Department of Vermont Health Access

Testimony presented to the Vermont Legislature
H. 233: An act relating to pharmacy benefit management and Medicaid wholesale drug distribution

February 15, 2024

Lisa Hurteau Pharm.D, B.C.G.P
Pharmacy Unit

VERMONT
AGENCY OF HUMAN SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS

Outline of Discussion Topics

- Overview of Medicaid Pharmacy
  - Programs
  - Drug Pricing
  - Dispensing Fee
  - Pharmacy Benefit Administrator Relationship
  - Rebates

- Act 193 Wholesaler Working Group, Results of Work Group

Medicaid 101: Pharmacy Programs

- Title XIX of the Social Security Act was passed to establish Medicaid coverage, section 1927 describes payment for covered outpatient drugs.[1] Provides medical assistance to low-income individuals.
- States can choose to participate but must follow Federal mandates if they do. Medicaid agreement with CMS is defined in Medicaid State Plan. Complete-State-Plan-for-Website_0.pdf (vermont.gov)
- Funded with state money matched with federal funds (Federal Financial Participation, FMAP.)

Definitions-

- Center for Medicare/Medicaid Services (CMS)- Federal Governing Body
- Federal Financial Participation (FFP)-Cost sharing agreement with Federal Gov't to match state dollars, based on state's per capita income.

1. Social Security Administration. (1965). Title XIX of Social Security Act, Section 1927- Payment for Covered Outpatient Drugs. https://www.ssa.gov/OP_Home/ssact/title19/1927.htm

Medicaid Drug Coverage

- Payment for covered outpatient drugs - requires the manufacturer must have entered into a rebate agreement.[1]
- Rebate agreements are made with the Secretary of Health and Human Services, on behalf of states. Ensures the manufacturer's drug is a covered outpatient drug for each Medicaid program.
- Limitations on Coverage of Drugs—Permissible restrictions:
  - Prior Authorizations
  - Certain drugs/classes (e.g. weight loss, fertility, hair growth)
  - Formulary development
  - Minimum or maximum quantities/prescriptions/number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse

1. Social Security Administration. (1965). Title XIX of Social Security Act, Section 1927- Payment for Covered Outpatient Drugs. https://www.ssa.gov/OP_Home/ssact/title19/1927.htm

Pharmacy Reimbursement for Drugs

Covered Outpatient Drugs final rule – issued in 2016, addresses key areas of Medicaid drug reimbursement and changes made to the Medicaid Drug Rebate Program by the Affordable Care Act.

- Requirement that fee for service Medicaid pay pharmacies for the actual acquisition cost of drugs + **dispensing fee**

- ***Actual acquisition cost (AAC):*** the agency's determination of the pharmacy providers' actual prices paid to acquire drug products marketed or sold by specific manufacturers.
- State have some flexibility in how to establish an AAC, including a state survey of retail pharmacy providers (ie SMAC) or the National Average Drug Acquisition Cost (NADAC) survey. NADAC is the CMS benchmark

1. Centers for Medicare and Medicaid Services, HHS. (2016). Medicaid Program; Covered Outpatient Drugs. https://www.federalregister.gov/documents/2016/02/01/2016-01274/medicaid-program-covered-outpatient-drugs

DVHA Drug Reimbursement Methodology

DVHA AAC price calculation methodology for covered drugs billed to Vt when Medicaid is the primary payer:

a. The National Average Drug Acquisition Cost (NADAC) + Professional Dispensing Fee;

b. The Wholesale Acquisition Cost (WAC) + 0% + Professional Dispensing Fee;

c. The State Maximum Allowable Cost (SMAC) + Professional Dispensing Fee;

d. Federal Upper Limit (FUL) + Professional Dispensing Fee;

e. AWP-19% + Professional Dispensing Fee;

f. Submitted Ingredient Cost + Professional Dispensing Fee;

g. The provider's Usual and Customary (U&C) charges; or

h. The Gross Amount Due (GAD)

The professional dispensing fee for all retail pharmacies is $11.13 The Specialty dispensing fee for specialty pharmacies dispensing specialty drugs is $17.03.

