allowed on MAC list	§ 44-4608(2)	Contract includes statement that a drug will not be placed on the MAC list unless that drug is available for purchase by pharmacies in Nebraska from a national or regional drug wholesaler and is not obsolete.	

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<input type="checkbox"/>	Process to appeal, investigate, and resolve disputes over MAC prices	§ 44-4608(3)	Contract must include a process to appeal, investigate, and resolve disputes regarding any MAC price.	
<input type="checkbox"/>	15 business day limit on right to appeal MAC price	§ 44-4608(3)(a)	PBM cannot appeal an initial claim by a pharmacy after 15 business days (for appeals of MAC price).	
<input type="checkbox"/>	Seven business day investigation and resolution after appeal of MAC price	§ 44-4608(3)(b)	MAC price appeals must be investigated and resolved within 7 business days after receipt by PBM.	
<input type="checkbox"/>	Reason for any MAC price list appeal denial and national drug code	§ 44-4608(3)(c)	Denial of a MAC price appeal must include a reason and identify the national drug code for the drug that may be purchased by the pharmacy at a price at or below the price on the MAC price list as determined by the PBM.	
<input type="checkbox"/>	Valid MAC price appeals one day price adjustment and pharmacy reverse and rebill	§ 44-4608(4)	Contract states that if a pharmacy's MAC price appeal is successful, the price will be adjusted no later than one day after the appeal is resolved.	
<input type="checkbox"/>	Gag clause prohibitions	§ 44-4606(1)	Contract cannot prohibit or restrict disclosure, or penalize for disclosing: Nature of treatment, risks, and alternatives to treatment; Availability of an alternative therapy, consultation, or test; Decision of utilization reviewer to authorize or deny a service; The process used to authorize or deny a service or benefit; Information on any financial incentive or structure used by the health carrier.	

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	Gag clause prohibitions	§ 44-4606(2)	Pharmacy is allowed to discuss information regarding total cost for a service for a drug; pharmacy is allowed to sell a more affordable alternative to the covered person if a more affordable alternative is available. Also see § 44-4606(5)(a), PBMs cannot require covered persons to pay more than the lesser of their cost sharing or the cash price.	
	Gag clause prohibitions	§ 44-4606(3)	Contract cannot prohibit, restrict, or limit disclosure of information to the director, law enforcement, or government officials if: Recipient of information represents they have authority to maintain proprietary information as confidential; Prior to disclosure, the pharmacy marks documents containing proprietary information as confidential or requests confidential treatment for any oral communication of the information.	
<input type="checkbox"/>	Termination as a penalty for disclosing information	§ 44-4606(4)	Contract states that it cannot be terminated for disclosing information about a PBM practice unless: The pharmacist discloses trade secret information. Contract states that sharing any portion of the contract with the director is not grounds for termination.	
<input type="checkbox"/>	PBM audits of claims	§ 44-4607	Contract language related to the PBM's right to audit claims will be reviewed for compliance with the audit parameters set forth in §44-4607.	

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<input type="checkbox"/>	Written appeals process and procedures for audits	<u>§ 44-4607(5)</u>	Contract states the written appeal process which shall include procedures for appealing both a preliminary audit report and a final audit report.	
Compliance Plan Application Question 9(e) Please provide the internal claims processing or operational guidelines the PBM will use so that reviewers will be able to see that compliance has been built into PBM operations.				
<input type="checkbox"/>	Prescription drug payments by a covered person	<u>§ 44-4606(5)</u>	Covered persons do not pay more than the lesser of cost sharing or cash price; payments are attributed toward deductible or MOOP.	
<input type="checkbox"/>	Maximum Allowable Cost (MAC) price list updates in a usable format	<u>§ 44-4608(1)(a) and (c)</u>	Describes how the applicant plans to provide timely updates and maintain historical records.	
<input type="checkbox"/>	Procedure to eliminate a product from the MAC price list	<u>§ 44-4608(1)(b)</u>	Describes how updates will be made in a timely manner to be consistent with any change in the marketplace.	
<input type="checkbox"/>	MAC price list drug availability	<u>§ 44-4608(2)</u>	Describes how purchase availability will be documented.	
<input type="checkbox"/>	Pharmacy audit requirements	<u>§ 44-4607(1)</u>	Includes a document that provides a detailed description of the pharmacy audit process and includes all required provisions. The audit requirements of § 44-4607 do not apply to investigative audits involving suspected fraud, willful misrepresentation, or abuse, or any audit completed by a state-funded health care program.	
<input type="checkbox"/>	Investigative audits	<u>§ 44-4607(8)</u>	Describes how the auditing entity will distinguish and document an investigative audit to investigate suspected fraud, willful misrepresentation, or abuse.	

