

Opinion No. 2010-162

February 16, 2011

The Honorable David Wyatt
State Senator
159 Wyatt Lane
Batesville, Arkansas 72501

Dear Senator Wyatt:

You have requested my opinion concerning A.C.A. § 4-88-802(2), which is part of the Fair Disclosure of State Funded Payments for Pharmacists' Services Act, A.C.A. §§ 4-88-801 – 804 (Supp. 2009). This subsection of the act defines "pharmacy benefits plan or program" as:

any plan or program that is funded by state dollars to furnish, cover the cost of, or otherwise provide for pharmacist services to individuals who reside or are employed in this state.¹

You have asked in this regard:

Is a plan or program that is funded by a municipal or county government considered "funded by state dollars" for purposes of this section?

RESPONSE

To the extent a municipal or county pharmacy benefits plan or program is funded by state dollars, the Fair Disclosure of State Funded Payments for Pharmacists' Services Act will be applicable to the administering entity, or "PBM" (see n. 1,

¹ The act requires certain disclosures by an entity that administers or manages a pharmacy benefits plan or program when that entity – known as a "pharmacy benefits manager" or "PBM" – seeks payment or reports expenditures for pharmacist services in connection with the plan or program. A.C.A. §§4-88-802(1) and -803(a).

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supra). The question of state funding is a question of fact that I am unable to determine in the context of an opinion from this office.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:EAW/cyh