Trevor Graff
Government Affairs Director
840 Helena Ave., Helena, MT, 59601
Via email to: CSIPublicComment@mt.gov

RE: Request for Exclusion of Workers' Compensation PBMs from ARM 6.6.7902 and 6.6.7903

Dear Mr. Graff,

Health E Systems, LLC ("HES") appreciates the opportunity to comment on rulemaking associated with House Bill 740. These comments address the pharmacy benefit manager (PBM) network adequacy and reporting requirements in ARM Subchapter 6.6.79. Although these provisions reference "injured workers of a workers' compensation insurance carrier," HES recommends ARM 6.6.7902 Network Adequacy and 6.6.7903 Network Adequacy Reporting **should not apply to PBMs operating exclusively within the workers' compensation system** as it is inconsistent with the Montana workers' compensation statute and imposes administrative burdens that provide no corresponding value to injured workers or their employers.

Workers' Compensation PBMs administer pharmacy benefits under Chapter 71 of the Montana Workers' Compensation Act. The workers' compensation law specifically enables injured workers to choose their pharmacy, regardless of its network status. For this reason, the network adequacy standards designed for commercial or group health insurance are misaligned with workers' compensation law.

Because pharmacy access in workers' compensation is not contingent upon network participation, metrics set forth in ARM 6.6.7902(3)(a) (network composition percentages) and ARM 6.6.7903(1)(b)(i)-(vi) (mileage standards, and pharmacy-to-injured-worker ratios) are inappropriate. Requirements related to network composition percentages, mileage or geographical standards, or pharmacy to injured worker ratios are based on traditional health plan models where eligibility is known at the time of enrollment. By contrast, workers' compensation PBMs are unable to predict the number of injured workers who may be eligible in a given year, as eligibility is established following a work injury and can terminate at any time upon resolution of the workers' claim.

Imposing these commercial-plan-based requirements on workers' compensation PBMs creates **administrative burdens that bear no connection to how pharmacy services are accessed or delivered in the Workers' Compensation system**. These obligations generate unnecessary reporting for Workers' Compensation PBMs, without offering any actionable insights or benefit to injured-worker access. For these reasons, HES respectfully requests that PBMs operating solely within the workers' compensation system be expressly excluded from ARM 6.6.7902 and ARM 6.6.7903, ensuring that the rules align with statutory intent and reflect the realities of workers' compensation pharmacy delivery. This can be accomplished by adopting language in Subchapter 6.6.79 which states:

Unless otherwise specifically indicated or provided, the sections of this subchapter shall not apply to or affect any of the following:

(a) Coverage or benefits provided under:

1. MCA Title 39 Chapter 71; or

2. Any other statutory-based public assistance or compensation program;

Precedent in Other States

Several states, including Kentucky, **already exclude workers' compensation PBMs from network adequacy standards and related reporting requirements**. This reflects a clear regulatory understanding that such standards apply only to commercial health plans and are incompatible with the open-access structure of workers' compensation pharmacy delivery and demonstrates a consistent regulatory approach that supports Montana adopting the same exclusion.

We appreciate the Department's consideration of these comments and welcome continued dialogue. Should you require additional information or clarification, please do not hesitate to contact me directly.

Kind regards,

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