

NEW YORK PBM CONTRACTUAL OBLIGATIONS TO TAKE EFFECT: WHAT TO EXPECT

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With the new Part 456 of the New York Insurance regulations applying to contracts “signed, issued, assigned, renewed, extended, or otherwise modified on or after July 1, 2025,” pharmacies should be aware of some key provisions.

Update	Citation	Comments
<ul style="list-style-type: none"> • PBMs cannot reimburse an in-network pharmacy less than an affiliated pharmacy within the same network 	11 NYCRR 456.2(a)(1)	<ul style="list-style-type: none"> • But, permits the health plan to maintain multiple networks with different reimbursements, including mail order.
<ul style="list-style-type: none"> • Re-credentialing is limited to once every three years 	11 NYCRR 456.3(a)	
<ul style="list-style-type: none"> • Immediate termination is limited to: <ul style="list-style-type: none"> ○ assignment to benefit creditors ○ bankruptcy ○ insolvency ○ receiver appointed ○ a cease and desist issued against the pharmacy ○ levy, writ of garnishment, etc. ○ pharmacy is found to have knowingly defrauded the plan ○ invalid licensure ○ imminent patient harm ○ insufficient insurance coverage ○ pharmacy is debarred from a federal program ○ material breach of contract 	11 NYCRR 456.4(a)	<ul style="list-style-type: none"> • Most pertinent here is the final clause, which permits immediate termination in the event of a material breach, as the preceding reasons are typically already ingrained in Provider Manuals. • We expect to see potential amendments including an expansive definition of “material breach,” even for record-keeping or clerical deficiencies. • Pharmacies can leverage these provisions when facing termination for seemingly arbitrary reasons, and will seemingly nullify general termination clauses such as any “non-compliance with the Provider Manual.”
<ul style="list-style-type: none"> • If terminated, the PBM must provide a specific explanation for the termination, in writing, and such explanation must have a rational basis. 	11 NYCRR 456.4(c)	<ul style="list-style-type: none"> • The interpretation of what constitutes a rational basis will be left to courts/arbitrators, but will likely be a low bar.