

How Retirement Fiduciaries Can Help Health Plan Fiduciaries

Advisers' deep knowledge of the fiduciary process can aid employers making sense of new disclosures from pharmacy benefit managers.

Reported by EDWARD RUEDA

Since 1974, the Employee Retirement Income Security Act has instructed retirement plan fiduciaries to act “solely in the interest of participants and beneficiaries” when “providing benefits.” When Congress added prescription drug pricing measures to the [latest appropriations bill](#) in February 2026, the legislation used similar framing: Health plan fiduciaries must receive information required of pharmacy benefit managers—[commonly known as PBMs](#)—about drug prices, rebates, fees and alternative discounts.

The Congressional act mirrors the Department of Labor's January [proposal](#) requiring PBMs to disclose fees and compensation. But as federal regulators set out these [new compliance procedures](#), it may be retirement plan advisers who can provide a road map to health plan fiduciaries.

“Under ERISA, when you withhold dollars from your employee's paycheck, whether it's for a retirement plan or your health and welfare plan, you have to be a prudent fiduciary,” says Jamie Greenleaf, co-founder of the company Fiduciary In A Box, which assists with compliance for employer-sponsored health and retirement plans. “The process that you do on your retirement plan is exactly what needs to be done on your health care plan.”

If employers and health plan administrators need clarification on the concept of a “fiduciary,” Greenleaf says advisers can explain that fiduciaries should serve as prudent stewards for participants and that employers largely have their employees' trust. According to Principal's [2025 Global Financial Inclusion Index](#), 67% of surveyed employees said they trust their employer to support their financial well-being—a higher degree of trust than financial systems (62.1%) and the government (44.6%).

“Get your compensation disclosures, get your contracts and start reviewing them,” Greenleaf says. “This is not an option anymore. This is not a nice-to-have. If you're withholding dollars from your employee's paycheck, this is a must-do.”

Sizing Up PBMs

Once health plan fiduciaries request information from PBMs, the Consolidated Appropriations Act of 2026 requires transparency in the form of semiannual reports—which can be made quarterly if requested. PBMs will need to explain to employers how they are compensated and why higher-cost drugs are provided instead of cheaper alternatives.

One practice that must be disclosed, per the CAA, is spread pricing: when health plans are billed more than pharmacies are reimbursed, and PBMs take the leftover money. Andrew Oringer, a partner in and general counsel of the Wagner Law Group, an ERISA law firm, uses the analogy of a contractor hired to build a house extension, which then hires a subcontractor to do the work but pays the subcontractor much less.

As fiduciaries go through the reports, advisers can continue to assist. Lisa Carrasco, a partner in the executive compensation and employee benefits practice of law firm Smith, Gambrell & Russell LLP, says advisers can ensure that documentation is received and that the health plan sponsor or plan committee are reviewing them.

“Under ERISA, a contract isn’t reasonable unless the fees are reasonable,” Carrasco says. “So how do you know if the fees are reasonable if you don’t know what [PBMs have] been paid?”

Once health plan fiduciaries understand the disclosures, Oringer says they can be empowered to negotiate better contracts or run requests for proposals to select a more suitable PBM. As health plan fiduciaries go through their review process and evaluate or replace their contracts with PBMs, they need to document their processes. One of the key defenses available to fiduciaries in ERISA lawsuits, he says, is [procedural prudence](#).

“It’s not enough to just get this information. You want to make sure you have in writing somewhere that you’ve looked at it,” Carrasco says. “That’s really your best defense.”

Transparency or ‘Whac-a-Mole’?

While plan fiduciaries should begin to better understand their pharmacy benefits, industry experts say they may not be getting the full financial picture. Ryan Rice, a principal in and the practice lead at the Prism Health Group, a pharmacy consulting firm, is concerned that PBMs may find ways to rewrite contracts and reclassify fees so they do not show up on the CAA’s mandated disclosures.

“It’s another shell game of ‘hide the money’ in a ‘Whac-a-Mole’ [situation], ultimately,” Rice says.

It is too early to know how the new disclosure laws will affect court proceedings. In 2025, 22% of ERISA lawsuits filed involved health plans, according to [analysis](#) by Encore Fiduciary and the Dorsey & Whitney LLP law firm. As of March 2026, two lawsuits filed in 2024 and one filed in 2025 alleging excessive prescription drug costs were still in litigation.

The latter case, *Seth Stern et al. v. JPMorgan Chase & Co. et al.*, alleges that JPMorgan Chase & Co. and JPMorgan Chase Bank executives and health plan committees breached their fiduciary duties by “agreeing to grossly inflated prescription drug prices.” According to the complaint, participants paid \$6,229 for a 30-unit supply of the multiple sclerosis drug teriflunomide, which could be acquired at retail and online pharmacies for between \$11 and \$32. The pharmacy benefits manager in this case, CVS Caremark, is not a defendant.

If courts allow charges like these to stand, there is significant potential for similar lawsuits in the future. Yet even with the uncertainties, Greenleaf is confident that advisers will adapt to serve the needs of health plan fiduciaries.

“We were brokers, then we were consultants, then we became co-fiduciaries, and [we] can evolve in the health care space,” Greenleaf says. “[Advisers] don’t need to know all the answers when they walk in, but they know way more than ... plan sponsor[s] about fiduciary process. That’s what they can bring to the table.”

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