

Report Highlights

Impact of Act 2012-207 on Access to Retail Pharmacies and Cost of Prescription Medications

In an effort to provide greater consumer access to retail pharmacies and a “level playing field” for retail and mail order pharmacies, in 2012, the Pennsylvania General Assembly adopted Act 207. The Act prohibits state-licensed health plans that provide prescription drug benefits from requiring consumers to obtain prescription medications through mail order pharmacies and provides that consumer copayments and coinsurance be the same for retail and mail order pharmacies. Such requirements apply only if the retail pharmacy agrees to the same terms and conditions that are in place for the mail order pharmacy.

We found:

- **According to the National Community Pharmacists Association, Pennsylvania is one of eight states that have attempted to limit the required use of mail order pharmacies.** Such laws apply to state-licensed insurers in five states (Connecticut, Hawaii, Maryland, New York, and Pennsylvania), employers in two states (Arkansas and Louisiana) and certain state health benefit plans in one state (Texas). In states with such laws, their impact has been limited due to their limited applicability. As in Pennsylvania, such laws do not apply to “health coverage” benefits available through federal programs such as Medicare and self-insured trusts and legally permitted employer welfare arrangements, which are governed under various federal laws. Nationwide, over 60 percent of workers receive coverage through such plans.
- **The Pennsylvania Insurance Department (PID) received relatively few Act 207 consumer complaints (i.e., 36) from March 2013, when it was implemented, through November 2014.** The PID investigated each complaint. It found many were from consumers enrolled in Medicare and self-funded plans that are not covered by Act 207. Others involved retail pharmacies reporting they could not agree to meet the conditions or pricing offered by the insurer or the insurer’s pharmacy benefit manager for a mail order pharmacy.
- **Three-quarters (101 of 132 respondents representing about 1,000 independent and chain retail pharmacies) of those responding to an LB&FC survey reported that they had applied to offer medication dispensing under Act 207, but only about half of those that applied were approved.** Typically, those not approved reported they did not meet the insurer’s mail order pharmacy network requirements. Several respondents reported withdrawing their application after becoming familiar with the insurer or its pharmacy benefit manager requirements.
- **Over 80 percent of survey respondents who participate in Act 207, including all participating chain pharmacy respondents, reported they planned to continue to participate in the program in the upcoming year.** The primary reason given by those who indicated they would not continue to participate is the program’s failure to cover their drug acquisition and dispensing costs.
- **About half of the retail pharmacies responding to our survey and participating in Act 207 think consumer out-of-pocket costs have remained the same or decreased (from under \$10 to greater than \$10 for a 90-day drug supply).** None of the state’s major health insurers reported incurring material cost as a result of Act 207. One noted the costs associated with implementation typically involves the provider credentialing process, which are costs incurred with or without Act 207. The absence of widespread implementation of the Act, however, provides little opportunity to fully assess its impact on the cost of medication services.
- **For the most part, retail pharmacists expressed disappointment with the implementation of the Act in view of its original legislative intent.** Those responding to our survey typically indicated that the Act, while well intentioned, was ignored, “lacked teeth,” or was not enforced in the light of legislative intent.