

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA

In the Matter of:

NAVITUS HEALTH SOLUTIONS, LLC

Administrative Proceeding No. 25-IC-182243

**AGREED ORDER ADOPTING REPORT OF
MARKET CONDUCT EXAMINATION, DIRECTING
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES, Allan L. McVey, Insurance Commissioner of the State of West Virginia (hereinafter, “Commissioner”), and Navitus Health Solutions, LLC (hereinafter, “Navitus”) who, after consideration of the *Report of Market Conduct Examination* (hereinafter, the “*Examination Report*”) of Navitus have agreed to the entry of this Order.

FINDINGS OF FACT

1. The market conduct examination was conducted pursuant to W.Va. Code §§ 33-2-9, 33-51-8, 33-51-10, and W.Va. Code R. § 114-99-7. The examination focused on Navitus’s compliance with West Virginia statutes and rules related to the company’s operation as a pharmacy benefits manager (“PBM”) in West Virginia. The examination was conducted by examiners appointed by the Commissioner and covered the period of January 1, 2023 through June 1, 2024.
2. On or about November 4, 2025, the examiner filed with the Commissioner, pursuant to W. Va. Code §33-2-9, the *Examination Report*.
3. A true copy of the *Examination Report* was provided to Navitus and Navitus was notified, pursuant to W.Va. Code §33-2-9(j)(2), that it had twenty (10) days after receipt of the *Examination Report* to file a submission or rebuttals with the Commissioner. Navitus filed a submission/rebuttal to the *Examination Report*.

4. As set forth in the *Examination Report*, the examination focused on the methods used by Navitus to manage its operations for each of the areas examined, including whether and how Navitus complies with federal and state law regarding its operation as a PBM.

5. The examination focused on the following: PBM pricing, pharmacy audits, complaint handling, and rebates.

6. The Commissioner reviewed the *Examination Report* and considered Navitus's submissions/rebuttals. Navitus agrees to the entry of this Order and waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is conducted pursuant to and in accordance with W. Va. Code §§33-2-9, 33-51-8 and W.Va. Code R. § 114-99-7.

3. The Commissioner is charged with the responsibility of verifying Navitus's continued compliance with West Virginia law.

4. Navitus was found to have multiple violations of West Virginia law as detailed in the attached *Examination Report*.

5. As detailed in the *Examination Report*, Navitus failed to comply with certain provisions of West Virginia law. A summary of the violations is set forth below.

- Pharmacy Audits: Navitus did not comply with W.Va. Code §§ 33-51-4(b)(2) and 33-51-4(a)(14)(A) and (B) by not allowing the pharmacy provider 30 days to respond to the preliminary audit report and restricting documents used by a pharmacy to validate the pharmacy record.
- PBM Pricing: Navitus did not comply with W.Va. Code § 33-51-9(e) when it failed to reimburse West Virginia pharmacies NADAC plus a dispensing fee of \$10.49. The company also did not comply with W.Va. Code § 33-51-9(f) when it reimbursed its affiliated pharmacy more than non-affiliated pharmacies for the same drug.
- Rebate procedures: Navitus did not comply with W.Va. Code § 33-51-9(k) when it failed to pass through 100% of all rebates it received, directly or indirectly, in connection with the dispensing or administration of prescription drugs at the point of sale.

6. The Commissioner has determined that Navitus should be assessed a monetary penalty for violating the law as summarized above and set forth in detail in the *Examination Report*.

ORDER

Pursuant to W.Va. Code §§ 33-2-9(j)(3)(A), following the review of the *Examination Report*, the examination work papers, and Navitus's response thereto, the Commissioner and Navitus have agreed to enter into an Agreed Order adopting the *Examination Report* and the imposition of an administrative penalty as set forth below. It is accordingly **AGREED** and **ORDERED** as follows:

1. The referenced and attached *Examination Report* is hereby **ADOPTED** and **APPROVED** and by this reference, incorporated herein and made a part hereof.

2. Navitus shall endeavor to comply with the recommendations contained in the *Examination Report*.

3. Navitus shall continue to monitor its compliance with applicable West Virginia law.

4. Navitus shall specifically cure the violations and deficiencies identified in the *Examination Report* so as to bring itself into compliance and conformity with West Virginia law, to the extent such has not already been completed and/or accomplished.

With respect to the rebate procedures, while it did pass through 100% of all rebates it directly received to the plans in connection with the dispensing or administration of prescription drugs, Navitus did not adopt West Virginia's definition of rebate pursuant to W. Va. Code, § 33-51-3 with the fee the independent GPO withheld for rendering its services.

