



State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

DEC 29 2011

Gloria Nagle, PhD, MPA
Associate Regional Administrator
Centers for Medicare and Medicaid Services
Division of Medicaid and Children's Health
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

Dear Ms. Nagle:

The Department of Health Care Services' (DHCS) proposed State Plan Amendment (SPA) 11-038, "Implementing drug product payment reductions" with a requested effective date of December 17, 2011, is enclosed for your review and approval.

Assembly Bill (AB) 97, Section 93.5 of the Statutes of 2011 authorized the DHCS to implement payment reductions for Medi-Cal outpatient services up to 10 percent, in the aggregate, for dates of service on or after June 1, 2011. The statute authorizes DHCS to implement the reductions only to the extent that DHCS determines that the reduced payments that result from the reductions comply with applicable federal Medicaid requirements, including 42 United States Code Section 1396a(a)(30)(A) and that federal financial participation will be available.

On October 27, 2011, the Centers for Medicare and Medicaid Services (CMS) approved SPA 11-009, which provides for 10 percent provider payment reductions, effective June 1, 2011. This SPA 11-009 also states that DHCS will monitor the effect of the payment reductions in accordance with its Monitoring Plan entitled, "Monitoring Access to Medi-Cal Covered Healthcare Services," but it does not specifically state: 1) that DHCS may reduce or adjust payment reductions by an amount that does not exceed 10 percent on an aggregate basis, or 2) that the State Agency retains the discretion to not implement the particular payment reduction or adjustment and may adjust the payment as necessary in order to achieve consistency with federal Medicaid requirements, or 3) these adjustments include, but are not limited to, payment adjustments for specific drug products or for specific providers of drug products.

Based on preliminary information, as well as input from pharmacy providers received subsequent to CMS's approval of the 10 percent payment reduction, DHCS believes that for selected specific drug products, or for specific types of providers, or in specific geographic

areas, such a reduction may impede access to selected Medi-Cal drug benefits and possibly result in a violation of federal Medicaid requirements. CMS has informed DHCS that the State Plan language as recently approved does not provide the flexibility for DHCS to take any action other than to reduce all pharmacy provider payments by 10 percent. Proposed SPA 11-038 incorporates language that will provide DHCS the flexibility to adjust drug product payments in a manner that will result in an aggregate savings of no more than 10 percent while providing access consistent with federal Medicaid requirements.

Public notice of the Department's intent to implement this change was published in the December 16, 2011, issue of the California Regulatory Notice Register (pages 2023-2024). A copy of that notice is enclosed.

Indian Health Programs and Urban Indian Organizations were provided notification by way of a Tribal Organizational Summary detailing the provisions of this proposed SPA on December 8, 2011, and were given the opportunity to comment on this proposal. In addition, a teleconference call was held for Tribal Organizations on December 15, 2011, during which the proposal was reviewed and an opportunity for comment was provided.

If you have questions or need additional information, please contact Harry Hendrix, Acting Chief, Pharmacy Benefits Division, at (916) 552-9500.

Sincerely,



Toby Douglas
Director

Enclosures

cc: Steven Johnson
Health Insurance Specialist
Medicaid Pharmacy Division
7500 Security Blvd., MS C2-21-15
Baltimore, MD 21244-1850

cc: Continued on next page.

cc: Carolyn Kenline
California State Representative
Centers for Medicare and Medicaid Services
Division of Medicaid and Children's Health
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

Cynthia LeMesh
Health Insurance Specialist, Tribal Affairs Liaison
Centers for Medicare and Medicaid Services
Division of Medicaid and Children's Health
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

Rick Spector
Health Insurance Specialist
Centers for Medicare and Medicaid Services
Division of Medicaid and Children's Health
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

Vanessa Baird
Deputy Director
Health Care Benefits and Eligibility
Department of Health Care Services
P.O. Box 997413, MS 4000
Sacramento, CA 95899-7413

Harry Hendrix
Acting Chief, Pharmacy Benefits Division
Department of Health Care Services
P.O. Box 997413, MS 4604
Sacramento, CA 95899-7413