

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Center for Medicaid and CHIP Services**

**Disabled and Elderly Health Programs Group**

March 20, 2018

Ms. Nancy Smith-Leslie, Director  
New Mexico Human Services Department  
Medical Assistance Division  
P.O. Box 2348  
Santa Fe, NM 87504-2348

Dear Ms. Smith-Leslie:

We have reviewed New Mexico State Plan Amendment (SPA) 17-0003, Prescribed Drugs, received in the Dallas Regional Office on June 29, 2017. This SPA proposes to bring New Mexico into compliance with the pharmacy reimbursement requirements in the Covered Outpatient Drug final rule with comment period (CMS-2345-FC) (81 FR 5170) published on February 1, 2016.

SPA 17-0003 establishes reimbursement for covered outpatient drugs using an actual acquisition cost methodology and implements a professional dispensing fee (PDF) reimbursement of \$10.30 for pharmacies. This SPA also includes reimbursement methods for 340B drugs, clotting factor, federal supply schedule, and drugs purchased at nominal price.

In considering the proposed reimbursement methodology, the state was required to provide data and studies to demonstrate that the acquisition cost methodology and PDF being paid are sufficient to ensure that New Mexico beneficiaries will have sufficient access to pharmacy services. In keeping with the requirements of section 1902 (a)(30)(A) of the Social Security Act, we believe the state has demonstrated that their reimbursement is consistent with efficiency, economy, and quality of care, and are sufficient to ensure that care and services are available at least to the extent they are available to the general population in the geographic area.

We believe that there is evidence regarding the sufficiency of New Mexico's reimbursement methodology to approve SPA 17-0003, at this time, with an effective date of April 1, 2017. Specifically, New Mexico has reported to the Centers for Medicare & Medicaid Services (CMS) that there are approximately 389 licensed pharmacies in the state and 385 of these pharmacies participate in the Medicaid program. With a 99 percent participation rate, we can infer that New Mexico Medicaid beneficiaries will have access to pharmacy services at least to the extent available to the general population since Medicaid requires that beneficiaries be provided access to all covered outpatient drugs of participating drug manufacturers through broad networks.

Whereas commercial insurers often have more limited formularies and a more limited network of pharmacies.

A copy of the signed CMS-179 form, as well as the pages approved for incorporation into New Mexico's state plan will be forwarded by the Dallas Regional Office.

If you have any questions regarding this amendment, please contact Mickey Morgan at (410) 786-4048 or [Mickey.morgan@cms.hhs.gov](mailto:Mickey.morgan@cms.hhs.gov).

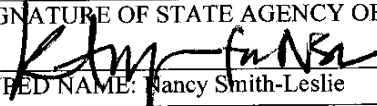
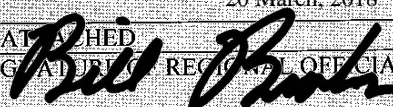
Sincerely,

Sincerely,

/s/

Meagan T. Khau  
Deputy Director  
Division of Pharmacy

cc: Robert Stevens, Program Policy Bureau Chief, MAD  
Jennifer Mondragon, Health Care Operations Manager, MAD  
Bill Brooks, ARA, CMS, Dallas Regional Office  
Ford Blunt, CMS, Dallas Regional Office

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		17 - 003	2. STATE New Mexico
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		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 April 1, 2017	
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 Payment for Drugs		7. FEDERAL BUDGET IMPACT: for FFY 2017: (- \$1,170,000) REDUCTION for FFY 2018: (- \$1,560,000) REDUCTION	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19 B pages 4 and 5		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ): Attachment 4.19 B pages 4 and 5	
10. SUBJECT OF AMENDMENT: Covered Outpatient Drug Reimbursement to Pharmacies, implementing reimbursement provisions for a Professional Dispensing Fee and defining and determining Actual Acquisition Cost.			
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: June 28, 2017, rev 03 15 2018			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: 29 June, 2017		18. DATE APPROVED: 20 March, 2018	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 April, 2017		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: BILL BROOKS		22. TITLE: Associate Regional Administrator Division of Medicaid and Children's Health	
23. REMARKS:			

II. Payment for Prescribed Drugs.

For the New Mexico Medicaid Fee-for-Service program,

1. Payment:

Reimbursement for the drug ingredient cost shall be the lowest of:

- a. The Affordable Care Act Federal Upper Limit (FUL) plus the professional dispensing fee (PDF);
- b. The National Average Drug Acquisition Cost (NADAC) plus the PDF;
- c. The Wholesaler's Average Cost (WAC) + 6% plus the PDF;
- d. The pharmacy's reported ingredient cost plus the PDF; or
- e. The usual and customary charge (U&C).

The PDF is \$10.30.