Navitus shall review all of the identified claims (covering the period of the *Examination Report*) paid to West Virginia pharmacies below NADAC plus a professional dispensing fee of \$10.49 and pay the identified underpayments to the respective pharmacies or pharmacists, including payment for the amount of any consumer cost share adjustments that occurred when applying the requirements of W. Va. Code § 33-51-9(e) (2022), plus interest within six months of the date this Agreed Order is entered. Pursuant to W. Va. Code R. § 114-99-8.5.10, Navitus shall pay interest, at a rate of the U.S. Prime Rate per annum, as calculated from the date the payment to the pharmacy was initially due or should have been made;

No later than 30 days after the final reimbursement payment to pharmacies as set forth above, Navitus shall file a report with the Commissioner's PBM Unit verifying that each pharmacy or pharmacist has been properly paid.

5. Navitus will file a Corrective Action Plan (CAP), subject to the approval of the Commissioner, which said CAP shall detail Navitus's changes to its procedures and/or internal policies to ensure compliance with West Virginia law and shall further incorporate all recommendations of the Commissioner's examiners and address all violations specifically cited in the *Examination Report*.

6. The CAP shall be submitted to the Commissioner for his approval within 30 days of the date this order is entered.


7. Navitus shall make reasonable changes to the CAP if and as directed by the Commissioner within 30 days of its receipt of the Commissioner's changes to, or disapproval of, the CAP.

8. Navitus shall, within six months of its receipt of notice from the Commissioner of his final approval thereof, implement the CAP.

9. Navitus shall pay an administrative penalty in the amount of Eight Hundred Thousand Dollars (\$800,000.00) for its non-compliance with West Virginia law as set forth hereinabove and in the *Examination Report*, the assessment of which penalty is in lieu of any other regulatory penalty and shall be remitted within 30 calendar days of the date this order is entered.


10. It is AGREED and ORDERED that all such statutory notices, administrative hearings and appellate rights are herein waived by Navitus concerning this *Report of Market Conduct Examination* and Agreed Order.

Entered this 21ST day of January, 2026.


Allan L. McVey
CPCU, ARM, AAI, AAM, AIS
Insurance Commissioner

REVIEWED AND AGREED TO BY:

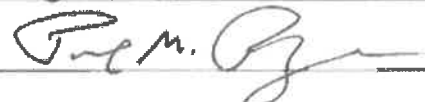
On behalf of the Insurance Commissioner:


Jeffrey C. Black, Attorney Supervisor
Regulatory Compliance and Enforcement

On behalf of Navitus Health Solutions, LLC:

By: Paul M. Page

Title: Chief Legal Officer

Signature: 

Date: January 16th, 2026

WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER



REPORT OF MARKET CONDUCT EXAMINATION

OF

NAVITUS HEALTH SOLUTIONS, L.L.C.

AS OF November 4, 2025

MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: May 1, 2024, through April 22, 2025

EXAMINATION OF: Navitus Health Solutions, L.L.C.

LOCATION: 361 Integrity Drive
Madison, WI, 53717

PERIOD COVERED: January 1, 2023, to June 1, 2024

EXAMINERS: June Coleman
Toni Bean
Jacqueline Cooper
George Lentini
Tyler Young
Trevor Strenchock
Matthew Sankey
Steven Gloc
Tony Taylor
Brian Fordham
Lisa Crump, Co-Examiner-in-Charge
Amanda Brandis, Examiner-in-Charge
Shelly Schuman, Supervisory Insurance Examiner

TABLE OF CONTENTS

SALUTATION	1
I. IMPACTS	2
A. CONSUMER RELATED IMPACTS	2
B. PHARMACY RELATED IMPACTS	2
C. HEALTH CARE PAYOR IMPACTS	3
II. SCOPE OF THE EXAMINATION	4
III. SUMMARY OF FINDINGS	5
IV. COMPANY BACKGROUND	7
V. METHODOLOGY	8
VI. FINDINGS	11
A. OPERATIONS AND MANAGEMENT	11
B. NETWORK ADEQUACY	11
C. PHARMACY PROVIDER RELATIONS	11
1. Specialty Pharmacy Enrollment	11
D. REBATES	11
1. Rebate Processing Procedures	11
E. PBM PRICING	11
1. Pharmacy Reimbursement	11
F. PHARMACY AUDITS	12
1. Audit Response Timeline	12
2. Audit Documentation	12
3. Dispensing Fee Recoupments	12
G. CONSUMER COMPLAINTS, GRIEVANCES, AND APPEALS	12
1. Direct Consumer Complaints	12
2. Offices of Insurance Commissioner Complaints	12
3. Health Care Payor Complaints	12
4. Consumer Appeals	12
H. PHARMACY CLAIMS	14
I. DRUG UTILIZATION REVIEW	14
VII. SUMMARY OF EXAMINATION RECOMMENDATIONS	15

