



PBM Reforms and Plan Sponsors: More Information Means More Responsibility!

To the surprise of many, the 2026 Consolidated Appropriations Act (CAA) amended the Public Health Service Act (PHSA), the Employee Retirement Income Security Act of 1974 (ERISA), and the Internal Revenue Code to address the role of entities providing Pharmacy Benefits Management services (PBMs) to group health plans.

Although the reporting and transparency requirements of the 2026 CAA are intended as “PBM reform,” the applicable laws amended by the 2026 CAA directly govern plans and plan sponsors.

The following is a high-level overview of provisions in the 2026 CAA applicable to group health plans, including both ERISA plans and plans subject to the PHSA, such as publicly funded and governmental plans.

Requirement	Effective Date	Applicability	Impact
-------------	----------------	---------------	--------

Covered service provider disclosures	February 3, 2026 (immediately)	ERISA plans	Amends ERISA § 408(b)(2) to include PBMs. Extends applicability of 2021 CAA broker and consultant direct and indirect compensation disclosure requirements to most group health plan vendors, including PBMs.
--------------------------------------	--------------------------------	-------------	---

Rebate pass-through

ERISA plans

Amends ERISA § 408(b)(2) to require 100% pass-through of utilization-related rebates to the plan for a PBM agreement to be considered "reasonable."

Rebates must be remitted to the plan no later than 90 days after the end of the calendar quarter.

Plan years beginning on/after August 3, 2028
January 1, 2029,
for calendar-year plans

PBM transparency and reporting

ERISA plans
PHSA plans

PBMs must report information to plans, including information on plan drug spend, member drug spend, rebates, and benefit design parameters. Summary reports are required to be provided to self-funded and insured group health plans every six months, regardless of size. However, plans can request to receive reports quarterly.

Reports to large, self-funded group plans must include extensive, claims-level detail in addition to the summary information. Large insured plans may opt in to receive the same enhanced reporting as large self-funded plans. U.S. Department of Labor / U.S. Department of Health and Human Services guidance is expected by July 2027.

Plan reporting ERISA plans
PHSA plans

Plans must provide certain PBM reporting to participants annually and upon request.

Plans may include these disclosures with other participant notices or provide them separately.

DOL / HHS are expected to issue a model notice.

Additional features of the new PBM reform requirements include, but are not limited to, ERISA plan and plan sponsor audit rights related to rebate pass-through requirements, and monetary penalties up to \$10,000 per day for violations of the reporting requirements (as well as monetary penalties up to \$100,000 per occurrence for the reporting of false information).

With greater information comes greater responsibility! For example, ERISA plan fiduciaries will be expected to review and understand the Section 408(b)(2) disclosures from PBMs and determine whether the PBM's fees are "reasonable," so as to fall within an exception to ERISA's prohibited transaction rules. Plan sponsors

should work with counsel and other plan professionals to ensure diligent review and monitoring of PBM agreements, reporting and disclosures, and rebates.

Spencer Fane Employee Benefits attorneys can assist plan sponsors with understanding and satisfying these new PBM reform requirements.

This blog post was drafted by [Laura Fischer](#) and [Aurora Kammerer](#), attorneys in the Denver, Colorado, and Overland Park, Kansas, offices of Spencer Fane, respectively. For more information, visit spencerfane.com.

Click [here](#) to subscribe to Spencer Fane communications to ensure you receive timely updates like this directly in your inbox.