

Private Prices, Public Markets: The Evolution of Price Transparency

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Transparency Through Government Price Reporting

- Medicaid
 - Average Manufacturer Price
 - Best Price

- Medicare
 - Average Sales Price
 - Wholesale Acquisition Cost

- State Price Reporting
 - Supplemental Rebate Agreement Requirements
 - State Price Reporting Laws

Medicaid

- OBRA '90 Requires Manufacturers to Report for Each Covered Outpatient Drug and for Each Calendar Quarter
 - Average Manufacturer Price (AMP): the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade
 - First Full Quarter of Sales (Base Date AMP)
 - All Subsequent Quarters
 - Best Price (BP): the lowest price available from the manufacturer to any wholesaler, retailer, provider, HMO, nonprofit entity or governmental entity, excluding federal government entities and other specified transactions
 - Only required for innovator products; generics had to report AMP only
 - Rebate Amount: Manufacturers pay each state Medicaid program a rebate based on AMP and BP (in the case of innovators) for each unit of product that the Medicaid program reimburses
- Little Transparency to States
 - CMS interpreted statute to prohibit provision of AMP/BP data to States
 - CMS calculates rebate amounts from AMP/BP and forwards to States

Medicaid Under the DRA

- Effective July 1, 2006
 - OBRA '90 language amended so that CMS can provide AMPs to States
 - States to keep AMP data confidential until . . .

- Effective 2007
 - AMP data for each covered outpatient drug becomes publicly available website
 - States no longer must keep private the AMP data received from CMS
 - CMS will make AMP data available on a publicly available website
 - AMP and BP reported on a monthly, not quarterly, basis
 - AMP and BP data for branded product will include pricing data for
 - Authorized Generics
 - Private Label Products
 - Federal Upper Payment Limits for Multiple Source Drugs is 250% of Lowest AMP among equivalent products
 - Manufacturer reporting to CMS of prompt payment /nominal pricing data

Medicare

- Medicare Modernization Act - Effective 2004
 - Manufacturers must report for each Part B Drug and for each Calendar Quarter
 - Average Sales Price (ASP): the Manufacturer's Sales (net of discounts, rebates, etc.) to all Purchasers in the United States (excluding those exempt from the calculation of Best Price by statute) divided by corresponding units
 - WAC in the case of single source drugs, volume of ASP-eligible units sold, and other data elements describing each product
 - Data relating to nominal sales (not yet implemented)
 - Reimbursement rates for billing and payment codes for Part B Drugs equals
 - Weighted average of ASPs for each NDC in the code, plus 6%
 - CMS publishes updated reimbursement rates before each quarter
- ESRD and Hospital Outpatient Department Separately-Reimbursable Drugs now also reimbursed based on ASP

State Price Reporting

- Medicaid Supplemental Rebate Agreements
 - States require payment of additional rebate, over and above federal statutory rebate on Medicaid utilization, as condition of not subjecting product to prior authorization
 - Supplemental rebate formulas require manufacturers to report to State
 - AMP
 - WAC
- State Price Reporting Statutes
 - California: ASP/AMP for blood factors
 - Maine: AMP, BP, plus calculation methodologies
 - New Mexico: AMP, price to wholesaler/PBM doing business in state, price to any entity in New Mexico not using services of a wholesaler
 - Texas: AMP, AWP, direct estimated acquisition costs to a pharmacy, cost to a wholesaler, central purchase price to a chain (such as warehouse price), and institutional or other contract price (nursing home, home health care)

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