



State of New Mexico
Medical Assistance Program Manual
Supplement



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TO: ALL PHARMACIES PARTICIPATING IN THE NEW MEXICO MEDICAID PROGRAM

FROM:  CAROLYN INGRAM, DIRECTOR

THROUGH: ROBERT STEVENS, BUREAU CHIEF, BENEFITS BUREAU

BY: JULIE MCKEAY, PHARMACY PROGRAM ADMINISTRATOR

SUBJECTS: I. CHANGE IN PHARMACY DISPENSING FEES
II. PHARMACIES CONTRACTED WITH 340B ENTITIES
III. CHANGES TO THE PAYER SHEETS

I. CHANGE IN PHARMACY DISPENSING FEES

The Medical Assistance Division issued Supplement Number 09-13 dated November 19, 2009, informing pharmacy providers of the intent to reduce the Medicaid fee-for-service program dispensing fee and of the opportunity for interested parties to make comments through February 5, 2010, on the intended action.

The notice stated the intent of the Department to lower the pharmacy dispensing fee from \$3.65 to \$2.50 when product selection had not taken place. Product selection occurs when a practitioner prescribes a brand name multisource drug and the pharmacist substitutes a lower cost equivalent drug item as allowed by state law. The reduction in payment to pharmacies was estimated to be \$400,000 annually.

This action is one of several reimbursement changes which reduced payments to practitioners and hospitals as well as for many other services. Overall, these changes are being made to assure payments to providers are reasonable at a time when there is a serious shortfall in state revenues. The Human Services Department studied dispensing fees paid by other payers in New Mexico and determined that a \$2.50 dispensing fee when product selection has not taken place is a reasonable dispensing fee.

A written comment was received from the New Mexico Pharmacists Association making several points about the practice of pharmacy in New Mexico. Specifically noted were the increasing difficulties for pharmacies to continue to operate due to tightening of Maximum Allowable Costs lists, proposed changes to use the Average Manufacturer's Price (AMP) as the basis for determining

reimbursement, and the impact of a First Data Bank legal settlement, all of which may reduce payments to pharmacies. Rural pharmacies and independent pharmacies were cited as the entities most impacted by these changes.

Also included in the comment were observations that pharmacies in New Mexico have always been supportive of Medicaid patients and have participated in the managed care program even with lower reimbursement from managed care organizations; that New Mexico has had the lowest or second lowest cost for prescriptions for many years; that managed care organizations have recently made further reductions in payments to pharmacies; and that historically pharmacies have more than their share of Medicaid cost containment initiatives.

The comment also states the Medicaid projection of \$400,000 annually in cost savings is a serious over-estimation, and that Medicaid costs may increase due to less incentive to substitute a generic item for a brand name drug. The comment supported studying dispensing costs and recommended increasing the dispensing fee to help pharmacies maintain economic viability.

Verbal comments were made, primarily asking why a public hearing was not held for this change.

The Department reviewed the comments and recognizes that pharmacies have indeed been supportive of the Medicaid program and have been willing to provide excellent services to Medicaid recipients despite many changes in the program over time. However, the Department feels a \$2.50 dispensing fee when product selection has not taken place is reasonable when compared to other payers in New Mexico.

Further, the Department feels the \$3.65 dispensing fee, an additional \$1.15 when product selection has taken place and the fact that reimbursement for multi-source drugs are made at generic maximum price levels are sufficient incentives for a pharmacy to continue to dispense generic items. Therefore, the new dispensing fee will be implemented as proposed.

To minimize the manual efforts on the part of a pharmacy to claim a higher dispensing fee, the Department has implemented electronic capability within the point-of-sale payment system. Recognizing that some pharmacies may have to adjust their systems to bill the higher dispensing fee, the date of this dispensing fee change will be July 1, 2010, rather than the date of this notice.

Regarding the issue of a public hearing, as stated in the original notice, the Department provided for a mechanism for interested parties to make comments for more than a 60 day period prior to implementing a change and met all federal notice requirements including publishing the change in newspapers. Because of the verbal comments on this issue, the Department sought the legal review of the Office of General Counsel which concurred that the method for providing notice, taking comments, and issuing a final notice meets the legal requirements for a change that does not otherwise require amending a program rule.

