

Pharmacy Benefit Manager (PBM) Contracting

For more than 20 years, Wiley has represented health plans and employers in their procurement of and contracting with PBMs for pharmacy benefit management services including claims adjudication, pharmacy network, Rebates, Mail, Retail and Specialty drug services in connection with commercial and government health care programs. The PBM engagements for which we typically are retained reflect the full spectrum of both long-standing and emerging pharmacy program issues – from guiding plan sponsors and plan administrators to understanding and navigating their fiduciary obligations vis-à-vis contracting with PBMs, to representing clients that are seeking strategic direction concerning the many new models of pharmacy program service delivery (e.g., product/service disaggregation, program segmentation, etc.), to working with clients to ensure PBMs comply with their contractual commitments. In this regard, our lawyers have negotiated with many of the PBMs now in the marketplace, including CVS Health, ESI, OptumRx, MedImpact, Navitus, PerformRx, and Prime Therapeutics.

Critical PBM prescription drug pricing mechanics are extremely complex, constantly evolving, and often proposed in a convoluted way. Our attorneys are highly skilled and experienced at mapping the financial and operational concepts and pricing mechanics into clear, concise, enforceable contract terms that maximize our clients' financial position, incentivize optimal operational performance, and anticipate potential market fluctuations.

Our PBM experience has both breadth and depth. We have a dedicated PBM Team that is part of the larger Health Care Team of over 20 people.

PBM Procurement Counseling

Our lawyers have been engaged at various points in the procurement process – before an RFP is issued, after the RFP is issued but before the first best and final offer (BAFO), and on occasion after the RFP has been issued and there have been several rounds of BAFO. No matter the point in the procurement process at which Wiley is engaged, we leverage the breadth and depth of our PBM procurement and contracting experience to integrate into the procurement process a consideration of each PBM's willingness to accept the contract terms offered by our clients. Using this process – the Wiley Competitive Contracting Process – the procurement process is tightly linked to the contracting process so that the PBMs' pricing, operational design, and other critical aspects of the pharmacy benefit management services are tied to the actual PBM agreement the selected PBM will be contracted to administer.

PBM Contract Development and Negotiation

Our knowledge and experience in PBM contract drafting and negotiation are broad and deep. We have prepared contracts for integrated Retail and Mail programs, and contracts to support programs where the Retail, Mail and Specialty functions are segregated. Wiley is skilled at constructing these PBM contracts in a manner that builds upon the strengths of our client's existing contract and that mitigates historical (and emerging) financial/operational pain points.

Wiley offers a full range of both business and legal expertise that is critical to the success of our clients seeking market innovations to their pharmacy programs. Wiley addresses the various legal and operational risks that are inherent in PBM contracts to ensure our clients achieve well-constructed, legally sound contracts that protect our clients' financial and business interests, and that are transparent, auditable, and operationally clear. Wiley's PBM contract support is widely known in the industry and remains unmatched as market leading and heavily client focused. Our years of drafting creative and complex PBM deals means that we can be nimble and draw on a wealth of experiences to capture the nuances of the most intricate, uncommon arrangements, ensuring our clients walk away with favorable critical terms that are readily enforceable. We are pleased that the various contract provisions we have drafted have been tested over time and are working to our clients' advantages in PBM agreements today.

Contact Us

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