SALUTATION

November 4, 2025

The Honorable Allan L. McVey, CPCU, ARM, AAI, AAM, AIS
West Virginia Insurance Commissioner
900 Pennsylvania Ave.
Charleston, West Virginia 25302

Pursuant to the authority vested in the West Virginia Offices of the Insurance Commissioner ("WVOIC"), through W. Va. Code §33-2-9 , and 114 CSR 99-7, a market conduct examination has been made of:

Navitus Health Solutions, L.L.C.

361 Integrity Drive
Madison, WI 53717

The following examination report is respectfully submitted.

I. IMPACTS

A. CONSUMER RELATED IMPACTS

1. Navitus Health Solutions, L.L.C. ("PBM" or "Navitus") did not pass through 100% of all rebates to consumers at the point of sale for its self-funded health plans domiciled in the State of West Virginia. Navitus allowed health plan clients to choose this option to which no client adopted. The pharmacy benefit manager ("PBM") entered into an agreement with another PBM, Prime Therapeutics, to use the group purchasing organization ("GPO"), Ascent Health Services. The agreement outlined that Prime Therapeutics retained portions of the rebate through program management fees and GPO fees in exchange for the services. An estimated total of \$540,000 of the rebate, was retained by another PBM in fees to perform rebate administrative services. These fees may not be retained in any portion and must be passed on to the consumer to comply with the definition of "rebates" in the W. Va. code.

B. PHARMACY RELATED IMPACTS

1. The PBM did not reimburse pharmacies located in W. Va. in accordance with W. Va. Code §33-51-9. The W. Va. code mandates that the PBM must reimburse pharmacies at the national average drug acquisition cost ("NADAC") plus ("+") a professional dispensing fee of \$10.49, or the wholesale acquisition cost ("WAC") + \$10.49 when NADAC is unavailable. The PBM failed to reimburse W. Va. pharmacies at the mandated pricing for a total of 46,863 paid claims, which led to the under reimbursement of prescription drugs and products.
2. The PBM reimbursed its affiliated specialty pharmacy, Lumicera, more for four prescription drugs than non-affiliated pharmacies. The Lumicera medication reimbursement was more for 50% of the eight medications dispensed by both Lumicera and non-affiliate pharmacies. The PBM utilized a first-in-first-out ("FIFO") net acquisition cost, plus a patient management fee and a shipping fee model. The pricing model differed from the model used for non-affiliated W. Va. pharmacies which led to instances of lower reimbursements for prescription medications. The lower reimbursement resulted in a competitive advantage for the PBM's affiliate to operate and provide services to patients.
3. Specialty pharmacies electing to join the Navitus pharmacy provider network were required to have a Utilization Review Accreditation Commission ("URAC") Specialty Pharmacy Accreditation as well as one other specialty pharmacy accreditation for each location. The absence of these accreditations does not mean a pharmacy fails to abide by high quality standards of care. The requirement of accreditation in order to participate in the network increases costs to pharmacies and limits specialty pharmacy access to consumers. A PBM may not require any course of study, accreditation, certification, or credentialing that is inconsistent with, more stringent than, or in addition to state requirements for a specialty pharmacy's inclusion into a health benefit plan network. Accreditation is not a requirement for specialty pharmacy licensure in W. Va. The PBM

may not require URAC and one other specialty pharmacy accreditation for inclusion into the Navitus Specialty Pharmacy Network.

4. The PBM implemented pharmacy audit procedures that were not in compliance with W. Va. Code §33-51-4. The W. Va. code outlines specific procedures that may not be more stringent when conducting a pharmacy audit. Below are key areas in which the PBM overstepped its authority during a pharmacy audit.
 - a. The PBM required specific documentation for prescription drug claims when justifying discrepancies noted during a pharmacy audit. The documentation criteria did not align with the W. Va. code and imposed restrictive guidelines on pharmacies during an audit. The PBM implemented changes for compliance before the finalization of the examination.
 - b. The PBM did not allow the pharmacy provider the required 30 days following the receipt of the preliminary audit report to respond to audit findings. The PBM only provided 30 days from the date on the preliminary audit report rather than the receipt of the report. The guidelines set forth by the PBM were more restrictive than the W. Va. code. The PBM implemented changes for compliance before the finalization of the examination.
 - c. The PBM included dispensing fees in the calculation of overpayments during pharmacy audits for claims that were not “misfills” as defined by the W. Va. code. A dispensing fee is included in the reimbursement of a prescription drug claim to pay the pharmacy for its labor, services, vial, and/or label. The PBM included the dispensing fee paid in the recoupment of claims during a pharmacy audit. The PBM implemented changes for compliance before the finalization of the examination.

