

Legal Notice

STATE OF NEW JERSEY DEPARTMENT OF HUMAN SERVICES DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Medicaid Pharmacy Reimbursement

TAKE NOTICE that the New Jersey Department of Human Services (DHS), Division of Medical Assistance and Health Services (DMAHS) intends to seek approval from the United States Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS), for an amendment to the New Jersey Medicaid (Title XIX) State Plan, in accordance with the Affordable Care Act and requirements of 42 CFR 447.500 et al. pertaining to NJ FamilyCare reimbursement for covered outpatient drugs in the Medicaid program.

Subject to State approval, the amendment would propose the following: The maximum allowable cost for legend and non-legend drugs shall be calculated based on Actual Acquisition Cost (AAC) defined as the lowest of (i) the National Average Drug Acquisition Cost (NADAC) Retail Price Survey, in accordance with Section 1927(f) of the Social Security Act (SSA); (ii) Wholesale Acquisition Cost (WAC) less a volume discount of two (2) percent in the absence of a NADAC price; (iii) the federal upper limit (FUL); (iv) the State upper limit; (v) cost acquisition data submitted by providers of pharmaceutical services for brand-name multi-source and multi-source drugs in the absence of any alternative pricing benchmarks.

For legend and non-legend drugs purchased through the 340B program, the maximum allowable cost shall be based on the 340B ceiling price, which is defined as Average Manufacturer's Price minus the Unit Rebate Amount (URA). In the absence of a 340B ceiling price, the alternative benchmark used shall be the Wholesale Acquisition Cost (WAC) minus a volume discount of twenty-five (25) percent. The 340B ceiling price or the alternative benchmark shall only apply when its price is the lowest compared to the pricing formulas described by (i) through (v) above.

Reimbursement for covered outpatient drugs shall be calculated based on the lower of the AAC plus a professional fee of \$10.92; or a provider's usual and customary charge; or (ii) the lower of cost acquisition data submitted by providers of pharmaceutical services for brand-name multi-source and multi-source drugs, where an alternative pricing benchmark is not available, plus a professional fee of \$10.92; or a provider's usual and customary charge. To effectuate the calculation of SUL rates and/or the calculation of single-source and brand-name multi-source legend and non-legend drug costs where an alternative pricing benchmark is not available, the Department of Human Services shall mandate ongoing submission of current drug acquisition data by providers of

pharmaceutical services. No funds hereinabove appropriated shall be paid to any entity that fails to submit required data.

Reimbursement for covered outpatient drugs dispensed to beneficiaries residing in long-term-care facilities shall be calculated based on the lower of the AAC plus a professional fee of \$10.92; or a provider's usual and customary charge; or (ii) the lower of cost acquisition data submitted by providers of pharmaceutical services for brand-name multi-source and multi-source drugs, where an alternative pricing benchmark is not available, plus a professional fee of \$10.92; or a provider's usual and customary charge. To effectuate the calculation of SUL rates and/or the calculation of single-source and brand-name multi-source legend and non-legend drug costs where an alternative pricing benchmark is not available, the Department of Human Services shall mandate ongoing submission of current drug acquisition data by providers of pharmaceutical services. No funds hereinabove appropriated shall be paid to any entity that fails to submit required data.

An estimated state cost of \$3,498 for State Fiscal Year 2017 and an estimated state cost of \$13,978 for State Fiscal Year 2018 is anticipated.

This Notice is intended to satisfy the requirements of Federal law and regulations, section 1902(a)(13) of the Social Security Act, 42 U.S.C. section 1396a(a)(13) and 42 CFR 447.205.

A copy of this Notice is available for public review at the local Medical Assistance Customer Centers, County Welfare Agencies, and on the DHS website at <http://www.state.nj.us/humanservices/providers/grants/public/index.html>.

Comments or inquiries must be submitted in writing by mail or fax within 30 days of the date of this notice to:

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