



MaineCare Services
An Office of the
Department of Health and Human Services

Department of Health and Human Services
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John E. Baldacci, Governor Brenda M. Harvey, Commissioner

To: Pharmacy Providers
From: Jennifer Cook, Pharmacy Unit Manager
Date: September 8, 2009
Re: **Pharmacy Reimbursements with AWP pricing Change**

Dear Providers:

The following communication is regarding the First DataBank, Medi-Span, and McKesson AWP Litigation Settlements.

Background

On March 30, 2009, the U.S. District court for the District of Massachusetts entered a Final Order and Judgment approving a long-awaited class action settlement that involved two major publishers of drug pricing information, First DataBank and Medi-Span. The lawsuit alleged that Average Wholesale Price (AWP) indices were not based on a survey of wholesalers as claimed and that the Wholesale Acquisition Cost (WAC)-to-AWP spread was arbitrarily raised from 20% to 25% on more than 1,400 NDC's beginning in 2002. The suit alleged that only one wholesaler (McKesson Corporation) was surveyed. Historically, the AWP was calculated by adding 20% to WAC, a price set by drug manufacturers.

Settlement Provisions and Additional Reporting Changes

First DataBank and Medi-Span agreed to:

- Adjust the mark-up factor applied to Wholesale Acquisition Cost (WAC) to determine Average Wholesale Price or AWP for all National Drug Codes (NDCs) for all NDC's in the settlement for which AWP is based upon a WAC or Direct Price markup in excess of 1.20. The rollback may include NDCs for drugs that were not included in the lawsuit. This change is scheduled to occur on September 26, 2009.
- Cease publishing current AWP data for all products no later than two years after March 30, 2009.

Impacts

The office of MaineCare Services (OMS) uses Average Wholesale Price (AWP) published by Medi-Span to calculate the Estimated Acquisition Cost (EAC) for fee-for-service pharmacy claim reimbursement. OMS will continue to reimburse pharmacies as stated in the MaineCare Benefits Manual Chapter II section 80 pharmacy policy. Effective September 26, 2009, Medi-Span is expected to adjust its reporting of AWP for certain prescription drugs by adding 20% to Wholesale Acquisition Cost (WAC) for all products that currently have a WAC to AWP spread in excess of 20%. Your OMS pharmacy claims reimbursement may be impacted by this reporting change.