

BULLETIN 377

"Any Willing Pharmacy" Requirements

The purpose of this Bulletin is to remind health insurance carriers of their obligation to comply with the "any-willing-pharmacy" requirements of 24-A M.R.S.A. § 4317. If a health plan subject to the Maine Health Plan Improvement Act provides prescription drug benefits through a pharmacy network, the carrier offering the plan may not refuse to contract with any pharmacy that is willing to meet the terms and conditions for participation in the plan's network.

The carrier is responsible for assuring that every pharmacy network it uses complies with this requirement, whether the carrier manages the network itself or contracts with a network administrator. If the network is a tiered network, all pharmacies must be offered the opportunity to participate in each tier. State insurance law does not apply when a carrier is providing administrative services only (ASO) to a self-insured private employer, to the extent preempted by ERISA. However, if the same network is also used for state-regulated plans, the network must comply with Maine law.

Preferred provider arrangements (PPAs) are also required to comply with Maine's "any-willing-pharmacy" law pursuant to 24-A M.R.S.A. § 2673-A(3).

Pursuant to 24-A M.R.S.A. § 2674-A(2), carriers and PPA administrators providing or administering network pharmacy benefits in Maine are required to provide the Bureau with the following information by June 1, 2011, and annually thereafter, which will be posted on the Bureau's Web site to assist Maine pharmacies in identifying networks they may wish to join. The information must be updated no later than 120 days after any material change:

1. For network administrators, the administrator's name and contact information, and contact information for all carriers using the network in Maine.
2. For carriers, contact information for the carrier and any network administrator responsible for contracting with participating pharmacies.

In order to comply with Maine's "any-willing-pharmacy" law, carriers are required to make specimen pharmacy contracts readily available to Maine pharmacies upon request for each network subject to the requirement. A network administrator may provide this information on the carrier's behalf.

Anyone having questions about this Bulletin should contact the Bureau of Insurance at (207) 624-8475 or toll-free in Maine at (800) 300-5000.

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NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.