1. Department of Vermont Health Access. (2023). Pharmacy Benefit Management Program Pharmacy Provider Manual. https://dvha.vermont.gov/sites/dvha/files/documents/Provider%20Manual%2012.28.23.pdf

Professional Dispensing Fee

- CMS directed Medicaid agencies to adopt fee for service payment policies .
  The Professional Dispensing fee "should reflect the pharmacist's professional services and costs to dispense the prescription to a Medicaid beneficiary."[1]

- Looking up information about a patient's coverage on the computer
- Drug use reviews and preferred drug list review
- Verifying drugs safety, appropriate dosing, appropriate indication, drug interactions, correct billing, within pharmacists scope.
- Measuring or mixing the covered outpatient drug
- Filling the container
- Counseling
- Physically giving the Medicaid beneficiary their completed prescription
- Special packaging
- Overhead associated with facility and equipment maintenance necessary to the pharmacy's operation.

1. Implementation of the Covered Outpatient Drug Final Regulation Provisions Regarding Reimbursement for Covered Outpatient Drugs in the Medicaid Program (hhs.gov)

DVHA Medicaid PBM Relationship

Rebates

Manufacturers Contract directly with CMS on mandatory federal rebates

Manufacturers Contract directly with SOV for negotiated state rebates

State collects 100% of rebates, and shares % with CMS

No rebates flow through PBM

Pharmacies

No spread, DVHA contracts directly with pharmacies

DVHA pays pharmacies weekly per State Plan rates approved by CMS

PBM Contract

100% transparent, posted on DVHA website

Based on administrative fees for services performed

VERMONT

AGENCY OF HUMAN SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS

PBM SERVICES

DVHA contracted for a complete suite of pharmacy benefit management (PBM) services for Vermont's publicly funded drug benefit programs beginning January 2015.

Operational

- Point-of-Service Claims processing services
- Provider PA Call Center Support

Clinical

- Preferred Drug List management
- Drug Utilization Review Board (DURB) support
- Drug utilization review (DUR) and Utilization Management (UM)
- Clinical review and processing of Prior Authorizations (PA)

Financial

- Federal and Supplemental Rebate Management
- Contracting, Invoicing, Tracking, Collections, Disputes

Data Analytics and Reporting

- Modern analytic tools
- Meaningful operational reports
- Spend and trend monitoring

Federal and Supplemental Rebates

Federal Rebates: Invoiced to drug manufacturers to reduce net drug spending. Mandated by Title XIX of Social Security Act for coverage of outpatient drugs.

Supplemental Rebates: Paid by drug manufacturers to individual states for preferential status on the Preferred Drug List (PDL)

- Supplemental Rebates typically apply to brand named drugs
- Generate savings in addition to federal rebates

The combination of federal and supplemental rebates greatly reduces the net drug spend for DVHA.

