

AB 97 PHARMACY RECOUPMENT EPC

Frequently Asked Questions

1. **If a Medi-Cal provider number that was in effect during a time period that is subject to the recoupment demand is no longer active, what if any process will be used to recoup funds due from that provider or individual?**

Response: As it would with any other Erroneous Payment Correction (EPC), DHCS will still re-process the claims subject to the AB 97 payment adjustments submitted by inactive providers and an Accounts Receivable (AR) will be created. If no future revenue is available to offset after 90 days the AR will transfer to the Third Party Liability Division (TPL) to begin collection activity. TPL will issue a demand letter approximately 90-days after creation of the AR. TPL will attempt to collect using a variety of options which may include offsets of payments to a related NPI, additional demand letters, levying FTB refunds, filing judgments and liens, and offsetting Medicare funds. The options available to TPL change based on the individual facts i.e. incorporated or not, sale vs. transfer of assets, still in business, active Medicare provider, etc. The provider may request a repayment agreement from TPL if the collection activity causes a hardship.

2. **If a Medi-Cal provider pharmacy has been closed, what if any process will be used to recoup funds claimed to be due from the provider?**

Response: Same as above if the provider is inactive.

3. **If a Medi-Cal Provider pharmacy has been sold, what if any process will be used to recoup funds claimed to be due from the prior owner?**

Response: DHCS will process any and all claims subject to AB 97 payment adjustments regardless of provider ownership. The process used by the department to recoup funds claimed to be from the prior owner will be dependent upon a variety of factors; which include, but are not limited to the terms of the sale, the organizational structure, and other factors that will be reviewed by DHCS.

4. **How long will a pharmacy Provider have to satisfy the retroactive payable due to the Department?**

Response: It varies based upon the total amount of recoupment vs. new revenue received during each weekly check write. DHCS is setting the recoupment rate at no greater than 5% of each check write. For example: if the debt owed is \$1,000 and each week's revenue is \$1,000, DHCS will recoup \$50 per week until the full amount is recouped. There is no statute of limitations on collections. After AR is transferred, TPL will collect until AR is paid in full.

5. **If a pharmacy Provider is only submitting few future Medi-Cal claims, and the 5% reduction per check write does not satisfy the recoupment period as answered in Question 4 above, how will the Department recoup the outstanding amount?**

Response: The 5% withholds will continue until full payment is completed or CAMMIS determines the case is uncollectible because the provider is inactive or claims flow has stopped. If the case is deemed uncollectible, Xerox will transfer the case to TPL who will issue a demand letter and attempt to collect the outstanding AR using the methods included in the response to Question 1.

6. **If a provider number that was active at the time of the recoupment demand is now only engaged in Medi-Cal managed care claims for services, will that recoupment demand be recovered in a way other than the 5% reduction of future check-writes (assuming there are no future fee-for-service claims submitted), and if so, how?**

Response: The process would be the same as the TPL recovery process described in Question 1. The provider would have an opportunity to negotiate a repayment agreement with TPL.

7. **Please explain the methodology DHCS used, or contracted third parties to use, in determining the total recoupment demand from each provider.**

Response: DHCS, through its Fiscal Intermediary, Xerox State Healthcare, LLC, selected all pharmacy claims previously adjudicated during the AB 97 period and resubmitted them through a "Test" adjudication system that is designed to mirror "production" claims processing. Reports were generated based upon the results of this test, to include provider-specific amounts.

8. **What is the total dollar recoupment demand from pharmacy providers for this retroactive activity?**

Response: DHCS estimates approximately \$55 million in recoupments.

9. **What has the Department calculated as the expected actual dollar recovery from pharmacy providers for this retroactive activity?**

Response: The department has not calculated an expected recovery amount for all pharmacy providers affected by the reduction. The department will make an effort to collect as much possible identified for recovery within the mechanisms available. It is expected the recoupments will occur over the period of many months. The actual amounts recovered will not be determined until all payments are recouped by DHCS or the department has exercised all of its available options in an attempt to recover the funds.

10. **What is the total cost incurred by the DHCS and any other state agency to engage in the construct, methodology, process, programming, collection and ongoing management of this retroactive recoupment activity?**

Response: This cost was not estimated by DHCS. However, the department has not received any additional funding or resources specific to the implementation of the retroactive recoupment.

11. **Has DHCS estimated the total potential cost associated with refunding the recouped amounts to pharmacy providers in the event DHCS does not prevail in the ongoing litigation challenging the reimbursement cuts, or in the event the recoupment is reduced or eliminated in the upcoming legislative special session, and if so what is that estimated cost?**

Response: The administrative cost is unknown at this point should there be any reversal of/changes to the AB 97 reductions. The outcomes of the legislative special session will dictate next steps for DHCS in assessing such impacts.

12. **If a pharmacy has an outstanding receivable due from DHCS for Medi-Cal claims submitted but not paid, will that receivable be deducted from total amount due to the pharmacy?**

Response: When AB 97 claims are reprocessed, DHCS will create an AR for the amount owed. Up to 5% of the total “payable” amount on any given check write (weekly) will be subtracted from the check write to pay-down the total AB 97 debt owed. Only claims that are fully approved for payment on a given check write will be considered for offset against the AB 97 debt owed. If a claim is in the system, but not fully-adjudicated, it will not be considered for offset of the debt-owed until it is fully-adjudicated and considered “payable.”

