MEDICAID DRUG REBATE PROGRAM

Release Number 61

* * * IMMEDIATE ATTENTION REQUIRED * * *

NOTE TO: All State Medicaid Directors

BANKRUPTCY FILINGS BY DRUG LABELERS

Region VI received notification that Vangard Labs, (Labeler Code 00615), and Syosset Laboratories, Inc. (Labeler Code 47854), filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code, in the Bankruptcy Court. It is important that States protect their interest (and the Federal Government's interest) in the rebates that are owed.

States are expected to file a proof of claim for their drug rebates in any bankruptcy proceeding of a drug manufacturer from whom a drug rebate is owed. Generally, a State would have six months under Chapter 11 USC 502(b)(9) to file a proof of claim for pre-petition obligations from the date the petition for bankruptcy is filed. Attorneys representing State Agencies should be able to protect their interest in such matters, once the State's obligation to file a claim is made clear. The post-petition rebate claims could also be affected by the bankruptcy proceedings. Therefore, States should take steps to assure such rebates are properly pursued.

ALSCRIPS

A repackager named ALSCRIPS (Labeler Code 54569), apparently does not wish to be an active participant in the rebate program. They do, however want their products covered by Medicaid. ALSCRIPS has included their NDC number AND the NDC number from the company they purchased products from on the package. They are telling physicians to bill Medicaid using the "other" NDC number. Drug products marketed by the ALSCRIPS company using the ALSCRIPS label are not eligible for Federal financial participation (FFP), and State pharmacies should be alerted to this illegal practice.

We have notified both the Food and Drug Administration and the Office of the Inspector General, and requested that they investigate this matter.

HCFA HOME PAGE ON THE INTERNET

Effective July 12, the following drug rebate data are available from the HCFA home page via INTERNET at http://www.hcfa.gov: all memoranda to State Medicaid Directors, all memoranda to participating drug labelers, the Consumer Price Index - Urban (CPI-U) values, the 91-day Treasury bill (T-bill) rates to two decimal positions, all State drug utilization for 1991 - 1995, all drug product baseline data (except for prices), drug labeler contact information for all participating drug companies, and a copy of the national drug rebate agreement.

Within 30 days, we plan to add the interest calculation methodology, the formula for calculating unit rebate amounts, a current listing of drugs subject to the federal upper limit (FUL), and the current quarterly listing of less-than-effective (LTE)/identical, related or similar (IRS) drugs as determined by the Food and Drug Administration. Comments and suggestions on the home page should be referred to Al Beachley at (410) 786-3276 or abeachley@hcfa.gov.

STATE REPORTING OF UNMATCHED NDC NUMBERS WITH HCFA DATA BASE

It has come to our attention that there are still manufacturers' NDC numbers that have not been reported to HCFA. The National Rebate Agreement requires manufacturers to report all their NDC numbers to HCFA. One State has reported unmatched NDC(s) on their State tape for Ortho (Labeler Code 59676). Ortho has been contacted and will be sending HCFA their unreported NDC(s). Any unmatched NDC numbers from Johnson & Johnson (Ortho, McNeil, OrthoBioTech & Janssen) or any other participating manufacturer should first be reported to the company involved to ascertain that this is a valid NDC number for the company. If the number is valid, HCFA should be alerted so that contact can be made with the company to get the information. HCFA should be contacted if further assistance is needed.

DRUG CATEGORY CHANGE

A situation regarding Drug category changes has caused us to change the way we recalculate prior quarter URAs for one specific situation only. If a repackager using their own NDC on a repackaged product begins buying from a company that will cause the Drug Category to change from or to "N", URAs back to the start of the product history will NOT be recalculated and will NOT cause PPA records to be generated. The Unit Rebates will only be recalculated for those quarters (if necessary), subsequent to the change in purchasing company. If you have any questions, please call Vince Powell on (410) 786-3314.

