



Drug Rebate Newsletter

February 13, 2008

Use of Manufacturer Rebate Credit Policy Implementation

It has come to our attention that some manufacturers are taking credits from previously paid invoices without following appropriate Average Manufacturer Price (AMP) reporting procedures or prior to the State's entering unit adjustments in its rebate accounting system. As a result, a large outstanding balance has been created, and continues to increase to unmanageable levels.



Manufacturers are not entitled to use a credit until the credit is created by an accepted AMP resubmission or unit adjustment agreement. Manufacturers' reporting of AMP changes on the Prior Quarter Adjustment (POA) form only is not acceptable. Before taking any credit, manufacturers must report AMP revisions to the federal Center for Medicare and Medicaid Services (CMS) for Federal rebates, and to Electronic Data Systems (EDS) for supplemental rebates. In addition, credits due to the manufacturer as a result of dispute resolution findings may be taken only after the unit adjustment is posted into the State's accounting system.

The Drug Rebate Program (Program) objective is to avoid imposing interest on unapproved credit and withheld payment amounts as CMS requires in its policy letter to the manufacturers (No. 54, dated May 7, 2002, cited below). Furthermore, ensuring compliance with this policy will allow the Program and the manufacturers avoid further disputes and keep outstanding balances to more accurate levels.

This policy will be effective beginning with the 4th quarter 2007 invoice payment. The Program has instructed EDS to verify on the rebate accounting system that a credit is actually due to the manufacturers before applying it to invoices due. That is, the Program will no longer allow manufacturers to use any credits in lieu of payment due based on a change in AMP that has not been reported and accepted by CMS and EDS; or in the case of unit adjustments that have not been posted into the rebate system.

Thank you in advance for your understanding and cooperation.

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Important Dates

- **April 8, 2008**
4Q 2007 Payment Due
- **May 1, 2008**
AMP data due to CMS and DHCS

Contract Implications for Manufacturers; Interest and Termination

The rebate agreement requires that current rebates owed and not properly disputed must be paid timely. It is also a requirement of the rebate agreement that manufacturers formally notify and work with states on disputes found in previously paid quarters. Manufacturers that withhold or reduce rebate payments from current quarters based on disputes they find in previously paid quarters without first reaching dispute resolution with states will owe interest on the amount improperly withheld. Further, as stated earlier, we consider this practice a violation of the rebate agreement and manufacturers that do not cease this practice will be at risk for termination from the rebate program.

Taken from [CMS Manufacturers Release No. 54, May 7, 2002.](#)



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Effective April 15, 2008, our current Internet address at <http://www.dhs.ca.gov/Pharmacy> will no longer be accessible.

Please update your bookmarks to our future address:

<http://www.dhcs.ca.gov/provgovpart/Pages/DrugRebateBranch.aspx>