

Policy Review Process and Non-UPL Policies

PDAB Meeting

April 13, 2026

PDAB Staff



Policy Review Process Chronology

- Preliminary Determination - Affordability Challenge
07/28/2025
- Policy Review Process and Preliminary Policy
Recommendations 09/29/2025
 - Public Information Hearings 09/03/25 at 1:00 & 6:00 pm
 - Stakeholder Council Input
 - Staff research & analyses; Eligible gov't entity info



Non-UPL Policies Farxiga and Jardiance

- **The Board may adopt a final policy recommendation only after the Board has:**
 - Made a final affordability challenge determination; and
 - Adopted the final cost review study report under COMAR 14.01.04.05G.
- **Draft Non-UPL Policy Recommendations**
 - Inflation Penalty
 - Delinking PBM Compensation from Rebates
 - Navigator Program



WAC Inflation Penalty

Policy Explanation

- Manufacturers would pay a penalty of 100% on the additional gross Maryland revenue attributable to the increase in WAC above the rate of inflation of that year
- Methodology:
 - The state would establish a baseline WAC and calculate the inflation-adjusted WAC from that baseline annually when the manufacturer changes the WAC of a prescription drug
 - Penalty would be the difference between the inflation-adjusted baseline and current WAC, multiplied by the units sold in Maryland
 - If the manufacturer has no WAC changes in a year a penalty would not be assessed and the state would re-calculate the tax to select a new inflation-adjusted baseline



WAC Inflation Penalty- Implementation Process and Timeline

- **Phase 1: Strategic Assessment (4 Months):** PDAB and state partners conduct a feasibility assessment, calculation and methodology adjustment, and fiscal modeling to estimate potential revenue and impact on consumer out-of-pocket costs.
- **Phase 2: Operational Design (5 Months):** Staff develops operational protocols for baseline WAC tracking and annual calculations.
- **Phase 3: Legislative Phase (4 Months):** Introduction of enabling legislation to authorize the penalty and create the collection framework.
- **Phase 4: Program Launch (Milestone):** Full program launch; initial baseline WACs established for enforcement.



WAC Inflation Penalty- Other State Examples

States have proposed and/or enacted similar laws imposing penalties on prices that exceed a legislatively defined reference price.

- **Illinois:** Enacted the *Pharmaceutical and Health Affordability Act* (2024), which targets "price gouging," defined as WAC increases of 30% or more in one year (or 50% over three years) for essential off-patent or generic drugs.¹
- **Minnesota:** Passed *Chapter 57* (2023) prohibiting "excessive" price increases for generic drugs, defined as hikes exceeding 15% annually or 40% over three years. Despite legal challenges, it established a model for remitting excess revenue to a state special fund for in-state drug manufacturers.²
- **Connecticut:** Proposed legislation (2024/25) to prohibit selling identified drugs above a reference price (WAC plus inflation), with a civil penalty equal to 80% of the revenue earned above that cap.³
- **Massachusetts:** Introduced *Bill S.2774*, which proposed an 80% penalty on the "excessive" portion of a drug's price, defined as costs exceeding the original market price adjusted for the three-year average of the consumer price index.⁴

1. Illinois Compiled Statutes, Chapter 35.

2. Minnesota Senate File 2744. 93rd Legislature (2023-2024).

3. Connecticut SSB 11. OLR Bill Analysis (2025).

4. Massachusetts Senate Bill 2774. 192nd General Court (2021-2022).



Patient Navigator Program

Policy Explanation

- The state can implement a patient navigator program modeled after the Kentucky Prescription Assistance Program (KPAP), which is a free service that helps people obtain their prescription medications by identifying and helping them apply to existing medication assistance programs offered by drug companies, discount drug programs, and discount pharmacy programs.



Patient Navigator Program- Implementation Process and Timeline

Phase 1: Strategic Assessment (4 Months): PDAB and state partners conduct an assessment of current state capacity and opportunities to develop navigator program.

Phase 2: Operational Design (5 Months): Staff develops operational protocols and resource library for providing navigator services. Staff can begin tests and soft rollout on ad hoc bases.

Phase 3: Legislative Phase (4 Months): Introduction of funding and full-time equivalent (FTE) allocation legislation to authorize and create the navigator program.

Phase 4: Program Launch (Milestone): Full program launch; develop partner network, and begin patient navigation services.



Patient Navigator Program- Other State Examples

- **Kentucky (House Bill 406 Kentucky Prescription Drug Patient Assistance Program)⁵:**
 - Establishes and funds a community-based service delivery model to reach all 120 Kentucky counties.
 - A small team of 2 full-time state employees and a part-time contractor support a broad network of partner organizations and local advocates.
 - The state team manages the hotline, licenses the software to partners and provides training and oversight for the community network.
- **Washington (SB 5558 Prescription Drug Assistance Foundation (PDAF) / Prescription Drug Assistance Network (PDAN))⁶:**
 - Created a non-profit foundation that provides support for residents with inadequate coverage and distributes grants to fund local patient assistance initiatives across the state.
 - The foundation's program counterpart is a direct-to-consumer hotline where care coordinators guide patients through existing assistance options to find the most affordable ways to access their medications.

5. Kentucky House Bill 406. 2008 Regular Session.

6. Washington Senate Bill 5558. 59th Legislature (2005).



PBM Compensation

Delinking PBM Compensation from Rebates or from WAC Increases

Policy Explanation

- This policy shifts PBM compensation from percentage-based rebates and list prices to a transparent, service-based structure.
 - **Delinking:** Under some contracts, PBMs are paid a portion of the negotiated rebates, and may have a financial incentive to prefer the drug with a larger rebate over the drug with the lowest net cost. With delinking, PBMs would be compensated via negotiated flat-dollar service fees per claim, prohibiting income based on a drug's price, cost, or rebate volume.
 - **WAC Neutrality:** Compensation based on rebates set as a percentage of the Wholesale Acquisition Cost (WAC) is decoupled from WAC increases. Using a "WAC-in-Time" model, fees are derived from the difference between the net price and a specified, time-locked WAC.



PBM Compensation- Implementation Process and Timeline

- **Phase 1: Strategic Assessment (4 months):** PDAB conducts a therapeutic class-wide review of current rebate-to-fee ratios in state-funded health plans to model the fiscal impact of a flat-fee transition.
- **Phase 2: Stakeholder Alignment (5 months):** Staff engages with the Maryland Insurance Administration (MIA) and the Department of Budget and Management (DBM) to draft standardized "Flat Fee" contract language for state health plans.
- **Phase 3: Legislative Phase (4 months):** Introduction of the "PBM Compensation Reform Act" to mandate delinking for all state-regulated commercial plans and PBM contracts.
- **Phase 4: Program Launch (Milestone):** Full implementation; PBMs operating in Maryland must certify that compensation is derived solely from flat service fees.



PBM Compensation- Other State Examples

- **Colorado (HB 25-1010)**⁷: Prohibits PBM income based on drug price; mandates flat-dollar service fees and "formulary neutrality" starting in 2027.
- **Florida (SB 1550)**⁸: Requires a "pass-through" model where 100% of rebates are sent directly to the health plan, limiting PBMs to transparent administrative fees.
- **California (SB 41)**⁹: Recently enacted legislation that includes a mandatory PBM delinking provision. This law prevents hidden fees and reduces PBM "spread pricing" by requiring that PBM compensation be entirely independent of drug list prices or rebate values.

7. Colorado House Bill 25-1094. (2025).

8. Florida Senate Bill 1550. (2023).

9. California Senate Bill 41. (2025).



References

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