



Susana Martinez, Governor
Brent Earnest, Secretary
Nancy Smith-Leslie, Director

January 29, 2016

Bill Brooks, Medicaid Associate Regional Administrator
Division of Medicaid and Children's Health
Centers for Medicare and Medicaid Services
1301 Young St.
Dallas, TX 75202

Dear Mr. Brooks,

Enclosed are documents related to New Mexico State Plan Amendment (SPA) 16-01 – Pharmacy Dispensing Fee at \$3.65.

Currently, the New Mexico State Plan provides for two levels of pharmacy dispensing fees, which include a dispensing fee of \$2.50 when “product selection” has not taken place, and a dispensing fee of \$3.65 when “product selection” has taken place. This SPA will remove the lower dispensing fee and will have the effect of applying a \$3.65 dispensing fee to all Medicaid fee-for-service pharmacy claims without regard to “product selection.”

Prior to July 2010, the dispensing fee was \$3.65. The State Plan was then amended to introduce a lower dispensing fee of \$2.50 when “product selection” took place. Product selection was deemed to have occurred when the pharmacist substituted a therapeutically equivalent generic drug for a prescribed brand name drug. The pharmacists had to select a drug that met specific therapeutic equivalency standards as determined by the FDA. However, at this time, virtually all the oral generic products in the US market have been deemed by the FDA as being therapeutically equivalent to the parent drug for the same dosage form.

Given the level of automation in pharmacies, when product selection does not occur, the pharmacist performs no less work than when product selection does occur. Likewise, the pharmacy does not incur less cost when product selection does not take place. Therefore, we are seeking to amend the State Plan to remove the lower of the two tiers of the pharmacy dispensing fee.

Indian Health Service (IHS) pharmacies, which receive the largest amount of pharmacy payments in the Medicaid fee-for-service program, are bound by their own pharmacy formularies under the IHS and, therefore, never have the flexibility of choice in dispensing to qualify for the \$3.65 dispensing fee. An effect of this SPA would be to use the \$3.65 dispensing fee for calculating payment on IHS pharmacy claims.

When compared to other payers, including other state Medicaid agencies, Medicare Part D payers and dispensing fees paid by other insurers in New Mexico, the \$3.65 dispensing fee still remains reasonable.

We appreciate your consideration of this SPA. Should you have any questions or wish to discuss it further, please contact Jennifer Mondragon at Jennifer.Mondragon@state.nm.us or at (505) 476-6823.

Sincerely,



for Nancy Smith Leslie
Director

Copies:

Stacey Shuman, CMS

Robert Stevens, MAD Chief, Program Policy & Integrity Bureau

Jennifer Mondragon, MAD, Health Care Operations Manager

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		16-01	2. STATE New Mexico
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE February 1, 2016	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 447 Subpart I		7. FEDERAL BUDGET IMPACT: for FFY 2016: \$183,250 for FFY 2017: \$366,500	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19B page 5		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Attachment 4.19B page 5	
10. SUBJECT OF AMENDMENT: Pharmacy Dispensing Fee			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		X OTHER, AS SPECIFIED: Authority Delegated to the Medicaid Director.	
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Nancy Smith-Leslie, Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504 – 2348	
13. TYPED NAME: Nancy Smith-Leslie			
14. TITLE: Director, Medical Assistance Division			
15. DATE SUBMITTED: January 29, 2016			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED:	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

- b. Usual and Customary Charge – The usual and customary charge is defined as the charge made to a non-Medicaid patient for the same drug item. Usual and customary charges specifically must consider the following:
1. Discounts given to non-Medicaid patients for criteria such as age or being in a nursing home when the Medicaid patient meets the criteria for the discount.
 2. Discounts for paying cash. If any patient group gets discounts for paying cash, those discounts must be reflected in the usual and customary charge.
 3. Medicaid is to be given the advantage of discounts that the general public receives.

- c. Prescription Refills – There are limitations on the frequency for which it will reimburse the same pharmacy for dispensing the same drug to the same recipient. The limitation is established individually for each drug. Most drugs are subject to a maximum of three (3) times in ninety (90) days, with grace days as needed to account for necessary early refills, lost medications, dosage changes, etc. Controlled drugs and certain other drugs may require special consideration, as necessary, due to their specific indication, dosage form, or packaging, and are subject to limitations as may be appropriate. Refills must be consistent with the dosage schedule prescribed and all existing federal and state laws.

The maximum quantity that may be dispensed at one time is a thirty-four (34) day supply, except for oral contraceptives that may be dispensed in greater quantities if the proper agent for the patient is established, and for maintenance medications which may be dispensed up to a ninety (90) day supply.

- d. Dispensing Fee – Effective February 1, 2016, the dispensing fee for pharmacies is \$3.65.

The Department establishes the dispensing fee by taking into account such factors as the cost studies on pharmacy operations; the amount pharmacists have agreed to accept for providing similar services for Medicare part D and other contracts; dispensing fees paid by other common insurers, health maintenance organizations, and managed care organizations; and payments made by other state Medicaid programs that are similar to that of New Mexico.

- e. Reimbursement Limitations

1. Payment will not be made for drug items for which the manufacturer has not entered into a rebate agreement with the federal government except as specified in the provisions of section 1902(a)(54) and 1927 of the Social Security Act.
2. Payment will not be made to physicians for oral medication or medications that can be appropriately self-administered by the recipient. Payment to physicians for drugs will be limited to injectable and other medications administered by the physician or under his direction.