DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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Center for Medicaid and CHIP Services

December 31, 2015

MEDICAID DRUG REBATE PROGRAM NOTICE   **Release No. 173**

For State Technical Contacts

1) **LABELER REQUEST FOR CLAIMS LEVEL DATA (CLD) FROM STATES**

In order to resolve and prevent both fee-for-service (FFS) and managed care organization (MCO) disputes, labelers in good faith may request CLD from states. The Centers for Medicare & Medicaid Services (CMS) first addressed data sharing in State Release #108 (which may be found on our website at: http://medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Prescription-Drugs/Program-Releases.html.), and we continue to encourage states to respond to reasonable requests for CLD; however, states have reported to CMS that some labelers are repeatedly asking for CLD for the same national drug codes (NDCs) each quarter, even though they ultimately agree to pay the amounts in dispute.

In a release to manufacturers, we are reminding them that they should adjust (i.e., raise) their dispute thresholds once a state has provided CLD in this manner, unless a change to the state program has occurred that would reasonably affect the average utilization (e.g., expansion population or waivers, preferred drug list (PDL) changes, etc.). The CMS Dispute Resolution Program (DRP) Team continues to encourage labelers to share with states, upon request, the methodology applied to their dispute thresholds.

Any questions regarding this issue can be directed to the respective Regional Office DRP Coordinator, found on Medicaid.gov at http://www.medicaid.gov/medicaid-chip-program-information/by-topics/benefits/prescription-drugs/downloads/rodrpcoordinators060113.pdf, and the Central Office DRP Team at drp@cms.hhs.gov.

2) **DISPUTE RESOLUTION PREVENTION AND RESOLUTION-REMINDERS**

The DRP Team would like to remind states to engage in dispute prevention and to work together with labelers to resolve disputes timely. State Release #168 and Manufacturer Release #91 provide dispute guidance on NDCs with retroactive termination dates. CMS reiterates the information in State Release #55; that all disputes must be resolved on a unit basis, rather than on a monetary amount, percentages, or any other factor. State Release

#156 and Manufacturer Release #82 remind labelers and states of the correct reporting of unit types and units per package size (UPPS). It is important for labelers to report this data correctly, and for states to communicate with labelers when the reported unit type and/or UPPS is incompatible with the units they are receiving from their providers. Labelers and states need to communicate as soon as possible on suspected unit of measure issues in order to prevent and resolve disputes. Labelers should provide states with conversion factors on those NDCs that require conversion before rebate billing occurs.

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