C. HEALTH CARE PAYOR IMPACTS

1. The PBM charged the health care payor more for specialty medications filled at its affiliated specialty pharmacy, Lumicera, than compared to non-affiliated pharmacies in four instances. The pricing model used to reimburse Lumicera differed from non-affiliated pharmacies’ pricing model which resulted in 50% of the eight medications having a higher cost associated with their dispensing. The PBM included FIFO net acquisition cost, a patient management fee, and a shipping fee in its cost to the health care payor.
2. The PBM limited the health care payors’ specialty pharmacy network by requiring URAC specialty pharmacy accreditation and another accreditation for a pharmacy to join the Navitus Specialty Provider Network. By requiring as a condition of participation in a health benefit plan network, a course of study, accreditation, certification, or credentialing that is more stringent than state requirements for licensure or certification, the PBM limited medication accessibility to members. The PBM implemented changes for compliance prior the finalization of the examination.
3. The PBM did not pass through 100% of all rebates to the health care payor in order to reduce premiums. The PBM entered into an agreement with another PBM, Prime Therapeutics, to use the GPO, Ascent Health Services. The agreement outlined that Prime Therapeutics retained portions of the rebate through program management fees and GPO fees in exchange for the services. These fees may not be retained in any portion of the rebate and must be passed on to the consumer in order to comply with the definition of

“rebates” in the W. Va. code. Based on the estimated rebate amounts provided and the agreements executed, the rebate payments passed through did not equate to a 100% pass through model of the total rebates.

II. SCOPE OF THE EXAMINATION

The WVOIC has the authority to conduct an examination pursuant to, but not limited to, W. Va. Code §33-2-9, and 114 CSR 99-7. This is a market conduct examination report ("Report") of Navitus. The examination was conducted at authorized offsite locations.

The purpose of the examination was to determine if the PBM complied with the W. Va. code and federal statutes, rules, and regulations, and to consider whether the PBM's operations are consistent with public interest. The examination period covered by this review was January 1, 2023, to June 1, 2024, unless otherwise noted. Errors outside of this time discovered during the examination, however, may also be included in the Report.

The examiners cited errors made by the PBM. Statutory citations were as of the examination period. However, failure to criticize specific practices, procedures or files does not constitute approval thereof by the WVOIC.

The examination involved the line of business of self-funded plans.

The scope of this examination focused on a review including the following areas: company operations and management, network adequacy, provider/pharmacy relations, rebates, PBM pricing, pharmacy audits, consumer complaints, grievances and appeals, pharmacy claims, drug utilization review ("DUR"), and formulary design and drug placement.

In performing this examination, the examiners reviewed a sample of the PBM's practices, procedures, products, and files. Therefore, some noncompliant events may not have been discovered. As such, this Report may not fully reflect all the practices and procedures of the PBM. As indicated previously, failure to identify or criticize improper or noncompliant business practices in this state or other jurisdictions does not constitute acceptance of such practices.

III. SUMMARY OF FINDINGS

The following table represents general findings with specific details in each section of the Report.

