Gallagher

The New Drug Pricing Reality: What Employers Must Know for 2026

How Legislative, Regulatory and Litigation Forces Are Reshaping Pharmacy Strategy

Summary

The US drug pricing environment is shifting rapidly — and this time, the changes aren't temporary. States, federal agencies, and the courts are all driving reforms that affect pharmacy costs, benefit design, and contract strategy. Employers will face more variability, more oversight and more pressure to make informed decisions quickly.

For employers, this means:

- **More cost volatility**
- **More state-specific rules**
- **More scrutiny on PBMs**
- **Less predictability**
- **Greater urgency to adapt quickly**

This white paper summarizes the major forces shaping 2026 and provides practical, employer focused guidance on how to navigate this environment.

What this means for employers

Over the next 12–24 months, employers should expect:

State variability that disrupts national consistency

Different affordability rules, reimbursement caps and PBM requirements by state.

Greater PBM transparency — but more complexity

New rules may give you more information but also require better contract oversight.

Slower-than-expected price relief

Patent and market dynamics may delay biosimilar and generic savings.

Heightened legal uncertainty

Court decisions may change pricing rules or timelines overnight.

> "Drug pricing policy is no longer being shaped by a single authority. States, federal agencies and the courts are all asserting authority simultaneously. For health plans and employers, the challenge is not simply understanding each change in isolation, but anticipating how these forces intersect to affect affordability, access and long-term strategy."
>
> **— Tom Tran, PharmD**
> Senior Vice President and Chief Growth Officer, Gallagher

Why this matters now

Historically, drug pricing reform has moved in cycles — periods of heightened political focus followed by incremental implementation and market adjustment. Drug pricing reform is no longer a simple policy cycle. It has become a structural reset.

3 defining characteristics distinguish the 2026 landscape:

1. **Decentralized authority:** States are taking more control over drug affordability.
2. **Renewed federal engagement:** Congress and federal agencies are pushing for more transparency and commercial market oversight.
3. **Expanded judicial involvement:** Litigation is increasingly setting the pace and scope of reform.

For employers, this means less predictability and more variation across states and vendors.

5 key forces shaping 2026

	Why employers should care:	Employer takeaways:
1 **PDABs: State price limits are becoming real** States are giving Prescription Drug Affordability Boards (PDABs) more authority to evaluate and even cap what payers can reimburse for certain drugs.	• Pricing rules may vary state by state. • High-cost specialty drugs are likely early targets. • Manufacturer behavior and PBM contracting strategies may adjust in response. • Litigation will determine how aggressive PDABs can be long-term. Even where PDABs don't set limits, their influence is changing negotiations and affordability conversations.	☐ **Know your state's PDAB activity.** ☐ **Expect variability in specialty pricing.** ☐ **Ensure contracts can adapt to state-specific rules.**
2 **PBM oversight is coming** Federal momentum in 2025–2026 points toward stronger PBM accountability.	• Transparency around rebates and financial flows. • Limits on spread pricing. • Scrutiny of PBM owned pharmacies. • Expanded reporting to employers and regulators. Employers will gain more visibility — but must know how to use it. Independent oversight and tighter contracts will matter more than ever.	☐ **Strengthen contract audit and reporting rights.** ☐ **Assess rebate flow through and definitions.** ☐ **Prepare for changes in PBM operating models.**

	Why employers should care:	Employer takeaways:
3 **The 340B program is under the microscope** The long debated 340B program is facing questions about transparency, contract pharmacy arrangements and whether savings reach patients.	• Impacts site of care decisions. • Influences specialty drug access and reimbursement. • Creates uncertainty in pricing and network strategy.	☐ **Monitor how 340B impacts specialty access in your market.** ☐ **Engage carriers/PBMs on reimbursement implications.**
4 **Patent and competition dynamics are slowing relief** Patent policy shifts are intended to increase generic and biosimilar competition — but early signs show delays in some areas.	• Some specialty and chronic drugs may stay expensive longer. • "Patent cliff" expectations are less reliable. • Plans will rely more on utilization management and contracting — not natural price erosion.	☐ **Avoid budgeting based on assumed patent cliffs.** ☐ **Strengthen formulary and UM governance.** ☐ **Evaluate specialty contracting strategies.**
5 **Courts are now key decision-makers** Litigation has emerged as a central mechanism through which drug-pricing policy is clarified, delayed or reshaped.	Courts are not merely interpreting policy — they are functionally determining how and when policy takes effect. Litigation is shaping: • PDAB authority • Manufacturer challenges to pricing and reporting rules. • 340B enforcement • Coverage and reimbursement timelines.	☐ **Ensure your contracts have rapid-adjustment mechanisms.** ☐ **Build governance that can respond to sudden policy shifts.**

