

2737.1000 TRANSPARENCY REPORTS TO COMMISSIONER.

Subpart 1. **Publication of submission form.** Annually no later than 60 days before the transparency reporting deadline date, the commissioner must post to the department's website the transparency report submission process, including the format, data specifications, and other pertinent information necessary to collect and report all data, including templates used for submission of the aggregate data required by Minnesota Statutes, section 62W.06, subdivision 2, paragraph (a), clauses (1) to (6); the claims-level data required by Minnesota Statutes, section 62W.02, subdivision 2, paragraph (a), clause (7); and the data publicly reported by the commissioner under Minnesota Statutes, section 62W.02, paragraph (b).

Subp. 2. **Use of submission forms and templates.** Unless given written permission by the commissioner not to, the templates annually published by the commissioner for submission of aggregate data, claims-level data, and data to be publicly reported must be used.

Subp. 3. **Notice of no data to report.** A pharmacy benefit manager that claims to be exempt from the requirement to submit the transparency reports under Minnesota Statutes, section 62W.06, subdivision 2, must, no later than the date the reports are due, submit to the commissioner a statement specifying the basis for nonreporting.

Subp. 4. **Therapeutic categories.** The commissioner must select a preexisting and commonly used therapeutic classification system to group drugs into like categories. The commissioner may consult with state agencies and other experts in the field in order to determine the best classification system. The commissioner must publish the classification system on the department's website at the same time transparency report templates are published. The classification system must be consistent with industry standards and must be reviewed on a periodic basis.

Subp. 5. **Delegation of data collection.** The commissioner may delegate or engage staff within the various divisions of the Department of Commerce, an outside third party, or another state agency to assist in data collection and analysis. The commissioner must ensure that delegated persons do not have a conflict of interest with respect to a particular data review.

Subp. 6. **Use of third party for data submission.** A pharmacy benefit manager may satisfy the requirements of Minnesota Statutes, section 62W.06, subdivision 2, paragraph (a), clause (7), by delegating data submission to a third-party administrator, health carrier, or another pharmacy benefit manager. The pharmacy benefit manager and the third-party administrator, health carrier, or other pharmacy benefit manager must have a contract provision that dictates which party is responsible for claims-level reporting. If a contract provision does not exist, the commissioner must enforce the data submission requirements of this subpart on the pharmacy benefit manager responsible for processing pharmacy claims. The transparency reporting submission process must provide an opportunity for a pharmacy benefit manager doing business in Minnesota to indicate the party that is submitting claims-level data on behalf of the pharmacy benefit manager. A pharmacy benefit manager's use of third parties for data submission does not absolve the licensed pharmacy benefit manager of any responsibility for compliance issues determined during the department's report review.

Subp. 7. **Penalties and fines.** If a pharmacy benefit manager has violated Minnesota Statutes, section 62W.06, by failing to timely submit a transparency report, the commissioner may assess a penalty of up to \$1,000 per day until the pharmacy benefit manager provides the requested transparency report. A transparency report requested under Minnesota Statutes, section 62W.06, subdivision 2, paragraph (a), is untimely and subject to penalties beginning the day after the date the report is due.

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