TABLE OF TOTAL VIOLATIONS				
Finding	Finding #	Statute/Rule	Description of Violation	Violations Quantified
PBM Pricing-Pharmacy Reimbursement	1	W. Va. Code §33-51-9(e)	Failed to reimburse West Virginia pharmacies at NADAC + a professional dispensing fee of \$10.49 or WAC + \$10.49 dispensing fee, if NADAC pricing is not available at the time a drug is administered or dispensed.	46,863 paid claims were not reimbursed in accordance with the W. Va. Code §33-51-9(e).
Pharmacy Audits-Audit Response Timeline	2	W. Va. Code §33-51-4(b)(2)	Failed to allow pharmacy providers at least 30 days following receipt of the preliminary audit report to respond to audit findings.	12 of 12 (100%) audits resulting in recoupments reviewed show documentation of the incorrect language.
Pharmacy Audits-Audit Documentation	3	W. Va. Code §33-51-4(a)(14)(A)(B)	Failed to allow pharmacy providers to use any valid prescription and verifiable statements or records when a pharmacy audit is performed.	12 of 12 (100%) audits resulting in recoupments reviewed show documentation of the incorrect language.
Pharmacy Audits-Dispensing Fee Recoupments	4	W. Va. Code §33-51-4(a)(11)	Included dispensing fees in the calculation of overpayments during pharmacy audits.	Two (2) claims where the dispensing fee was in the calculation of overpayments.
Consumer Complaints, Grievances, and Appeals-WVOIC Complaints	5	W. Va. Code R. §114-14-5.2	Failed to respond to WVOIC complaints within fifteen (15) working days of the date appearing on the inquiry.	One of 15 WVOIC complaints reviewed.
Pharmacy Provider Relations-Specialty Pharmacy Enrollment	7	W. Va. Code §33-51-11(a)(3)	Imposed accreditation requirements upon specialty pharmacies as a condition for participation in a health benefit plan network. As a condition of participation in a health benefit plan network, a pharmacy benefits manager may not impose any course of study, accreditation, certification, or credentialing that is inconsistent with, more stringent than, or in addition to state requirements for licensure or certification.	N/A
PBM Pricing-Pharmacy Reimbursement	8	W. Va. Code §33-51-9(f)	Reimbursed its affiliated specialty pharmacy, Lumicera Health Services, in an amount more than non-affiliated pharmacies for the same prescription drug.	Four (4) medications were found to have claims that resulted in higher reimbursement at an affiliate pharmacy compared to non-affiliate pharmacies.

Rebates-Rebate Processing Procedures	11	W. Va. Code §33-51-9(k)	Failed to pass through 100% of all rebates indirectly received in connection with the dispensing or administration of prescription drugs.	An estimated total of \$540,000 of the rebate was retained by another PBM, to perform rebate administrative services.
--------------------------------------	----	-------------------------	---	---

IV. COMPANY BACKGROUND

Touchpoint Administrative Services, Inc., was organized in Wisconsin as a corporation on January 30, 2002. On May 22, 2003, Touchpoint Administrative Services, Inc. filed a Certificate of Conversation with the Wisconsin Department of Financial Institutions, converting the entity from a business corporation to limited liability company under the name DeanPoint, LLC. DeanPoint, LLC, filed Articles of Amendment in Wisconsin on July 25, 2003, to amend the name to Navitus Health Solutions, LLC.

Navitus Holdings, LLC was the 100% owner of Navitus Health Solutions, LLC, with the ultimate parent company being SSM Health Care Corporation.

On March 2, 2020, an operating agreement was entered into between Costco Wholesale Corporation, Navitus Holdings, LLC, and Navitus Health Solutions, LLC. As per the agreement, Costco Wholesale Corporation became a minority ownership holder at 35%. Navitus Holdings, LLC retained the majority ownership at 65%.

Navitus Health Solutions, LLC's primary product line has been providing PBM services to clients across the United States.

As pertaining to business operations in West Virginia, Navitus Health Solutions, LLC, has held a foreign registration as an LLC since 2016, submitted third-party administrator non-resident information since 2016, and a PBM License since March 2022.

V. METHODOLOGY

This market conduct examination placed emphasis on a PBM's systems, procedures, and contractual agreements used in operation with health care payors, pharmacies, members, and other affiliated entities. The self-funded line of business was reviewed in this examination.

The scope of the examination included, but was not limited to, the following market conduct areas:

- Operations and Management
- Network Adequacy
- Pharmacy Provider Relations
- Rebates
- PBM Pricing
- Pharmacy Audits
- Consumer Complaints, Grievances, and Appeals

- Pharmacy Claims
- Drug Utilization Review
- Formulary Design and Drug Placement Information

The review of these categories was accomplished through examination of material related to the business functions, as well as interviews with various company personnel and company responses to the coordinator's handbook, information requests, observations, and findings. Each of the categories listed above was examined for compliance with W. Va. code and federal statutes, rules, and regulations.

Sample selection was completed in accordance with the NAIC market regulation handbook.

Operations and Management

A review was conducted of the PBM's privacy and antifraud policies and procedures, contracts with pharmacies, health care payors and third-party vendors, voluntary accreditation programs, internal audits, source data, and advertisements. These documents and responses to information requests were received and reviewed for compliance with W. Va. codes, rules, and regulations. No exceptions are noted in the Report.

Network Adequacy

The PBM was requested to provide lists of all networks offered and of all pharmacies requesting access to any pharmacy network, identification of underserved areas, notification to pharmacies of new plans, and policies and procedures demonstrating pharmacy network adequacy and online directory updates. These documents and responses to information requests were received and reviewed for compliance with W. Va. codes, rules, and regulations. No exceptions are noted in the Report.

