

Leveraging your Resources: Brokers and Consultants

Optimizing Advisor Relationships

THE CHALLENGE: PBMs have resisted change and employers/plan sponsors are being held accountable to a fiduciary standard that requires greater transparency. Some brokers and consultants are conflicted and do not prioritize their duty to support the employer/plan sponsor requirements and patients.

THE OPPORTUNITY:

- ▶ Employers can influence the impact of PBM practices on their plans and members by leveraging brokers and consultants as their agents, not “partners” to the PBM.
- ▶ Brokers and consultants must work for the employer/plan sponsor and not have any financial interest in PBMs.

Brokers or consultants are working for plan sponsors when they:

Contracts



- ▶ Hold your PBM accountable to price transparency and [Consolidated Appropriations Act](#) compliance by including contract language to ensure related expectations are understood and met.
- ▶ Commit to acting in your best interest—in writing.
- ▶ Remove or fully disclose any conflicts of interest in contracts with PBMs.
- ▶ Request an independent evaluation of their own collaborative, which could pose a conflict of interest.

Prices and Fees



- ▶ Disclose their incentives and commissions—no direct or indirect compensation from PBMs.
- ▶ Require disclosure of compensation from PBMs.
- ▶ Demand RFPs and proposals include lowest net cost and unit prices for the top 500 drugs. Do not just accept discount percentages.
- ▶ Demand disclosure of compensation and incentives from third parties, like pharma, beyond rebates.

Formularies



- ▶ Require independent pharmacy & therapy (P&T) committees and disclosure of the names/members of the committee.
- ▶ Consider custom formularies for greater control of costs.
- ▶ Reject surcharges for custom formulary services.
- ▶ Require disclosure of the entire formulary and drug list as well as anticipated unit price.

Choosing the Right Advisor

- ▶ Some consulting firms receive incentives, commissions or fees for placing clients into sponsored or owned PBM contracts and risk pools.
- ▶ Select brokers and consultants that are not contracted to offer PBM services or group network agreements.



Leveraging your Resources: Brokers and Consultants

Optimizing PBM RFPs: Selecting the Right Advisor for Effective Pharmacy Benefit Management

Choosing the Right Advisor

Plan sponsors need a trusted advisor to oversee their pharmacy benefit plan to manage rising drug costs, ensure transparency, and navigate complex regulations like the [Consolidated Appropriations Act, 2021](#). A knowledgeable advisor can protect against predatory practices by PBMs and optimize the plan design to meet employee needs while controlling expenses.

Selecting the right advisor can lead to better cost management, compliance, and improved employee health outcomes. Plan sponsor are encouraged to consider the following when choosing an advisor:

- ▶ Choose a “buyer’s agent,” meaning there is no direct or indirect compensation from PBMs.
- ▶ Check competency and demonstrated knowledge of “games being played.”
- ▶ Expect a commitment to transparency and a contractual obligation to disclose and explain all PBM practices that lead to self-dealing or misalignment.
- ▶ Ask for specialized talent, including expertise on plan design, along with clinical, contract, and financial considerations.
- ▶ Ensure the advisor does not evaluate its own collaborative, which would pose a conflict of interest.
- ▶ Set forth a contractual obligation to notify the plan sponsor of industry developments, including PBM attempts to increase its profits rather than serve the plan sponsor.
- ▶ Verify that auditors are independent of the PBM and its subsidiaries or parent companies.
- ▶ Confirm that auditors are not restricted contractually or otherwise to only comment on compliance with the contract. Auditors must be contractually required to offer commentary wherever the existing PBM arrangement is misleading, resulting in misaligned behaviors or potential self-dealing.

Attributes of a Trusted Advisor

Trusted advisors tend to have distinct attributes:

- ▶ They focus on the client’s success, rather than on themselves or their organization.
- ▶ They focus on problem resolution, not just technical or content sales.
- ▶ They don’t criticize their competitors, but find new ways to be of greater service to their client.
- ▶ They consistently focus on doing the right thing, rather than on economic outcomes.
- ▶ They view models and business processes as means to an end – they are useful if they prove effective for the client, and discarded if they don’t.
- ▶ They believe that both selling and serving are aspects of professionalism; both prove a dedication to helping clients with their issues.

THE CHALLENGE: Current RFPs are designed and executed in a standardized manner, not allowing for much customization. This approach favors the selection algorithms used by brokers and consultants but does not result in the best PBM deal for employer/plan sponsors. It also excludes smaller, transparent, high-performing PBMs.

Employer/plan sponsors can protect themselves from predatory practices by:

- ▶ Aligning RFP conditions to align with plan sponsor CAA fiduciary obligations. Require standardization of terms and clear definitions around duties and obligations.
- ▶ Protecting your right to conduct periodic market checks and refusing to agree to limitations on direct contracting with manufacturers, pharmacies, or other third parties.
- ▶ Requiring periodic reporting that focus on unit price for high-cost therapies as well as the total cost of care. Ensure patient centricity in clinical or medical necessity, not just lower price.
- ▶ Demanding access to data collected while administering the plan benefit, at no cost and within a 90-day request window. Do not allow for conditions or barriers on data access.
- ▶ Mandating unit price disclosure to support assessment and comparison of prices at the drug or drug class. Focus on drug mix or utilization, beyond impacts to rebates and rebate guarantees. Remove bias toward high-price/high-rebate drugs.
- ▶ Requiring disclosure and biographies of members of the pharmacy and therapeutics P&T committee and insisting on independence.

RESOURCES

[A Playbook for Employers: Addressing Pharmacy Benefit Management Misalignment](#) (National Alliance of Healthcare Purchaser Coalitions, 2023)

[National Alliance Guideline Identifies Key PBM Concerns for Health Plan Purchasers](#) (AJMC, September 7, 2023)