THE IMPACT OF PUBLIC CHAPTER 569:
FILING A COMPLAINT AGAINST A PBM

Medicare — YES → **Medicare or Medicaid Claim?**

- **Medicare** → The Law does not apply

Medicare or Medicaid Claim? — YES → **Medicaid**

- **Medicaid** → The Law does not apply: Use current TennCare rate review process

Medicare or Medicaid Claim? — NO

"Any Willing Pharmacy" Violation?

90-day Supply Issue?

- File complaint with TDCI

Your pharmacy is no longer in network?

- Ask insurance company for reinstatement
- Denied: file complaint with TDCI

Below Cost Claim?

- File a MAC Appeal
  - **Granted** → Reverse and rebill the claim
    - *If the granted claim is still below cost* → File complaint with TDCI
  - **Denied** → File complaint with TDCI

Filing a MAC Appeal

TN Law: TCA 56-7-3108 :

- The pharmacist or pharmacy must file the appeal within **7 business days** of the submission of the initial claim for reimbursement.
- The PBM or covered entity must make a final determination of the appeal within **7 business days** of the receipt of the appeal.

If the pharmacy's appeal is denied:

- The PBM must give reason for denial, provide the NDC of an equivalent drug that is generally available for purchase in the state at a price equal or less than the MAC for that drug.

If the pharmacy's appeal is valid (granted):

- The PBM/covered entity shall adjust the MAC of the drug/product/device for the appealing pharmacy and adjustment shall be effective from the date the appeal was filed, reimbursement shall be provided, and the appealing pharmacy may need to reverse and rebill the claim in question.

**Note: either the pharmacy or their PSAO should submit the appeal, not both.*

PBM MAC Appeal Forms:

- OptumRx
- CVS Caremark
- Express Scripts
- Cigna

Submitting a PBM Complaint with the TDCI

If you have exhausted the appeals/rate review requests process provided by the PBM and have *not received an adequate response or claim still below cost*, then submit a complaint to the Tennessee Department of Commerce and Insurance (TDCI). The PBM will then have **30 days** to respond to the complaint (TCA 56-1-106)

As mentioned in Step 3 below, to help with this process TPA has created an Excel template to help track the appeals your PSAO has filed with the PBMs. Once you have followed up with your PSAO and the PBM has not responded adequately, you may use the completed Excel template to submit all your claims for that one PBM to the Tennessee Department of Commerce and Insurance. Along with the completed Excel template, please fill out the complaint form.

Step 1: Use the **Excel Template** to keep track of the claims you and your PSAO are submitting to the PBM. Fill in all required information.
Step 2: Complete this **Complaint Form.**
Step 3: If mailing supporting documents, please include a copy of this form and mail to:

Consumer Insurance Services
500 James Robertson Parkway, 6th Floor
Nashville, TN 37243-0574

or FAX supporting documents along with a copy of this form to: (615) 532-7389