USING UPPS FIELD FOR CALCULATING UTILIZATION

We have, again, received a call from a drug company complaining that some States are NOT using their Units Per Package Size (UPPS) field when calculating total utilization for unbreakable packages. These States instead are using the UPPS (or its equivalent field) from the Medispan or First Databank file. Please remember that when calculating utilization for unbreakable packages, multiply the number of scripts times the UPPS field FROM THE HCFA TAPE to determine total utilization. DO NOT use this information from any other source. The HCFA file has the Units defined by the drug company which correspond to the way the company calculates units in order to develop their Average Manufacturer's Price (AMP). Regardless of whether the other files contain a UPPS field that matches NCPDP standards on rounding or unit values that are used for developing AWP, etc., the only accurate fields FOR THE DRUG REBATE PROGRAM FILES are those sent by HCFA.

NEW LABELER

The following labeler has entered into a drug rebate agreement and will join the rebate program on October 1, 1996:

P.L. Development, Inc. (Labeler Code 59726).

LABELER TERMINATIONS

The following labelers are being terminated effective October 1, 1996 for failure to submit pricing data:

ConvaTec (Labeler Code 00519),

Beiersdorf, Incorporated (Labeler Code 10356),

Ion Laboratories, Incorporated (Labeler Code 55532),

Dawn Pharmaceuticals (Labeler Code 58865),

CooperVision Pharmaceuticals, Incorporated (Labeler Code 59426), and

Amkas Laboratories, Incorporated (Labeler Code 61073).

Colorplast Corporation (Labeler Code 62123) has withdrawn their Drug Rebate Agreement. Since they only manufacture medical devices, they were not eligible to participate in the program.

Delmont Laboratories, Incorporated (Labeler Code 48532) and Pharmed Group (Labeler Code 54252) have requested to be terminated from the program effective October 1, 1996.

ATTACHMENTS

Copies of the topic index and the latest listing of the 90-day treasury bill auction rates for the period of September 5, 1995 through July 22, 1996 are attached.

Please remember to direct your drug rebate questions to a staff member on the listing we provided with release number 53.

Sally K. Richardson
Director
Medicaid Bureau

2 Attachments

cc:

All State Technical Contacts
All Regional Administrators
All Associate Regional Administrators, Division of Medicaid

TOPICAL INDEX - STATE MEDICAID RELEASES 1 - 61

(Revised 24 July 1996)

WEEKLY U.S. T-BILL DISCOUNT RATE

The latest weekly 90-day treasury bill auction rates for
September 5, 1995 through July 22, 1996 are:

DATE OF AUCTION		TRUE DISCOUNT RATE
09/05/95		5.463
09/12/95		5.504
09/19/95		5.409
09/25/95		5.293
10/02/95		5.504
10/10/95		5.471
10/16/95		5.483
10/23/95		5.376
10/30/95		5.450
11/06/95		5.525
11/13/95	5.599	
11/20/95	5.503	
11/27/95	5.483	
12/04/95	5.450	
12/11/95	5.463	
12/18/95	5.306	
12/26/95	5.054	
01/02/96	5.190	
01/09/96	5.178	
01/16/96	5.170	
01/22/96	5.137	
01/29/96	5.157	
02/05/96	5.025	
02/12/96	4.939	
02/20/96	4.918	
02/26/96	4.987	
03/04/96	5.020	
03/11/96	5.081	
03/18/96	5.155	
03/25/96	5.123	
04/01/96	5.209	
04/08/96	5.164	
04/15/96	4.999	
04/22/96	5.102	
04/30/96	5.135	
05/06/96	5.155	
05/13/96	5.155	
05/20/96	5.164	
05/28/96	5.164	
06/03/96	5.229	
06/10/96	5.299	
06/17/96	5.217	
06/24/96	5.238	
07/01/96	5.258	
07/08/96	5.353	
07/15/96	5.332	
07/22/96	5.279	

FAB134:Dmccarthy, 62079.
State61.WP