Pharmacy Provider Relations

The PBM was requested to provide policies and procedures or other documentation demonstrating its procedures for new pharmacy onboarding, credentialing and re-credentialing, provider relations projects/logs, a list of all pharmacies terminated during the examination period, all provider manuals and policies and procedures for provider manual development. These documents, files, interviews with the PBM, and responses to information requests were received and reviewed for compliance with W. Va. codes, rules, and regulations. An exception is noted in the Report.

Rebates

The PBM was requested to provide policies and procedures related to rebate processing, rebate crediting at the point of sale, as well as a comprehensive list of the rebates paid in West Virginia. The PBM provided information related to rebate operations associated with the GPO, Ascent Health Services, through its agreement with Prime Therapeutics. The PBM provided estimated manufacturer rebate amounts and other rebate invoicing data related to manufacturer administrative fees, program management fees, and GPO fees. These documents, files, interviews, and responses to information requests were received and reviewed for compliance with the W. Va. codes, rules, and regulations. An exception is noted in the Report.

PBM Pricing

The PBM was requested to provide a list of all charges, fees, or other revenue collected from health care payors and pharmacy providers. The request also included specific details related to pharmacy claim reimbursement, appeals, rate guarantees and other pricing methodology. These documents and files were received and reviewed for compliance with W. Va. codes, rules, and regulations. Exceptions are noted in the Report.

Pharmacy Audits

The PBM was requested to provide policies and procedures utilized for conducting pharmacy audits, a list of all pharmacy onsite and desk audits with results, a list of pharmacy appeals to an audit, and, if a third-party entity conducted audits, a copy of the auditing entity registration. The PBM also provided work papers associated with pharmacy audits. These documents, files, and responses to information requests were received and reviewed for compliance with W. Va. codes, rules, and regulations. Exceptions are noted in the Report.

Consumer Complaints, Grievances, and Appeals

The PBM was requested to provide all clients for which it maintains responsibility for responding to complaints, grievances, and appeals and policies and procedures related to complaints, grievances, appeals, expedited appeals, and appeals communication. The PBM was also requested to identify direct consumer complaints, WVOIC complaints, complaints from the health care payors, and consumer appeals. These documents, files, and responses to information requests were received and reviewed for compliance with W. Va. codes, rules, and regulations. An exception and observations are noted in the Report.

Pharmacy Claims

The PBM was requested to provide policies and procedures related to pharmacy claims processing, mental health parity, cost sharing requirements for preventive services, and payments in excess of applicable cost-sharing amount or retail drug price. The PBM was also requested to provide a list of all paid and rejected claims and claims recoupment data. These documents, files, interviews with the PBM, and responses to information requests were received and reviewed for compliance with W. Va. codes, rules, and regulations. No exceptions are noted in the Report.

Drug Utilization Review

The PBM was requested to provide policies and procedures demonstrating that it establishes and maintains a DUR program, provides written notice of adverse determination, monitors activities of third-party DUR organizations, and peer review requests. It was also asked to provide a list of medications for which blanket pre-authorizations are required, utilization management and/or DUR committee meeting minutes, and other DUR data. These documents were received and reviewed for compliance with W. Va. codes, rules, and regulations. The data call information was out of scope and not reviewed for this examination. No exceptions are noted in the Report.

Formulary Design and Drug Placement Information

The PBM was requested to provide all formularies used by the health plans, pharmacy and therapeutics committee meeting minutes, a list of any other committees that make drug placement suggestions/determinations, details of mail order medications and of 90-day supply medications, financial incentives, and compliance reward programs. The data provided included policies and procedures utilized by the PBM when determining quantity limits, prior authorization,

step therapy, and other prospective utilization management techniques. These documents, files, and responses to information requests were received and reviewed for compliance with W. Va. codes, rules, and regulations.

VI. FINDINGS

A. OPERATIONS AND MANAGEMENT

There were no findings in the review of operations and management.

B. NETWORK ADEQUACY

There were no findings in the review of network adequacy.

C. PHARMACY PROVIDER RELATIONS

1. Specialty Pharmacy Enrollment

Finding #7 - The PBM did not comply with W. Va. Code §33-51-11(a)(3) when imposing accreditation requirements upon specialty pharmacies as a condition for participation in a health benefit plan network. As a condition of participation in a health benefit plan network, a PBM may not impose any course of study, accreditation, certification, or credentialing that is inconsistent with, more stringent than, or in addition to state requirements for licensure or certification. The PBM required that each specialty pharmacy location must have URAC Specialty Pharmacy Accreditation and one other specialty pharmacy to be considered during the application process.

