



The Pennsylvania Department of Health (“the department”) must immediately address the failures of MJ Freeway and Leaf Data Systems (“MJ Freeway”), which the department obligates the Commonwealth’s Medical Marijuana Operators (MMOs) utilize for seed to sale compliance. MJ Freeway has proven they are not capable of providing the level of service that patients deserve.

***MJ Freeway is chronically non-operational causing the medical marijuana supply chain to come to an abrupt and unannounced standstill – including halting the ability of patients to access their medicine.***

Further exacerbating the failures of the department’s seed to sale vendor, Pennsylvania’s medical marijuana regulations do not currently allow for offline transactions during outages, forcing MMOs to turn away thousands of patients - many of whom rely on public transit or travel more than 30 minutes to access their medicine. Other marijuana markets have an “offline” or “paper” option for when system failures occur. This is particularly necessary when technology fails in a catastrophic manner as experienced in the Commonwealth on September 18, 2023.

On September 18, Pennsylvania’s medical marijuana program experienced an outage of more than 19 hours. ***During those 19 hours, thousands of patients were unable to access their medicine and Pennsylvania businesses lost hundreds of thousands of dollars in revenue. This is just one instance amongst hundreds since the program’s inception.***

MJ Freeway outages cause severe disruptions to Pennsylvania businesses. When MJ Freeway is non-operational MMOs are unable to process, label, ship or receive medicine bringing the market to a grinding halt - causing significant revenue loss. The revenue alone does not paint the entire picture – the loss of labor hours and disruption to delivery, inventory, and maintenance schedules all directly impact the ability of patients to access their medicine.

Despite the obligation to pay astronomical fees for a prescribed subpar product, MMOs have no ability to hold MJ Freeway accountable given the software provider is the department’s vendor. MMOs report difficulty communicating with MJ Freeway’s revolving door of employees regarding outages, software issues and related challenges. This is not the experience of MMOs in other markets. ***One MMO noted that MJ Freeway has been offline for more time in one month than the combined downtime for the seed to sale systems in all other markets in which they operate over a five-year period.*** The chronic often unreported outages and lack of communication are unacceptable and must immediately be addressed by the department in a meaningful way.

Furthermore, the department has routinely shirked their responsibility to communicate information about their vendor’s failures to patients and MMOs. The department is the only entity that can communicate with the entirety of patients. By failing to communicate with stakeholders in a timely and direct manner about outages, the department all but guarantees Pennsylvania patients will travel to purchase their medicine only to find out they can’t.

In addition to providing inadequate seed to sale capabilities and lackluster communication, MJ Freeway and the department have failed to correctly enact §701 (c.1) of Act 44 of 2021 which guaranteed MMOs a statutory right to two-way Application Programming Interface (API) & Enterprise Resource Planning (ERP)

connections. Among other benefits, two-way API/ERP allows for greater patient data protections as the utilization of these software connections allow less room for human error during data transfers. The use of API/ERP in routine in many medical focused businesses including major pharmacies. MMOs report that while MJ Freeway claims to have implemented the statute to the department's specifications, they remain without the two-way API/ERP capabilities intended by Act 44. The legislature worked with stakeholders including API/ERP experts to ensure the statute was drafted in a way that met the legislatures' goal of modernizing the medical marijuana program while protecting patient information.

The department requested six months to enact §701 (c.1) of Act 44 of 2021 and the legislature saw fit to grant this additional time for implementation. Today - 24 months later the department has still not provided MMOs access to the two-way API/ERP they have a statutory right to. The inability of MJ Freeway and department to fully comply with Act 44 is not acceptable and not only violates a statutory obligation but likely violates the contract for seed to sale services. Should the department continue to refuse to implement the §701 (c.1) the legislature will pursue a statutory change.

Despite a steady outcry from MMOs and repeated inquiries from the legislature, the department has failed to hold MJ Freeway accountable and has allowed its vendor to forsake patients and operators routinely since the execution of the contract in 2017. The department must act immediately to ensure Pennsylvania's patients have reliable access to their medicine. We are requesting that the department take the following actions:

- Swiftly draft and adopt emergency regulations establishing an offline process for when there is an outage of the seed to sale system to ensure patients can access their medicine.
- Establish a protocol for communicating directly with patients and MMOs about outages, efforts to resolve and resolutions.
- Immediately, fully enact §701 (c.1) of Act 44 to allow licensed MMOs two-way API/ERP access including the ability for MMOs to utilize a POS system of their choice while continuing to securely provide the department with required information while continuing to protect patient data.
- Decline to grant any additional extensions of contract #430076151 to MJ Freeway or any entity that may purchase, acquire, or absorb MJ Freeway.
- Expedite the search, with stakeholder input, for a new vendor via the pending RFP for contract #43007615 Office of Medical Marijuana Seed-to-Sale Registry Systems.