

MEMORANDUM

DATE: September 29, 2009

TO: Ms. Sharon L. Summers, DMMA
Planning & Policy Development Unit

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 13 DE Reg. 375 (DMMA Medicaid Pharmacy & Dialysis Reimbursement Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA's) proposal to amend its renal dialysis and pharmacy reimbursement methodology regulations published as 13 DE Reg. 375 in the September 1, 2009 issue of the Register of Regulations. SCPD has the following observations.

Renal Dialysis Reimbursement

Pursuant to the changes adopted in August, renal dialysis centers were to be reimbursed at 85% of charges [12 DE Reg. 1483 (June 1, 2009)]. However, in adopting its final regulation, DMMA noted that it intended to revise the rate effective July 1, 2009 to the "lesser of the facilities" usual and customary (U & C) rate charges or 100% of the Medicare rate." See commentary at 13 DE Reg. 259, 262 (August 1, 2009). DMMA is now following up by formally proposing this change based on the following rationale:

Currently, DMMA pays providers based on their U&C charges for each procedure and different providers can charge different rates for the same service. The purpose of this methodology is to promote predictability of payments, equity and consistency of those payments among providers while maintaining access to quality care.

13 DE Reg. 375, 376 (September 1, 2009).

SCPD endorses this approach.

Pharmacy Reimbursement

In June, DMMA proposed a 2% reduction in reimbursement rates for community pharmacy and non-traditional pharmacy drug acquisition costs, i.e., from the average wholesale price (AWP) minus 14% and 16%, to AWP minus 16% and 18% respectively. The dispensing rate of \$3.65 remained unchanged. See 12 DE Reg. 1481, 1489 (June 1, 2009). This proposal led to a proposed withdrawal of Walgreens as a Delaware Medicaid provider and litigation against DMMA. See attached articles. DMMA then reached a compromise with Walgreens. See attached August 11, 2009 News Journal article and commentary at 13 DE Reg. 259, 262 (August 1, 2009). The compromise is to reduce community pharmacy rates to AWP minus 15% effective July 1, 2009. This change is now reflected in the September proposed regulation. See 13 DE Reg. 375, 375-376 (September 1, 2009).

SCPD endorses this compromise which reduces Medicaid costs while maintaining access to Walgreens by Medicaid beneficiaries. The August 11 article recites that Walgreens has traditionally served approximately half of the State's Medicaid population.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position or observations on the proposed regulations.

cc: Ms. Rosanne Mahaney
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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