



STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
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**BULLETIN 23-04**

**To:** Tennessee-Licensed Pharmacy Benefit Managers, Pharmacies, and Covered Entities

**From:** Carter Lawrence, Commissioner   
Carter Lawrence (Sep 12, 2023 13:15 CDT)

**Date:** September 12, 2023

**Re:** Applicability of 2022 Public Chapter 1070

The Tennessee Department of Commerce and Insurance (the “Department”) issues this bulletin to address the applicability of 2022 Public Chapter 1070 (“Pub. Ch. 1070”). Specifically, section 12 of Pub. Ch. 1070 states that the statutory changes enacted in Pub. Ch. 1070 “appl[y] to policies, plans, contracts, and agreements that are entered into, amended, or renewed to take effect on or after [January 1, 2023].”

It is the Department’s position that Pub. Ch. 1070 applies to all enumerated documents regardless of whether the policy, plan, contract, or agreement is controlled by, dependent upon, related to, or in any way issued in connection with a separate contract or agreement effective prior to January 1, 2023, that is not itself subject to Pub. Ch. 1070 at the time the subsequent policy, plan, contract, or agreement is entered into, amended, or renewed. To further explain, the Department offers the following sample fact pattern illustrating the Department’s position:

*P*, a Tennessee-licensed PBM, as defined by Tenn. Code Ann. § 56-7-3102(5), entered a contract with *S*, a covered entity as defined by Tenn. Code Ann. § 56-7-3102(1), for *P* to administer the medication and/or device portion of pharmacy benefits coverage provided by *S*. This contract has not been entered into, amended, or renewed on or after January 1, 2023.

Subsequently, on or after January 1, 2023, *P* enters, amends, or renews a contract with *R*, a pharmacy or pharmacy services administrative organization (“PSAO”), for *R* (or the pharmacies contracted with *R*, if *R* is a PSAO) to dispense drugs and devices to certain individuals, including those to whom *S* provides pharmacy benefits coverage.

The contract between *P* and *R* must provide that *P* will reimburse *R* (or the pharmacies contracted with *R*, if *R* is a PSAO) in accordance with Pub. Ch. 1070,

including reimbursing *R* (or the pharmacies contracted with *R*, if *R* is a PSAO) at least actual cost and paying of any applicable enhanced dispensing fee, since the contract between *P* and *R* is subject to Pub. Ch. 1070 as a contract that was entered into, amended, or renewed on or after January 1, 2023. This is true even though the contract between *P* and *S* was not subject to Pub. Ch. 1070 at the time the contract between *P* and *R* was entered into, amended, or renewed.

Similarly, if the contract between *P* and *S* was entered into, amended, or renewed on or after January 1, 2023, then the contract must provide for *P* to reimburse all pharmacies in accordance with Pub. Ch. 1070.

Any questions regarding this bulletin should be directed to [PBM.Compliance@tn.gov](mailto:PBM.Compliance@tn.gov).