When the drug item is for a brand name drug that is also a multi-source drug, the Actual Acquisition Cost, (AAC) will be calculated using the generic equivalent of the brand name drug unless the prescriber has written in his or her own hand "brand medically necessary" on the prescription in which case reimbursement will be at the AAC of the NADAC for the brand name drug item plus a \$10.30 PDF, not to exceed the pharmacy's U&C.

2. Allowed Fees in Addition to the Professional Dispensing Fee (PDF)

Reimbursement for compounding fees is limited to the provider's usual additional charge for compounding not to exceed \$12.00.

3. Payment Provisions for Blood Clotting Factors

Reimbursement for clotting factors will be at the lower of the submitted ingredient cost or WAC plus 6%, plus a \$10.30 PDF, not to exceed the pharmacy's U&C.

4. Payment Provisions for 340B Drugs

Payment to 340B covered entities for drugs purchased at 340B prices authorized under Section 340B of the Public Health Services Act will be at the 340B actual acquisition cost plus a \$10.30 PDF, not to exceed the pharmacy's U&C.

5. Payment Provisions for Drugs Acquired under Federal Supply Schedule (FSS) Pricing

Payment for drugs purchased at FSS prices will be at the FSS actual acquisition cost of the drug plus a \$10.30 PDF, not to exceed the pharmacy's U&C.

6. Payment to Indian Health Service Pharmacies and Tribal 638 Healthcare Pharmacies

Reimbursement for the drug ingredient cost shall be the lowest of:

- a. The Affordable Care Act Federal Upper Limit (FUL) plus the professional dispensing fee (PDF);
- b. The National Average Drug Acquisition Cost (NADAC) plus the PDF;
- c. The Wholesaler's Average Cost (WAC) + 6% plus the PDF;
- d. The pharmacy's reported ingredient cost plus the PDF; or
- e. The usual and customary charge (U&C).

The PDF is \$10.30.

State: New Mexico

Received Date: 29 June, 2017

Approved Date: 20 March, 2018

Effective Date: 1 April, 2017

Transmittal Number: NM 17-0003 PHARM

When the drug item is for a brand name drug that is also a multi-source drug, the AAC will be calculated using the generic equivalent of the brand name drug unless the prescriber has written in his or her own hand "brand medically necessary" on the prescription in which case reimbursement will be at the AAC of the NADAC for the brand name drug item plus a \$10.30 PDF, not to exceed the pharmacy's U&C.

7. Payment for Drugs Not Distributed by a Retail Community Pharmacy and Distributed Through the Mail (such as Specialty Drugs)

Reimbursement for the drug ingredient cost shall be the lowest of:

- a. The Affordable Care Act Federal Upper Limit (FUL) plus the professional dispensing fee (PDF);
- b. The National Average Drug Acquisition Cost (NADAC) plus the PDF;
- c. The Wholesaler's Average Cost (WAC) + 6% plus the PDF;
- d. The reported ingredient cost plus the PDF; or
- e. The usual and customary charge (U&C).

The PDF is \$10.30.

When the drug item is for a brand name drug that is also a multi-source drug, the AAC will be calculated using the generic equivalent of the brand name drug unless the prescriber has written in his or her own hand "brand medically necessary" on the prescription in which case reimbursement will be at the AAC of the NADAC for the brand name drug item plus a \$10.30 PDF, not to exceed the U&C.

8. Drugs Not Distributed by a Retail Community Pharmacy (Such as a Long-Term Care Facility)

Reimbursement for the drug ingredient cost shall be the lowest of:

- a. The Affordable Care Act Federal Upper Limit (FUL) plus the professional dispensing fee (PDF);
- b. The National Average Drug Acquisition Cost (NADAC) plus the PDF;
- c. The Wholesaler's Average Cost (WAC) + 6% plus the PDF;
- d. The reported ingredient cost plus the PDF; or
- e. The usual and customary charge (U&C).

The PDF is \$10.30.

When the drug item is for a brand name drug that is also a multi-source drug, the AAC will be calculated using the generic equivalent of the brand name drug unless the prescriber has written in his or her own hand "brand medically necessary" on the prescription in which case reimbursement will be at the AAC of the NADAC for the brand name drug item plus a \$10.30 PDF, not to exceed the U&C.

9. Investigational Drugs

The New Mexico Medicaid program does not cover investigational drugs.

10. Physician Administered Drugs

Physician administered drugs are reimbursed at the Average Sales Price (ASP) determined by CMS and posted on the federal "ASP Drug Pricing Files" webpage, (updated quarterly). A professional dispensing fee is not paid. An administration fee, set at the Medicare rate, is paid only when the drug item is a vaccine covered under the Vaccines for Children program.

State: New Mexico  
Received Date: 29 June, 2017  
Approved Date: 20 March, 2018  
Effective Date: 1 April, 2017  
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