13. **If a documented drug shortage existed for a Medi-Cal drug on the Medi-Cal formulary at the time a prescription was filled resulting in the pharmacy substituting another more expensive drug and that substitution resulting in a net loss based on the reimbursement for the Medi-Cal formulary drug, will that loss be offset in the recoupment demand?**

Response: No, there is not an offset in this situation. Medi-Cal policy allows the provider to submit a TAR, requesting a reimbursement override for the substituted drug, prior to dispensing it in situations as described in the question. If the drug substituted at the time of dispensing is not on the list of drugs exempted from the reduction, the claim will be reduced by the full amount required by AB 97.

14. What dispute or appeals process has been established for pharmacy providers to contest the Department's determination of the recoupment amount due?

Response: When DHCS runs the Erroneous Payment Correction process for AB 97, providers will receive Remittance Advice Detail (RAD) that shows specific line-by-line adjustments. If providers disagree with the adjustment, they must submit an appeal in accordance with existing Appeals procedures. Details on the existing appeal process can be found in the [Medi-Cal Provider Manual](#).

15. As part of that dispute or appeals process, will pharmacy providers be entitled to submit evidence challenging liability for reimbursement amounts paid to prior owners of a pharmacy?

Response: See response to Question 3.

16. As part of that dispute or appeals process, is DHCS prepared to make exceptions in situations where recoupment would reduce reimbursement amounts for a drug below a pharmacy's costs?

Response: On January 30, 2014, DHCS received notification that the Centers for Medicare and Medicaid Services (CMS) approved State Plan Amendment (SPA) 12-014. This SPA approves DHCS' criteria and requirements for exempting specific drug products and/or categories of drugs, or specific pharmacy providers from the AB 97-related ten percent payment reductions and provides authority to implement the exemptions accordingly. Drugs placed on the list of exempted drugs prior to May 31, 2014 will be exempted retroactive to June 1, 2011. For a detailed explanation of the exemption process please review the [AB 97 Ten Percent Reduction webpage](#).

17. What if any process will be available for pharmacy providers to obtain an extension of time to repay due to hardship?

Response: Providers may call in to the **Telephone Service Center** at **1-800-541-5555**, option 1 (for English), option 1 (for Provider), option 5 (for HAP, Family PACT, CHDP, CCS, GHPP, Crossover, LTC and other general billing inquiries), followed by option 6 (for general billing) to request a reduced recoupment percentage. Acceptance of these requests will be on a case-by-case basis.

18. What detail will be provided to pharmacies as evidence supporting the recoupment amounts claimed by the Department?

Response: As part of the EPC process, DHCS will issue a RAD which provides a line-by-line detail of all adjusted claims. This detail will show the original claim payment and the new adjusted claim payment.

19. How will the Department identify the source and pricing files used to calculate the cost of goods portion of the claims for which it is seeking recoupment?

Response: The department will use the existing system pricing processes and system logic to determine a paid amount in a manner that is exactly the same as before AB 97. After the paid amount is established, the system will compare the drug/procedure against payment reduction processes and system logic to determine: 1) if the drug/procedure is subject to reduction, 2) if the provider type billed on the claim is subject to reduction, and 3) the percentage of reduction to be applied based upon age of the recipient. Drugs and providers that are excluded will be exempted through steps #1 and #2 above.

20. Will pharmacies be able to apply for a hardship exception, or similar exemption, from the planned recoupment? If so, what will be the timing and process for pharmacies seeking that exception?

Response: The only hardship exception that is planned at this time is to lower the recoupment percentage. Please see Question 17 above.

21. How will the Department handle recoupment of chain pharmacies with multiple licensed pharmacies? Will every pharmacy receive a separate bill and separate letter?

Response: Recoupment is based upon the National Provider Identifier (NPI) enrolled with DHCS. Depending on how the provider enumerated their NPI during time of enrollment will dictate how the payments are recouped.

22. For purposes of recoupment, how will Medi-Cal treat exempt drug claims for the time period of June 1, 2011 through March 31, 2012, the time period not covered by the SPA that exempted specific drug products and/or categories of drugs from the ten percent reduction?

Response: For purposes of this recoupment, DHCS is will treat the above referenced drugs as though they, too, are exempt. Meaning, they will not be reprocessed and reduced by 10% at this time.

23. For purposes of recoupment, what services/products are included in this EPC?

Response: The EPC for this recoupment will include any items billed by a pharmacy using the electronic NCPDP standard or, any item billed using a similar paper billing process such as the Pharmacy Claim Forms (30-1) and (30-4) where an NDC is used. In general, medical supplies are not included; however, there are exceptions. Below are some examples of non-drug items that are traditionally billed by pharmacies using the NCPDP format and therefore, subject to the reduction.

- Diabetic supplies: Strips, Lancets

- Condoms
- Heparin flush
- Aerochambers (for asthma inhalers)

24. Is DME included in this recoupment EPC?

Response: No. Please see response to Question 23 above.

25. Are CCS service claims included in this AB 97 recoupment EPC?

Response: Yes.

26. Are claims billed to Medicare that automatically crossover to Medi-Cal (crossover) included in this recoupment EPC?

Response: Yes. However, only those billed to Medicare in a manner that is similar to claims submitted to Medi-Cal through the electronic NCPDP standard or, the Pharmacy Claim Forms (30-1) and (30-4) where an NDC is used will be considered for recoupment. A sampling of approximately 14 million claims has resulted in no crossover claims qualifying for an AB 97 recoupment under this EPC. While it is possible that a crossover claim may be reduced based upon AB 97 criteria, it is considered unlikely based upon the reprocessing parameters used by DHCS.