

Excessive Reimbursement for Pharmacies – Costly to Employers and Consumers

Legislative Proposal to Address Overpayments to Pharmacies

Background

Maximum Allowable Cost (MAC) is a common methodology used to determine reimbursement to pharmacies for dispensing generic drugs. Many states have enacted laws that regulate MAC pricing, including but not limited to, pricing updates, access to MAC lists and appeals rights for pharmacies.

- MAC reimbursement incentivizes the pharmacy to manage inventories efficiently and leverage buying power to result in the lowest possible acquisition cost for generic drugs. This is crucial, as these low costs are passed to consumers, health plans and employers and their beneficiaries, and higher costs can impact access to care.
- MAC prices are typically based on market information, including aggregate information from wholesalers and third-party sources. Since MAC prices are reviewed continuously and updated frequently (often on a weekly basis), they reflect a PBM's best understanding of the marketplace pricing and product availability. Adjustments in MAC pricing can occur where there's a supply shortage, evidence of an increase in price, change in the number of vendors in the marketplace, etc.

Recent State Legislative Initiatives Are Not the Right Solution

Increasingly, states are proposing legislation that would amend existing MAC laws to mandate that PBMs pay pharmacies their acquisition cost of drugs on appeal. Acquisition cost is typically defined in the legislation as the pharmacy's invoice price for a drug as determined by the wholesaler/manufacturer. This raises several concerns.

- The invoice price presented by pharmacies does not reflect actual acquisition price that takes into account discounts and incentives that pharmacies obtain from wholesalers that lower the net cost of the drug to the pharmacies. For example, additional price concessions that pharmacies receive include:
 - Volume discounts
 - Functional discounts
 - Bundle discounts
 - Slotting Allowances
 - Free Goods
 - Marketing Funds
 - Trade Show Discounts and Rebates

Therefore, requiring pharmacies to only provide an invoice as proof of their acquisition cost is likely to result in overpayment for that drug, given the actual net cost of the drug to the pharmacy is lower. This will inflate drug costs for health plans, employers and consumers.

- Poor purchasing practices, lack of due diligence, and inadequate management of inventory can result in pharmacies acquiring a drug at a higher price than the MAC list price. These inefficient practices should not be rewarded.
- The financial relationship between the PBM and a retail pharmacy must consider all drugs dispensed by that pharmacy for the PBM (brand and generic) and the financial performance of that entire basket of prescriptions
 - not just a single drug or sub-set of drugs.

- These legislative proposals not only unfairly advantage pharmacies, but also wholesalers and drug manufacturers, who will be able to take advantage of pharmacy guaranteed reimbursement at invoice price by raising prices that they know will ultimately have to be paid for by patients and health plan sponsors. Further, this has a much more significant impact than just guaranteeing a certain level of reimbursement to pharmacies on a claim-by-claim basis, it ultimately will result in higher premiums for consumers.

A Proposed Legislative Solution to Help Ensure Fair Pharmacy Reimbursement

In order to ensure that the pharmacy is fairly reimbursed based on the actual net price the pharmacy paid for the drug when they have appealed their reimbursement rate, as opposed to using an inflated invoice price as the benchmark, seek to amend the definition of acquisition cost in proposed MAC legislation as follows:

“Acquisition cost” is defined as the net amount the pharmacy paid as evidenced by documentation that includes but is not limited to, the invoice price and any and all discounts or price concessions based on purchasing volume, payment timing, generic compliance to the manufacturer, wholesaler or buying group program, wholesaler program enrollment and any other reduction in invoice price.

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