DVHA Pharmacy Rebates

Chart 16: Rebates Invoiced: All Programs

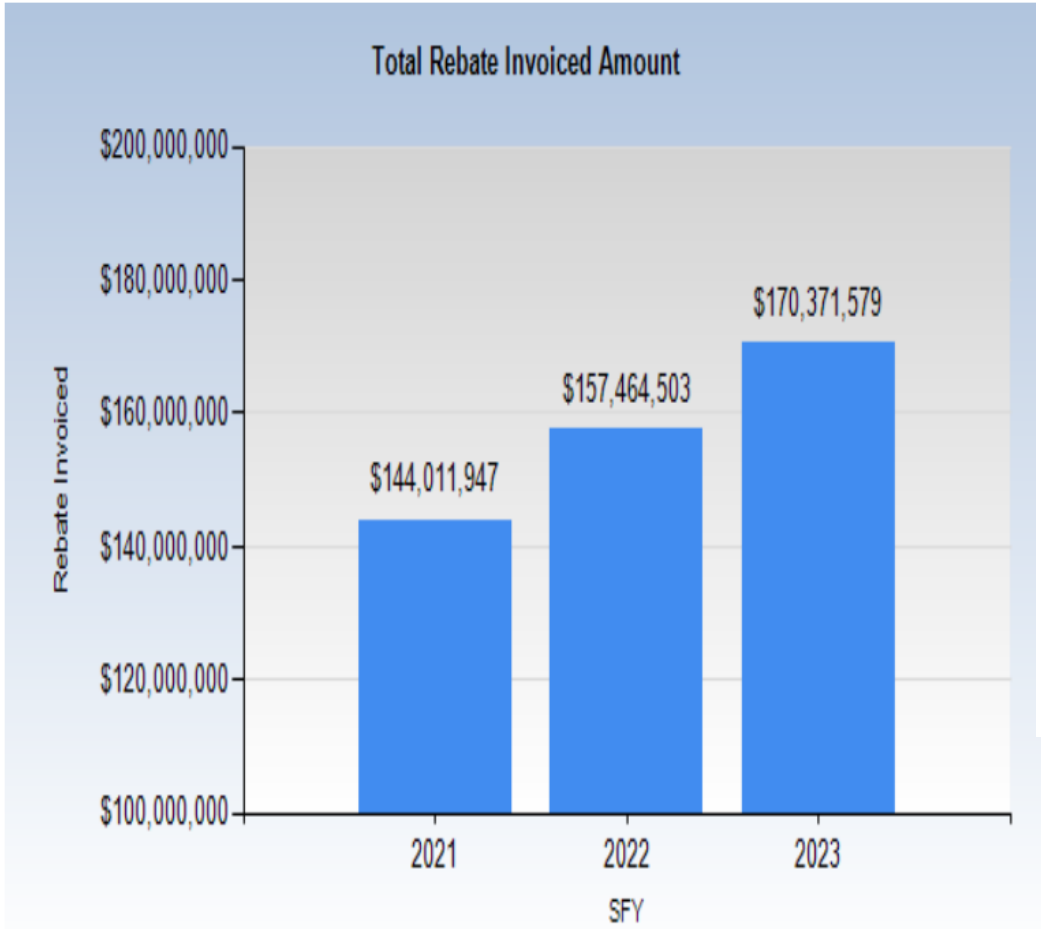
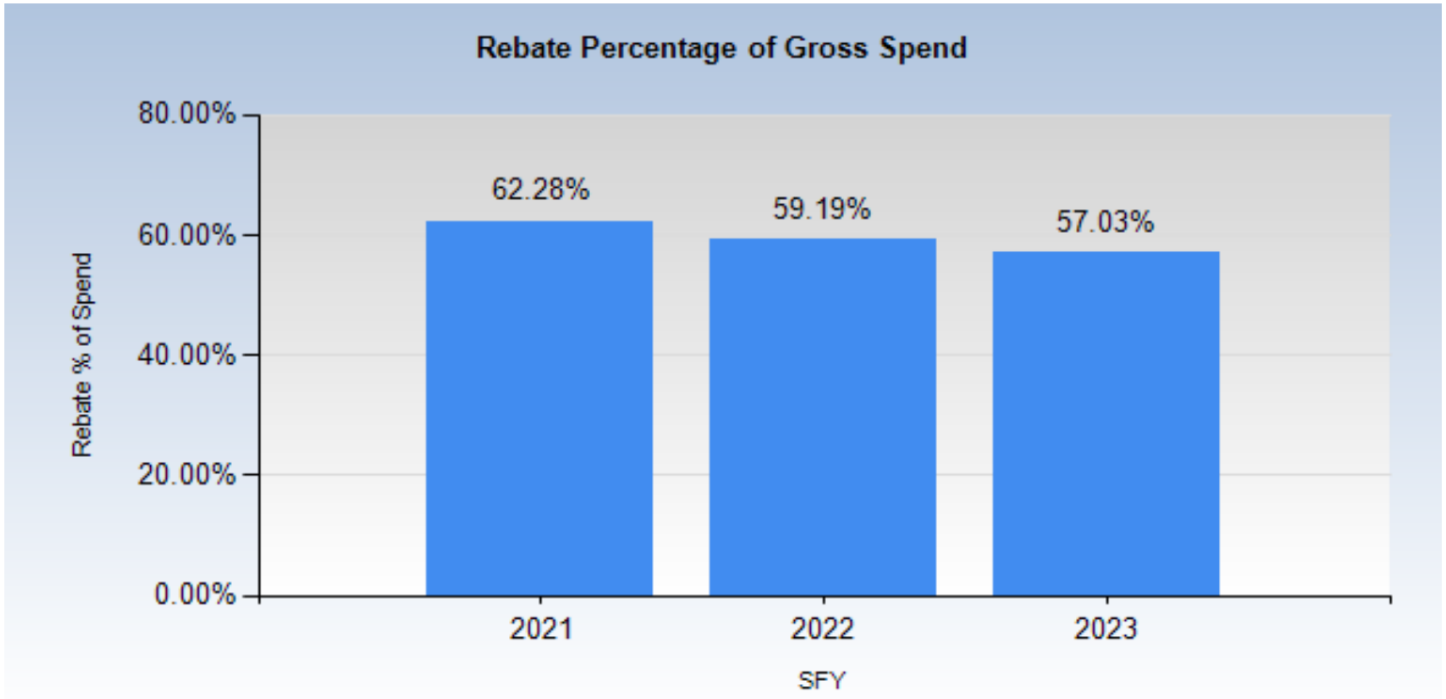