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<input type="checkbox"/>	15 business day prior notice of onsite audits	<u>§ 44-4607(1)(a)</u>	Provides fifteen business days notice to any pharmacy prior to conducting an initial onsite audit.	
<input type="checkbox"/>	Claims involving clinical or professional judgment	<u>§ 44-4607(1)(b)</u>	Requires any audit that involves clinical or professional judgment must be conducted by or in consultation with a pharmacist.	
<input type="checkbox"/>	Audit standards and parameters	<u>§ 44-4607(1)(c)</u>	Requires each pharmacy to be audited under the same standards and parameters used for other similarly situated pharmacies.	
<input type="checkbox"/>	Twenty-four month audit period	<u>§ 44-4607(2)(a)</u>	Limits the audit period to twenty-four months from the date that the claim was submitted to the auditing entity unless a longer period is required under state or federal law.	
<input type="checkbox"/>	Random sampling method to determine sample size	<u>§ 44-4607(2)(b)</u>	Requires the auditing entity using random sampling as a method for selecting a set of claims for examination to ensure the sample size is appropriate for a statistically reliable sample.	
<input type="checkbox"/>	Masked list with prescription number or date range	<u>§ 44-4607(2)(c)</u>	Provides the pharmacy a masked list containing any prescription number or date range that the auditing entity is seeking to audit.	
<input type="checkbox"/>	Onsite audit restriction during first five business days of the month	<u>§ 44-4607(2)(d)</u>	Restricts onsite audit from taking place during the first five business days of the month without the consent of the pharmacy.	

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<input type="checkbox"/>	Onsite auditor restricted locations	<u>§ 44-4607(2)(e)</u>	Requires an auditor be escorted by a pharmacy employee in order to enter the area of any pharmacy where patient-specific information is available and, to the extent possible, each auditor is required to remain out of the sight and hearing range of any pharmacy customer.	
<input type="checkbox"/>	Statements or records allowed to validate a pharmacy record and delivery of a pharmacy service	<u>§ 44-4607(4)</u>	Permits the pharmacy to use an authentic and verifiable statement or record, including a medication administration record of a nursing home, assisted-living facility, hospital, physician, or other authorized practitioner or an additional audit documentation parameter located in the provider manual to validate a pharmacy record and the delivery of a pharmacy service. Any legal prescription including a medication administration record, fax, e-prescription, or documented telephone call from the prescriber to the prescriber's agent may be used to validate a claim in connection with a prescription, refill, or change in a prescription.	
<input type="checkbox"/>	Prohibition on requiring additional information written on a prescription	<u>§ 44-4607(2)(g)</u>	Provides that the PBM will not require information to be written on a prescription unless required by state or federal law.	
<input type="checkbox"/>	Interest accrual prohibited during audit period	<u>§ 44-4607(3)(h)</u>	Prohibits interest accrual during the audit period for either party, beginning with the notice of the audit and ending with the final audit report.	

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<input type="checkbox"/>	Preliminary audit report delivery	<u>§ 44-4607(6)(a)</u>	Requires the preliminary audit report to be delivered to the pharmacy within one hundred twenty days after the conclusion of the audit.	
<input type="checkbox"/>	Preliminary audit report appeal process	<u>§ 44-4607(5)</u>	Includes the written appeal process with procedures for appealing a preliminary audit.	
<input type="checkbox"/>	Pharmacy allowed thirty days to provide documentation to address discrepancy in preliminary audit	<u>§ 44-4607(6)(b)</u>	Provides a pharmacy at least thirty days following receipt of a preliminary audit report to provide documentation to address any discrepancy found in the audit.	
<input type="checkbox"/>	Final audit report delivered within 120 days after receipt of preliminary audit or exhaustion of the appeals process	<u>§ 44-4607(6)(c)</u>	Requires the final audit report to be delivered to the pharmacy within one hundred twenty days after receipt of the preliminary audit report or the appeal process has been exhausted, whichever is later.	
<input type="checkbox"/>	Final audit report appeal process	<u>§ 44-4607(5)</u>	Includes the written appeal process with procedures for appealing a final audit.	
<input type="checkbox"/>	Remit money for underpayments of a claim within 45 days	<u>§ 44-4607(6)(d)</u>	Requires an auditing entity to remit any money due to a pharmacy or pharmacist as the result of an underpayment of a claim within forty-five days after the appeal process has been exhausted and the final audit report has been issued.	