D. REBATES

1. Rebate Processing Procedures

Finding #11 - The PBM did not comply with W. Va. Code §33-51-9(k) when it failed to pass through 100% of all rebates received, directly or indirectly, in connection with the dispensing or administration of prescription drugs at the point of sale. In addition, program management fees and GPO fees were retained for rebate administration services. An estimated total of \$540,000 of the rebate was retained by another PBM as a fee to perform rebate administrative services. The PBM paid for these services by allowing the other PBM to retain rebate amounts that are owed to health care consumers, or payors to help reduce premiums as its membership dues for the GPO. Retaining any portion of the rebate to pay for rebate contract administration is a violation of the W. Va. code.

E. PBM PRICING

1. Pharmacy Reimbursement

- a. Finding #1- The PBM did not comply with W. Va. Code §33-51-9(e) when failing to reimburse W. Va. pharmacies at the NADAC + a professional dispensing fee of \$10.49 or the WAC + \$10.49 dispensing fee, if NADAC pricing is not available at the time a drug is administered or dispensed.

- b. Finding #8 - The PBM did not comply with W. Va. Code §33-51-9(f) when reimbursing its affiliated specialty pharmacy, Lumicera, more for a prescription drug than non-affiliated W. Va. pharmacies within the PBM network. The PBM stated that different pricing models are used when reimbursing Lumicera compared to non-affiliated W. Va. pharmacies. The different reimbursement model included a patient management fee and shipping fee. The model led to Lumicera being reimbursed more than non-affiliate pharmacies for four prescription drugs during the examination period.

F. PHARMACY AUDITS

1. Audit Response Timeline

Finding #2 - The PBM did not comply with W. Va. Code §33-51-4b(2) which allows a pharmacy provider at least 30 days following receipt of the preliminary audit report to respond to audit findings. In 12 out of 12 audits (100%) that resulted in recoupments, documentation showed that the PBM did not allow the appropriate amount of time for a pharmacy to respond. The PBM may not start its 30-day response period until the pharmacy receives the preliminary audit report.

2. Audit Documentation

Finding #3 - The PBM did not comply with W. Va. Code §33-51-4a(14)(A)(B) by implementing a policy which limits a pharmacy provider's use of any valid prescription and verifiable statements or records when a pharmacy audit is performed. In 12 out of 12 audits (100%) that resulted in recoupments, documentation showed that the PBM had more stringent criteria for pharmacy audit supporting documentation to dispute discrepancies related to prescription drug claims. The PBM may not utilize a pharmacy audit procedure that is more restrictive than the parameters outlined in the W. Va. code.

3. Dispensing Fee Recoupments

Finding #4 - The PBM did not comply with W. Va. Code §33-51-4(a)(11) when including dispensing fees in the calculation of overpayments in two claims during the audit period. Dispensing fees can only be in the calculation of overpayments when the claim is considered a "misfill" as defined in the W. Va. code.

G. CONSUMER COMPLAINTS, GRIEVANCES, AND APPEALS

1. Direct Consumer Complaints

There were no findings in the review of direct consumer complaints.

2. Offices of Insurance Commissioner Complaints

Finding #5 - The PBM did not comply with W. Va. Code R. §114-14-5.2 when it failed to respond to WVOIC complaints within 15 working days of the date appearing on the inquiry in one instance of the 15 WVOIC complaints reviewed.

3. Health Care Payor Complaints

The PBM reported no health care payor complaints within the scope of the examination.

4. Consumer Appeals

There were no findings in the review of consumer appeals. However, there were six observations noted. The PBM was asked to acknowledge them, but responded, "Navitus Health Solutions, LLC ("Navitus") does not acknowledge Observations #001- #006 issued by West Virginia Office of the Insurance Commissioner ("WV OIC") and The INS Companies ("Examiner(s)") as Navitus disagrees with all assertions as detailed herein. Acknowledgement recognizes and gives validity to the Observations that are in clear contradiction to the federal authority that regulates the self-funded health plans Navitus serves in the State of West Virginia."

- a. Observation #1 - The PBM did not include the necessary statement regarding alternative dispute resolution options in its appeal adverse determination notifications.

The PBM should follow W. Va. Code R. §114-96-5.8.i when issuing appeal adverse determination notifications and include the following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your state Insurance Commissioner."

- b. Observation #2 - The PBM did not include the necessary statements in its appeal adverse determination letters regarding the covered person's right to bring a civil action in a court of competent jurisdiction.