To help prepare providers in advance of this change, ACS sent instructions to pharmacies on claiming the \$3.65 dispensing fee when product selection has taken place. The change involves using the "Originally Prescribed Product Code" (NCPDP 445-EA). When product selection has taken place, the pharmacy must supply the NDC of the item prescribed in the "Originally Prescribed Product Code" field while the NDC of the item dispensed will be in the "Product ID" (NCPDP 407-D7).

Prior to making payment, if the originally prescribed product is a brand name drug and the dispensed Product ID is a lower priced generic equivalent drug, a dispensing fee of \$3.65 rather than \$2.50 will be used in calculating the payment to the pharmacy.

When working with your software vendor the payer sheet may be found at the following website:
<http://www.acspbmhipaa.com/>

The New Mexico payer sheets may be found at the above link by going to the pull down menu found in the upper left corner under the word HOME. Then select "Payer Sheet" and finish by selecting New Mexico Medicaid.

II. PHARMACIES CONTRACTED WITH 340B ENTITIES

The 340B Drug Pricing Program resulted from enactment of Public Law 102-585, the Veterans Health Care Act of 1992, which is codified as Section 340B of the Public Health Service Act. Section 340B limits the cost of covered outpatient drugs to certain federal grantees including, among others, federally-qualified health centers (FQHC's) and FQHC look-alikes, public health clinics, family planning clinics, and qualified disproportionate share hospitals. Significant purchasing price reductions on pharmaceuticals may be achieved by entities that participate in this program.

The 340B program oversight is the responsibility of the Health Resources and Services Administration (HRSA). Under the 340B provisions, pharmaceutical manufacturers agree to charge at or below statutorily defined prices known as the 340B ceiling prices when selling to certain qualified entities. When pharmaceutical manufacturers make their drug products available at the discounted 340B rates, a state Medicaid program cannot invoice the manufacturer for drug rebates for drug items purchased at 340B prices.

Since the pharmaceutical manufacturers make their products available at reduced prices, these regulations also require Medicaid to consider the lower acquisition cost when a pharmacy dispenses items purchased at the 340B prices. HRSA and Centers for Medicare and Medicaid (CMS) require contracted pharmacies that dispense pharmaceuticals to a Medicaid beneficiary with drugs obtained through the 340B program to bill Medicaid at the pharmacy 340B acquisition cost plus the applicable Medicaid dispensing fee.

In order for the pharmacy to bill correctly as required by law and for the Medicaid program to appropriately limit the payment to a pharmacy and not invoice the manufacturer for rebates the pharmacy must follow these following billing procedures when dispensing 340B items.

Effective July 1, 2010 Medical Assistance Division (MAD) requires all 340B contract pharmacies comply with one of the following options:

1. Not fill prescriptions for Medicaid recipients with drug items purchased at 340B prices and thereby will not submit claims to Medicaid for pharmaceutical items which were acquired through the 340B drug program; OR
2. If submitting claims for a Medicaid recipient for pharmaceutical items acquired through the 340B program, the pharmacy must (a) submit the actual acquisition cost under the 340B program in the "ingredient cost" field; (b) complete the "billed amount" field as the actual ingredient acquisition cost plus the applicable Medicaid dispensing; and (c) identify the claims billed at the 340B price by inserting a "9" in the basis of cost field (423DN) in the NCPDP transaction

Furthermore, in the Federal Register Volume 75, Number 43, issued Friday, March 5, 2010, the final register requires pharmacies that dispense drugs to Medicaid beneficiaries to have an established agreement between the 340 B pharmacy and the State Medicaid agency in order to prevent duplicate discounts. Such arrangements must be reported to the Office of Pharmacy Affairs (OPA) and HRSA by the covered entities. The three entities that must all meet this reporting requirement are the pharmacy which contracts with the 340B entity, the 340B entity itself, and the Medicaid Program. At this time MAD does not have an established format for such agreements. Pharmacies will receive further guidance regarding this new provision later this year.
We appreciate your participation in the Medicaid program.

III CHANGES TO THE PAYER SHEETS

A provider may need to have their software vendor make changes to their billing systems if their point of sale system does not already use the NDPDP transaction described above. When working with your software vendor, the payer sheet may be found at the following website: <http://www.acspbmhipaa.com/>

The New Mexico payer sheets may be found at the above link by going to the pull down menu found in the upper left corner under the word HOME. Then select "Payer Sheets" and finish by scrolling to New Medicaid to find the correct payer sheet.

Should you have any questions on this information, please contact the Medical Assistance Division at (505) 827-3171.