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<input type="checkbox"/>	Recoupment for information not written on a prescription	<u>§ 44-4607(2)(h)</u>	Prohibits recoupment for information not written on a prescription unless the information is required in the provider manual or the information is required by the federal Food and Drug Administration or the drug manufacturer's product safety program and the information required is not readily available for the auditing entity at the time of the audit. No auditing entity or agent shall receive payment based on a percentage of any recoupment.	
<input type="checkbox"/>	Recoupment timing	<u>§ 44-4607(2)(f)</u>	Prohibits recoupment from being deducted from or applied against a future remittance until after the appeal process is complete and both parties receive the results of the final audit.	
<input type="checkbox"/>	Audit recoupment requirements	<u>§ 44-4607(3)</u>	Requires the pharmacy audit to meet all of the statutory criteria for recoupment listed below.	
<input type="checkbox"/>	Audit recoupment requirements	<u>§ 44-4607(3)(a)</u>	Includes consumer-oriented parameters based on manufacturer listings in the audit parameters.	
<input type="checkbox"/>	Compounded medication reimbursable cost methodology	<u>§ 44-4607(3)(b)</u>	Considers the pharmacy's usual and customary price for a compounded medication as the reimbursable cost unless the pricing method is outlined in the pharmacy provider contract.	

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<input type="checkbox"/>	Projections prohibited to determine overpayment or underpayment	<u>§ 44-4607(3)(c)</u>	Overpayment or underpayment findings are based on the actual overpayment or underpayment and not a projection that relies on the number of patients served who have a similar diagnosis, the number of similar orders, or the number of refills for similar drugs.	
<input type="checkbox"/>	Extrapolation prohibited for recoupment or penalties	<u>§ 44-4607(3)(d)</u>	Audits cannot use extrapolation to calculate the recoupment or penalties unless required by state or federal law.	
<input type="checkbox"/>	Overpayments involving dispensing fees	<u>§ 44-4607(3)(e)</u>	Dispensing fees are not included in the calculation of an overpayment unless: A prescription was not actually dispensed; The prescriber denied authorization; The prescription dispensed was a medication error by the pharmacy; The identified overpayment is solely based on an extra dispensing fee.	
<input type="checkbox"/>	Record-keeping errors are not considered fraud	<u>§ 44-4607(3)(f)</u>	Provides any clerical or record-keeping error, such as a typographical error, scrivener's error, or computer error regarding a required document or record is not considered fraud. Such error may be subject to recoupment.	

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<input type="checkbox"/>	When recoupment for errors is prohibited	<u>§ 44-4607(3)(g)</u>	Prohibits recoupment for an error resulting in no actual financial harm to the covered person or health benefit plan. An error that is the result of the pharmacy failing to comply with a formal corrective action plan may be subject to recoupment.	
<input type="checkbox"/>	Pharmacy audit reports and recoupments	<u>§ 44-4607(7)</u>	States whether an auditing entity is contractually required to provide a copy of the pharmacy audit to the plan sponsor for any of the plan sponsor's claims that were included in the audit and any recouped money must be returned to the health benefit plan or plan sponsor.	
<input type="checkbox"/>	Prohibits 340B Price Discrimination	<u>§ 44-4609(1)</u>	Provides for reimbursements of a 340B entity or a 340B contract pharmacy at the same rate paid for the same drug to similarly situated pharmacies that are not 340B entities or 340B contract pharmacies	
<input type="checkbox"/>	Prohibits assessing a fee, chargeback, or other adjustment upon 340B entities	<u>§ 44-4609(1)</u>	Does not assess any fee, chargeback, or other adjustment upon the 340B entity or 340B contract pharmacy on the basis that the 340B entity or 340B contract pharmacy participates in the program.	

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<input type="checkbox"/>	Allows the consumer the choice to use a 340B entity	§ 44-4609(2)	Does not discriminate against a 340B entity or 340B contract pharmacy in a manner that prevents or interferes with a covered individual's choice to receive such drug from the corresponding 340B entity or 340B contract pharmacy	
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CERTIFICATION OF COMPLIANCE

I, the undersigned authorized filer, hereby certify that this application and related contracts comply with applicable Nebraska statutes to the best of my knowledge. This filing contains no prohibited content according to the statutes. I am authorized to sign on behalf of the Company identified below.

Name of Company

Typed Name of Authorized Applicant (Electronic Signature)

Date