

**Final Rule**

LSA Document #16-172(F)

**DIGEST**

Amends [405 IAC 5-24-2](#) to include the definition for "usual and customary charge" regarding reimbursement for pharmacy services. Effective 30 days after filing with the Publisher.

**[405 IAC 5-24-2](#)**

SECTION 1. [405 IAC 5-24-2](#) IS AMENDED TO READ AS FOLLOWS:

**[405 IAC 5-24-2](#) "Pharmacy services" and "usual and customary charge" defined**

**Authority:** [IC 12-15-1-10](#); [IC 12-15-21-2](#)

**Affected:** [IC 12-13-7-3](#); [IC 12-15](#)

Sec. 2. (a) As used in this rule, "pharmacy services" means legend drugs, nonlegend (~~over the counter or "OTC"~~) drugs included on the Medicaid nonlegend drug formulary developed in coordination with the Indiana Medicaid Drug Utilization Review (DUR) board, insulin, nutritional supplements, food supplements, and infant formulas. Pharmacy services do not include the following:

- (1) Nonlegend drugs (except insulin) not included on the Medicaid nonlegend drug formulary.
- (2) Any other products offered for sale or rent by a pharmacy provider except legend drugs, nonlegend drugs included on the Medicaid nonlegend drug formulary, insulin, and nutritional supplements, food supplements, and infant formulas.

(b) As used in this rule, "usual and customary charge" means the amount a pharmacy provider offers to charge the general public for a pharmacy service as follows:

- (1) For dispensed legend drugs, this shall include the provider's dispensing fee, if any.
- (2) For dispensed nonlegend drugs, the price of the drug as it is presented for retail sale.
- (3) Discounts shall be considered as follows:
  - (A) If a pharmacy provider offers a discount on the pharmacy service to the general public, the usual and customary charge shall be the amount that results from the application of the discount.
  - (B) If a pharmacy provider offers multiple discounts on the pharmacy service to the general public, the usual and customary charge shall be the lowest amount of the multiple discounts.This subdivision applies regardless of whether the individual takes the steps necessary to receive the discount or even receives the discount.
- (4) For purposes of this subsection, the term "general public" means all individuals who are seeking pharmacy services at a given locality except for individuals who:
  - (A) are enrolled in or a member of an insurance plan that covers pharmacy services; or
  - (B) receive a discount of pharmacy services through a program with selective criteria that disqualify certain individuals from eligibility in the program.

(Office of the Secretary of Family and Social Services; [405 IAC 5-24-2](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3344; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#); errata filed Nov 1, 2016, 9:36 a.m.: [20161109-IR-405160493ACA](#); filed Jan 4, 2017, 1:44 p.m.: [20170201-IR-405160172FRA](#))

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Proposed Rule: [20160921-IR-405160172PRA](#)

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