



Medicaid Reform: What It Means for Pharmaceuticals

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The Commerce Mark

- Federal Upper Payment Limit
 - No FFP for Payments above UPL
 - Except, State Has Discretion
 - Specialty Pharmacy Drugs, As Defined by the Secretary
 - Drugs Administered in Doctor's Office
- 106% of RAMP → Single Source Drugs
- 120% of Weighted RAMP → Multiple Source Drugs

Commerce UPL

- RAMP = Average Price to Wholesalers For Retail Pharmacies
 - Not at NH or Facility
 - A Note about Mail Order Pharmacies
- Excluding
 - Service Fees that are FMV F/A Bona Fide Service
 - BP Exempt Transactions
 - Merely Nominal (As Determined By Secretary)
- And Less Cash Discounts and Volume Discounts, Free Goods Contingent, Charge backs, Rebates, and Any Other Price Concessions (As Determined by OIG)
- “Customary Prompt Pay” – A Tortured Path

Commerce's Concept of Multiple Source

- The Traditional Medicaid Definition
- What Occurred in the ASP Context
 - Following on the Heels of LCAs
- Multiple Source Same Billing or Payment Code (or as Determined by the Secretary)
- The Threat that Creates

Alternative UPLs

- WAC for 1st of Two Quarters (No More)
 - Not including PP or Other Discounts, Rebates or Reductions
- UPL Can Be Based By Secretary Based on Reported Retail Survey Price Instead of RAMP
 - 2007 → Limit Number of Representative Single And Multiple Source
 - Competitive Bidding To Secure Vendor
 - “Representative Nationwide Basis”
 - Retail Pharmacies, Commercial Payors, and States

More about the Survey

- Collecting & Reporting on Monthly Basis
- Must Employ Methods to Independently Confirm the Survey Results
- State May Use In Setting Payment Rates

Judicial Review Provisions

- No Judicial Review of:
- Determinations of FUL, RAMPs, Weighted RAMPs, Assignment of NDCs to Billing and Payment Classes
- Disclosure of AMP, RAMP, Weighted RAMP, Retail Survey Price

Effective Date Issues

- Reporting Begins for Quarters Beginning on or After July 1, 2006
- Nominal Sales Information Must Be Reported Effective The Later of:
 - July 1, 2007 or
 - 6 Months After the Close of the First Regular Session After Enactment

Dispensing Fees

- May Vary As Determined By The State
- Multiple Source DWP Dispensing Fee Not Less than \$8
- State to Define the "Unit"

Physician Administered Drugs

Single Source - States Must Require J & NDC Codes to Identify Utilization for Rebates - 1/1/6

Multiple Source

- 1/1/7 (NDC Presumption for Reporting)
- 1/1/7 (List of 20 Highest Dollar Volume Physician Administered Drugs)
- 1/1/8 (Required Data in Claims For Such Drugs)
- Hardship Waiver F/States

Reports

- GAO Study on Dispensing Fees (9 Months)
- IG Report on Appropriateness of RAMP & Survey Prices (2 Years)

