DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

CMCS Informational Bulletin

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FROM: Cindy Mann
Center for Medicaid and CHIP Services

SUBJECT: **Anticipated Finalization of Affordable Care Act Federal Upper Limits for Multiple Source Drugs**

Today the Centers for Medicare & Medicaid Services (CMS) is announcing its intention to finalize the Federal Upper Limits (FUL) for multiple source drugs in July 2014.

We will provide further detailed guidance for states to use to implement the Affordable Care Act FULs, but, based on consultation with states, we are providing this advance notice of our intention to finalize the FULs in July 2014 to help states plan. We encourage states to begin to consider what revisions may be needed to their contracts with pharmacy claims processors and the pricing compendia, as well as the need to submit state plan amendments (SPA) in order to accommodate the FUL data into their pharmacy reimbursement systems.

Since September 2011, we have published monthly draft average manufacturer price (AMP)-based FUL files as well as the methodology used in the calculation of those FULs on the Medicaid.gov website for the purpose of soliciting feedback from states, pharmacies, and other stakeholders. We received valuable comments from stakeholders, carefully considered these comments, and incorporated them into our determination of FULs where appropriate. In particular, many stakeholders noted that the AMP-based FULs fluctuated from month-to- month. After analyzing the FULs and examining possible reasons for the monthly fluctuation, we developed a draft three-month rolling average (3-MRA) FUL, which uses the most recently reported and two previous months of AMP data to calculate a FUL that yields less variance on a month-to-month basis. We have published the 3-MRA file in draft on the Medicaid.gov website since October 2012.

Our analysis shows that the aggregate state payments by ingredient costs using either the draft monthly AMP-based FUL or the draft 3-MRA FUL, calculated with state utilization data reported quarterly to CMS, are generally above those payments using the draft National Average Drug Acquisition Cost (NADAC) pricing. Therefore, we expect that the use of the NADAC pricing could allow states to meet the FULs aggregate upper limit, and states may want to consider the use of the NADAC. We want to remind states that CMS recently finalized the NADAC files, which are voluntary for states to use. However, we note that a state must submit a SPA in accordance with the state plan requirements if it decides to use NADACs as a basis for payment.

We recognize that pharmacy providers should be reimbursed adequately for their professional services. As states revise their reimbursement for the ingredient cost of a drug to stay within the FUL

aggregate, they should also consider whether their current dispensing fee continues to provide adequate reimbursement for the cost of dispensing a prescription to a Medicaid beneficiary, as well as the need to submit a SPA.

For more information on the FULs, please visit http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Prescription-Drugs/Federal-Upper-Limits.html. For more information on NADAC, please visit http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Prescription-Drugs/Survey-of-Retail-Prices.html.