What this means for key decision-makers

As the pharmacy policy and drug-pricing environment becomes more complex and less predictable, the organizations that outperform will not be those that simply comply faster but those that anticipate change, understand its downstream impact, and act with discipline and speed. Leading decision-makers are increasingly treating policy volatility as a strategic variable, not a compliance exercise — one that directly influences affordability, member experience, provider alignment, and long-term sustainability.

How employers should respond

1. **Plan for state-by-state variation**
   Build flexibility into plan design, contracting and access strategies.

2. **Revisit PBM contracts**
   Focus on:
   - Transparency clauses
   - Rebate flow through
   - Audit rights
   - Ability to pivot based on future regulation

3. **Bring regulatory awareness upstream**
   Policy shouldn't be an afterthought — build it into formulary, benefit, and network decisions.

4. **Strengthen governance and decision pathways**
   Fast-moving policy requires fast-moving internal processes.

> "Litigation has become a defining feature of the drug pricing landscape. Court decisions are now determining not just whether reforms move forward, but how quickly and how consistently they are applied across states. In 2026, understanding legal risk will be just as critical as understanding legislation or regulation."

— Seth Friedman
National Pharmacy and Health Plan Services Practice Leader, Gallagher

Strategic imperatives for 2026

Leading organizations are:

- **Monitoring policy changes on a regular cadence**
- **Modeling PBM and benefit scenarios** under various regulatory outcomes
- **Preparing with playbooks** for formulary and benefit adjustments
- **Sharing pharmacy intelligence across teams** (clinical, finance, legal, vendor management)
- **Clarifying decision-making authority** so they can act quickly when rules shift

The bottom line

2026 won't be defined by a single rule or reform. It will be defined by the intersection of state laws, federal oversight and court decisions — all unfolding at once. Employers that treat pharmacy policy as a strategic input will be best positioned to manage cost, maintain access and protect member experience. Gallagher will continue to track developments and help organizations turn policy complexity into clear, actionable strategy.

Connect with us

Talk to a Gallagher Pharmacy and Health Plan Services consultant or visit AJG.com/pharmacy to learn more.

Sources:

- **Consolidated Appropriations Act of 2026,** establishing new PBM transparency, reporting, audit and rebate pass-through requirements.
  https://www.congress.gov/bill/118th-congress/house-bill/7148
- **US Department of Labor proposed a rule, Improving Transparency Into Pharmacy Benefit Manager Fee Disclosure (January 30, 2026),** requiring PBMs to disclose direct and indirect compensation to fiduciaries of self-insured ERISA plans and expanding audit rights.
  https://www.federalregister.gov/documents/2026/01/30/2026-01907/improving-transparency-into-pharmacy-benefit-manager-fee-disclosure
  https://www.dol.gov/newsroom/releases/ebsa/ebsa20260129
- **Federal Trade Commission enforcement actions involving pharmacy benefit managers,** signaling heightened regulatory scrutiny of PBM pricing, formulary design and transparency practices.
  https://www.ftc.gov/terms/pharmacy-benefits-managers-pbm
- **State Prescription Drug Affordability Board (PDAB) laws,** authorizing state-level drug affordability reviews and, in some states, upper payment limits, contribute to variation in pricing and reimbursement rules across states.
  https://nashp.org/prescription-drug-affordability-board-toolkit/
  https://crsreports.congress.gov/product/pdf/LSB/LSB11221