

**Bulletin 25-03**

To: Pharmacy Benefit Managers  
Discount Medical Plan Organization  
From: Larry Deiter, Director  
Date: May 27, 2025  
RE: Pharmacy Benefit Manager Compliance with Integrated Discount Medical Plan Organizations

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This Bulletin is issued in response to complaints the Division of Insurance (“Division”) received relating to prescription drug claim transactions processed by Pharmacy Benefit Managers (“PBMs”) and Discount Medical Plan Organizations (“DMPOs”). It is the Division’s position that SDCL Ch. 58-29E applies to PBM and DMPO prescription drug claim transactions when a PBM utilizes a DMPO directly or indirectly as part of its pharmacy benefit management for a third-party payor, like a health benefit plan. Further, it is the responsibility of the PBM associated with the insured’s health benefit plan to ensure all conduct of contracted entities comply with SDCL Ch. 58-29E, including laws regarding reimbursement amounts and fees.

To explain the Division’s position, the Division offers the following examples:

**Example 1: Patient X presents a DMPO card to a pharmacy staff member.**

The pharmacy submits the transaction directly to the DMPO or to an intermediary that processes the claim on behalf of the DMPO. The pharmacy is reimbursed according to the terms of the DMPO. Patient X is making the independent decision to use the DMPO card. The pharmacy is paid according to the terms of the DMPO, which may include a fee.

**RESULT:** In this example, the prescription drug claim transaction is not subject to SDCL Ch. 58-29E but is subject to SDCL Ch. 58-17E.

**Example 2: Patient Y presents their insurance card to pharmacy staff containing Patient Y’s prescription drug benefit information.**

The pharmacy submits the prescription drug claim in accordance with the insured’s prescription drug benefit. As part of processing the claim, the insured’s PBM transfers the claim directly or indirectly to a DMPO, and the claim is subsequently processed by the DMPO. Reimbursement amounts are communicated to the pharmacy to be collected from Patient Y. The pharmacy is required to directly or indirectly remit a fee to the PBM and/or DMPO for the claim. The pharmacy is required to collect more from the insured than they retain and/or remit a fee.

**RESULT:** For the reasons listed above, this practice is a violation of SDCL 58-29E-12 and 58-29E-16. In this example, the prescription drug claim transaction is subject to review under both SDCL Ch. 58-29E and SDCL Ch. 58-17E. If an insured presents their prescription drug benefit and a fee for the prescription drug claim is collected by a PBM or DMPO, it is a violation by the insured's PBM of SDCL 58-29E-16. Requiring any payment from the insured that exceeds the amount retained by the pharmacy constitutes a violation of SDCL 58-29E-12. PBMs are responsible for preventing such fees and collections from occurring.<sup>1</sup>

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<sup>1</sup> Example 2 is not the only situation wherein SDCL Ch. 58-29E could apply to a transaction involving a DMPO, nor is it required that all the above factors, which are provided only for illustrative purposes, be present for SDCL Ch. 58-29E to apply to a particular transaction.