TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Final Rule
LSA Document #07-547(F)

DIGEST

Amends 405 IAC 5-24-4 to revise Medicaid reimbursement methodology for legend drug payment and remove a reference to the federal maximum allowable cost (MAC) as a methodology for payment. Effective 30 days after filing with the Publisher.

405 IAC 5-24-4

SECTION 1. 405 IAC 5-24-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-24-4 Reimbursement for legend drugs

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 4. (a) The office shall reimburse pharmacy providers for covered legend drugs at the lowest of the following:

(1) The estimated acquisition cost (EAC) of the drug as of the date of dispensing, plus any applicable Medicaid dispensing fee.

~~(2) The maximum allowable cost (MAC) of the drug as determined by the Health Care Financing Administration under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee.~~

~~(3)~~ **(2)** The state maximum allowable cost (MAC) of the drug as determined by the office as of the date of dispensing, plus any applicable Medicaid dispensing fee.

~~(4)~~ **(3)** The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

(b) For purposes of this section and section 5(c) of this rule, the Indiana Medicaid EAC is:

(1) for brand name drugs, eighty-four percent (84%); or

(2) for generic drugs, eighty percent (80%);

of the average wholesale price for each National Drug Code according to the Medicaid contractor's drug database file.

(c) The state MAC is equal to the average actual acquisition cost per drug adjusted by a multiplier of at least 1.0. The actual acquisition cost will be determined using pharmacy invoices and other information that the office determines is necessary. The purpose of the multiplier is to ensure that the applicable state MAC rate is sufficient to allow reasonable access by providers to the drug at or below the established state MAC rate.

(d) OMPP will review state MAC rates on an ongoing basis and adjust the rates as necessary to:

(1) reflect prevailing market conditions; and

(2) ensure reasonable access by providers to drugs at or below the applicable state MAC rate.

(e) Pharmacies and providers that are enrolled in Medicaid are required, as a condition of participation, to make available and submit to the office or its designee acquisition cost information, product availability information, or other information deemed necessary by the office for the efficient operation of the pharmacy benefit in the format requested by the office or its designee. Providers will:

(1) not be reimbursed for this information; and ~~will~~

(2) submit information to the office or its designee within thirty (30) days following a request for such information unless the office or its designee grants an extension upon written request of the pharmacy or provider.

(Office of the Secretary of Family and Social Services; 405 IAC 5-24-4; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 29, 2001, 9:50 a.m.: 25 IR 60 [NOTE: On October 9, 2001, the Marion Superior Court issued an Order in Cause No. 49D05-0109-CP-1480, enjoining the Family and

Social Services Administration from implementing LSA Document #01-22(F), published at 25 IR 60.]; filed Apr 30, 2002, 10:59 a.m.: 25 IR 2727; errata filed Aug 22, 2002, 3:11 p.m.: 26 IR 35; filed Nov 23, 2005, 11:30 a.m.: 29 IR 1212; readopted filed Sep 19, 2007, 12:16 p.m.: 20071010-IR-405070311RFA; filed Jan 23, 2008, 1:42 p.m.: 20080220-IR-405070547FRA)

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