The PBM also did not include the required substantially equivalent language regarding the notice of right to external review or include an authorization form in its appeal adverse determination notifications.

The PBM should follow W. Va. Code R. §§114-96-5.8.h.2, 114-97-3.1.b., and 114-97-3.1.d. when issuing appeal adverse determination letters. The PBM should include a statement regarding the covered person's right to bring a civil action in a court of competent jurisdiction. It should also ensure the statutory language is provided as stated in the code:

The following or substantially equivalent language: "We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested by submitting a request for external review to the WV Offices of the Insurance Commissioner, P.O. Box 50540, Charleston, WV 25305."

The PBM should also include a form approved by the Commissioner by which the covered person authorizes the issuer and the covered person's treating health care provider to disclose protected health information, including medical records, concerning the covered person that are pertinent to the external review, as stated in the code.

- c. Observation #3 - The PBM did not include notice of the covered person's right to contact the Commissioner's office in its issued appeal adverse determination letters.

The PBM should follow W. Va. Code R. §114-96-5.8.j when issuing its appeal adverse determination letters and provide notice of the covered person's right to contact the Commissioner's office for assistance with respect to any claim, grievance or appeal at any time, including the telephone number and address of the Commissioner's office.

- d. Observation #4 - The PBM did not include the title and qualifying credentials of the person participating in the first level review process in its issued determination letters.

The PBM should follow W. Va. Code R. §114-96-5.8.a when issuing appeal determinations and include the title and qualifying credentials of the person participating in the first level review process.

- e. Observation #5 - The PBM did not provide a decision and notify the covered person within 72 hours of receipt for two expedited appeals.

The PBM should follow W. Va. Code R. §114-96-7.6 when issuing expedited appeal determinations and provide notification of such decisions within 72 hours after the receipt of the request for expedited review.

H. PHARMACY CLAIMS

There were no findings in the review of pharmacy claims.

VII. SUMMARY OF EXAMINATION RECOMMENDATIONS

1. The PBM shall allow a pharmacy provider at least 30 days following the receipt of the preliminary audit report to respond to audit findings to ensure compliance with W. Va. Code 33-51-4b(2).
2. The PBM shall allow pharmacy providers to use prescriptions and documentation as outlined in W. Va. Code §33-51-4a(14)(A)(B) during pharmacy audits to ensure compliance.
3. The PBM must not include dispensing fees in the calculation of overpayments from pharmacy claims when a prescription is not a "misfill" to ensure compliance with W. Va. Code §33-51-4(a)(11).
4. The PBM needs to respond to WVOIC complaints within 15 working days to ensure compliance with W. Va. Code R. §114-14-5.2.
5. The PBM needs to review its enrollment process for specialty pharmacies in order to be compliant with W. Va. Code §33-51-11(a)(3).

6. The PBM must reimburse pharmacies in compliance with W. Va. Code §33-51-9(e) when paying pharmacies for prescription drugs in the State of W. Va.
7. The PBM must ensure reimbursement of prescription drugs to pharmacies is in compliance with W. Va. Code §33-51-9(f).
8. The PBM must ensure 100% pass through of all rebates received in order to be compliant with W. Va. Code §33-51-9(k).
9. The PBM is encouraged to develop processes that ensure timely and courteous cooperation with examiners.

EXAMINATION REPORT SUBMISSION

The courtesy and cooperation of the officers and employees of the PBM during the examination are acknowledged and appreciated.

June Coleman
Toni Bean
Jackie Cooper
George Lentini
Tyler Young
Trevor Strenchock
Matthew Sankey
Steven Gloc
Tony Taylor
Brian Fordham
Lisa Crump, Co-Examiner-in-Charge

Respectfully submitted,

Amanda Brandis

AMANDA BRANDIS
EXAMINER-IN-CHARGE

Shelly Schuman

SHELLY SCHUMAN
SUPERVISORY INSURANCE EXAMINER

EXAMINER'S AFFIDAVIT

State of PA
County of CHESTER

EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION

I, Amanda Brandis, Market Regulation Senior Examiner, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of Navitus Health Solutions, L.L.C.
2. I have reviewed the examination work papers and examination report, and the examination of Navitus Health Solutions, L.L.C. was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

Amanda Brandis
Amanda Brandis, AIE, MCM, PAHM

Subscribed and sworn before me by Amanda Brandis on this 23rd day of April, 2025.

Mark S. Clemens
Notary Public

Commonwealth of Pennsylvania - Notary Seal
MARK S. CLEMENS, Notary Public
Chester County
My Commission Expires July 12, 2025
Commission Number 1317064

My commission expires: July 12, 2025