Chart 20: Rebate Percentage of Gross Spend



1. Department of Vermont Health Access. (2023). Pharmacy Best Practices and Cost Control Program Report in Accordance with 33 V.S.A. § 2001(c). https://legislature.vermont.gov/assets/Legislative-Reports/DVHA-Pharmacy-Best-Practices-Cost-ControlFINAL-10.27.2023.pdf

VERMONT
AGENCY OF HUMAN SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS

Rebate Confidentiality

Confidentiality of information, as described in Title XIX- Social Security Act (1965)—

Information disclosed by manufacturers or wholesalers under this paragraph (federal rebates) (ii) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler, prices charged for drugs by such manufacturer or wholesaler.[1]

Supplemental rebate offers are bound by confidentiality in agreements with manufacturers.

1. Social Security Administration. (1965). Title XIX of Social Security Act, Section 1927- Payment for Covered Outpatient Drugs. https://www.ssa.gov/OP_Home/ssact/title19/1927.htm

History-Act No. 193 (S.92)

An act relating to prescription drug price transparency and cost containment. Signed into law in 2018.

(a) The Secretary of Human Services or designee shall convene a working group comprising one representative each from the Department of Vt Health Access, the Green Mountain Care Board, the Vt Board of Pharmacy, the Vermont Association of Chain Drug Stores, the Vt Pharmacists Association, the Vermont Retail Druggists, Bi-State Primary Care Association, and the Vt Association of Hospitals and Health Systems to investigate and analyze prescription drug pricing throughout the prescription drug supply chain in order to identify opportunities for savings for Vt consumers and other payers and for increasing prescription drug price transparency at all levels of the supply chain, including manufacturers, wholesalers, pharmacy benefit managers, health insurers, pharmacies and consumers.

(b) On or before November 15, 2018, the working group shall provide its findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare."

Report from Act 193.

Report to the House Committee on Health Care and the Senate Committee on Health and Welfare Pursuant to Act 193.[1]

Section III: Request for Information (RFI)- On September 26, 2018, a Request for Information was issued by DVHA to gather ideas and information from drug wholesalers on direct contracting arrangements that could result in new cost-savings opportunities to Vermont Medicaid.

Section V: Summary of Responses to DVHA's RFI-DVHA received no responses to the RFI.

Section VI: Recommendations-The U.S. outpatient drug channels are extremely complicated and there may be opportunities for savings and transparency with simplification. With no responses received from wholesalers – difficult to estimate the opportunity

1. Agency of Human Services. (2018). Vermont Medicaid Drug Wholesaler Savings Initiative, Report to the House Committee on Health Care and the Senate Committee on Health and Welfare. https://legislature.vermont.gov/assets/Legislative-Reports/Sec.11a-Act-193-Prescription-Drug-Cost-Savings-and-Price-Transparency.pdf

Results of 2018 Stakeholder Meeting

- Brainstorming Session

  Entities that would benefit:
  - patients may benefit from increased coordination of care (better mitigate drug shortages) , pharmacies may have lower inventory costs
  - DVHA may save money and improve transparency on drug costs
  - Wholesalers would have an opportunity to gain market share

- Entities that would be negatively affected:
  - pharmacies if they make a profit margin on drugs – would lose a source of income. Pharmacies would also incur administrative expenses and burden (new process of inventory management ,DVHA would incur additional expense to manage a new payment system

  - Violation of Group Purchasing Organization (GPO) disqualifies from the 340 B program. Concern over access and barrier to hospital participation

Summary

- Medicaid is a complex program with an ever-increasing role in US Healthcare. The pharmacy component operates with substantial rebates to manage spend and decrease net costs to the State.

- Controlling costs and maximizing rebates assist to responsibly allocate State resources.

Discussion and Questions

Thank you!

For questions or follow-up, please reach out to:

Alex McCracken

Director of Communications and Legislative Affairs, DVHA

Alex.McCracken@Vermont.gov

VERMONT

AGENCY OF HUMAN SERVICES
DEPARTMENT OF VERMONT HEALTH ACCESS