DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

Jim Poolman
Commissioner of Insurance

BULLETIN 2006-2

TO: All Health Insurers and Other "Covered Entities" that Contract With a Pharmacy Benefits Management Company

FROM: Jim Poolman, Commissioner

DATE: February 10, 2006

SUBJECT: Deadline for Filing Disclosure Regarding Benefits Received From a Pharmacy Benefits Manager

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The 2005 North Dakota Legislative Assembly passed House Bill No. 1332, now N.D. Cent. Code Chapter 26.1-27.1, relating to health insurers and other "covered entities" that contract with a pharmacy benefits management company (PBM).

A covered entity is defined in N.D. Cent. Code § 26.1-27.1-01(1) as:

> 1. "Covered entity" means a nonprofit hospital or a medical service corporation; a health insurer; a health benefit plan; a health maintenance organization; a health program administered by the state in the capacity of provider of health coverage; or an employer, a labor union, or other entity organized in the state which provides health coverage to covered individuals who are employed or reside in the state. The term does not include a self-funded plan that is exempt from state regulation pursuant to the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829; 29 U.S.C. 1001 et seq.]; a plan issued for coverage for federal employees; or a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, medicare supplement, disability income, long-term care, or other limited-benefit health insurance policy or contract.

N.D. Cent. Code § 26.1-27.1-06(2) requires that a "covered entity" disclose annually to the Commissioner the benefits of a "payment received by a PBM" under any contract with a PBM and describe the manner in which the payment is applied toward reducing rates or is distributed to covered individuals.

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N.D. Cent. Code § 26.1-27.1-01(6) reads:

> 6. "Payment received by the pharmacy benefits manager" means the aggregate amount of the following types of payments:
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> a. A rebate collected by the pharmacy benefits manager which is allocated to a covered entity;
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> b. An administrative fee collected from the manufacturer in consideration of an administrative service provided by the pharmacy benefits manager to the manufacturer;
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> c. A pharmacy network fee; and
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> d. Any other fee or amount collected by the pharmacy benefits manager from a manufacturer or labeler for a drug switch program, formulary management program, mail service pharmacy, educational support, data sales related to a covered individual, or any other administrative function.

The law can be found at http://www.legis.nd.gov/cencode/t26lc271.pdf.

The law does not specify the date by which the disclosure to the Commissioner is to be filed.

This bulletin defines that date of filing of the disclosure to the Commissioner to be March 1 for the benefits received during the previous year. The report for 2005 need only include benefits received after August 1, 2005, the date the law became effective.

A company may request an extension of time for filing the disclosure, provided the request is made prior to March 1, and provided the company supports the request with a showing of good cause.

Questions should be directed to Charles E. Johnson, General Counsel, at (701) 328-4984 or cejohnso@state.nd.us or Mike Fix, Life and Health Actuary, at (701) 328-2441 or mfix@state.nd.us.

JP/njb