

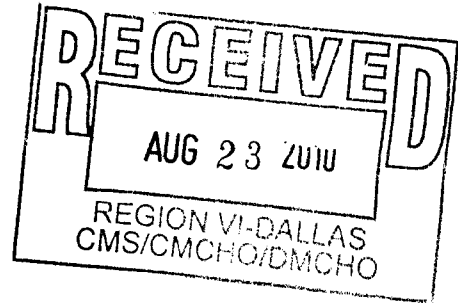
Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, Maryland 21244-1850



Center for Medicaid, CHIP and Survey & Certification  
Disabled and Elderly Health Programs Group

**AUG 16 2010**

Ms. Carolyn Ingram  
Director  
Medical Assistance Division  
P.O. Box 2348  
Santa Fe, NM 87504-2348



Dear Ms. Ingram:

We have reviewed New Mexico State Plan Amendment (SPA) 10-001, Prescribed Drugs, received in the Regional Office on March 25, 2010. This amendment changes the dispensing fee from \$3.65 to \$2.50, except in the instances when the pharmacist uses "product selection." The dispensing fee will remain \$3.65 when the pharmacist meets the requirements for "product selection," which under New Mexico law has additional labeling requirements, assuring equivalence using Federal Food and Drug Administration determinations, and additional responsibilities on the part of the pharmacist.

We are pleased to inform you that the amendment is approved, effective July 1, 2010. In addition, per your June 11, 2010 letter, we made the requested changes to block seven on the HCFA-179 form.



A copy of the HCFA-179 form, as well as the pages approved for incorporation into the New Mexico state plan, will be forwarded by the Dallas Regional Office. If you have any questions regarding this amendment, please contact Wendy Tuttle at (410) 786-8690.

Sincerely



Larry Reed  
Director  
Division of Pharmacy

cc: Bill Brooks, Associate Regional Administrator, Dallas Regional Office  
Suzette Seng, Dallas Regional Office

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: 10-001	2. STATE New Mexico
		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 July 1, 2010	
5. TYPE OF PLAN MATERIAL (Check One):  <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 (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 447 Subpart I		7. FEDERAL BUDGET IMPACT: (\$284,000) reduction	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19 B page 5		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19 B page 5	
10. SUBJECT OF AMENDMENT: Pharmacy reimbursement			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Authority Delegated to the Medicaid Director. <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Carolyn Ingram, Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504 - 2348	
13. TYPED NAME: Carolyn Ingram			
14. TITLE: Director, Medical Assistance Division			
15. DATE SUBMITTED: March 25, 2010			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: 25 March, 2010		18. DATE APPROVED: 16 August, 2010	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 July, 2010		20. SIGNATURE OF OFFICIAL: 	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Div of Medicaid & Children's Health	
23. REMARKS: * Pen & Ink Change made per State's E-mail Dated 28 July, 2010. Request to reflect Reductions in Parentheses."			

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 – The dispensing fee for pharmacies is \$2.50 unless product selection by the pharmacist has taken place, in which case the dispensing fee will be \$3.65. Product selection occurs when the pharmacist selects a lower priced equivalent generic drug item to dispense in place of a higher priced brand name drug item when consistent with state and federal laws. The Department establishes the dispensing fee by taking into account such factors as the cost studies on pharmacy operations; the amount pharmacies 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 sections 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.

SUPERSEDES: TN- 04-10

STATE	<u>New Mexico</u>	A
DATE REC'D.	<u>3-25-10</u>	
DATE APP'VD	<u>8-16-10</u>	
DATE EFF	<u>7-1-10</u>	
HCFA 179	<u>10-01</u>	