

Document: Final Rule, **Register Page Number:** 25 IR 2726

Source: June 1, 2002, Indiana Register, Volume 25, Number 9

Disclaimer: This document was created from the files used to produce the official (printed) Indiana Register. However, this document is unofficial.

**TITLE 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

LSA Document #01-372(F)

DIGEST

Amends 405 IAC 5-24-4 and 405 IAC 5-24-6 to revise reimbursement policy for pharmacy services in the Medicaid program, including adding a state maximum allowable cost schedule to the Medicaid reimbursement methodology for legend drugs. *NOTE: 405 IAC 5-24-4 and 405 IAC 5-24-6 were amended by LSA Document #01-22(F), printed at 25 IR 60. However, that final rule was preliminarily enjoined pursuant to an order issued on October 9, 2001, in the Marion Superior Court, Cause No. 49D05-0109-CP-1480, and those changes not implemented. NOTE: Under IC 4-22-2-29(a)(2), LSA Document #01-303, printed at 25 IR 847, was consolidated with this document. Effective 30 days after filing with the secretary of state.*

405 IAC 5-24-4

405 IAC 5-24-6

SECTION 1. 405 IAC 5-24-4, AS AMENDED AT 25 IR 60, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-24-4 Reimbursement for legend drugs

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-15

Sec. 4. (a) The office shall reimburse pharmacy providers for covered legend drugs at the lowest of the following:

- (1) The estimated acquisition cost (EAC) of the drug as of the date of dispensing, plus any applicable Medicaid dispensing fee.

- (2) The maximum allowable cost (MAC) of the drug as determined by the Health Care Financing Administration under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee.

- (3) The state maximum allowable cost (MAC) of the drug as determined by the office as of the date of dispensing, plus any applicable Medicaid dispensing fee.**

- ~~(3)~~ **(4) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.**

(b) For purposes of this section, the Indiana Medicaid EAC is ~~ninety one~~ **(1) of the following:**

- (1) for brand name drugs, eighty-six and one-half percent (~~90%~~) (86.5%);**

- (2) for generic drugs, eighty percent (80%);**

of the average wholesale price for each National Drug Code according to the Medicaid contractor's drug database file.

- (c) The state MAC is equal to the average actual acquisition cost per drug adjusted by a multiplier of at least 1.0. The actual acquisition cost will be determined using pharmacy invoices and other information that the office determines is necessary. The purpose of the multiplier is to ensure that the applicable state MAC rate is sufficient to allow reasonable access by providers to the drug at or below the established state MAC rate.**

- (d) OMPP will review state MAC rates on an ongoing basis and adjust the rates as necessary to reflect prevailing market conditions and ensure reasonable access by providers to drugs at or below the applicable state MAC rate.**

(e) Pharmacies and providers that are enrolled in the Indiana Health Coverage Programs (IHCP) are required, as a condition of participation, to make available and submit to the OMPP or its designee acquisition cost information, product availability information, or other information deemed necessary by the OMPP for the efficient operation of the pharmacy benefit within the IHCP in the format requested by the OMPP or its designee. Providers will not be reimbursed for this information and will submit information to the OMPP or its designee within thirty (30) days following a request for such information unless the OMPP or its designee grants an extension upon written request of the pharmacy or provider. *(Office of the Secretary of Family and Social Services; 405 IAC 5-24-4; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 29, 2001, 9:50 a.m.: 25 IR 60 [NOTE: On October 9, 2001, the Marion Superior Court issued an Order in Cause No. 49D05-0109-CP-1480, enjoining the Family and Social Services Administration from implementing LSA Document #01-22(F), published at 25 IR 60.]; filed Apr 30, 2002, 10:59 a.m.: 25 IR 2727)*

SECTION 2. 405 IAC 5-24-6, AS AMENDED AT 25 IR 60, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-24-6 Dispensing fee

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3

Affected: IC 12-13-7-3; IC 12-15

Sec. 6. (a) For purposes of this rule, the Indiana Medicaid dispensing fee maximum is four dollars (~~\$4~~) and ninety cents (**\$4.90**) per legend drug.

(b) A maximum of one (1) dispensing fee per month is allowable per recipient per drug order for legend drugs provided to Medicaid recipients residing in Medicaid certified long term care facilities.

(c) The practice of split billing of legend drugs, defined as the dispensing of less than the prescribed amount of drug solely for the purpose of collecting more dispensing fees than would otherwise be allowed, is prohibited. In cases in which the pharmacist's professional judgment dictates that a quantity less than the amount prescribed be dispensed, the pharmacist should contact the prescribing practitioner for authorization to dispense a lesser quantity. The pharmacist must document the result of the contact and the pharmacist's rationale for dispensing less than the amount prescribed on the prescription or in the pharmacist's records. *(Office of the Secretary of Family and Social Services; 405 IAC 5-24-6; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 29, 2001, 9:50 a.m.: 25 IR 60 [NOTE: On October 9, 2001, the Marion Superior Court issued an Order in Cause No. 49D05-0109-CP-1480, enjoining the Family and Social Services Administration from implementing LSA Document #01-22(F), published at 25 IR 60.]; filed Apr 30, 2002, 10:59 a.m.: 25 IR 2727)*

LSA Document #01-372(F)

Notice of Intent Published: 25 IR 407

Proposed Rule Published: January 1, 2002; 25 IR 1242

Hearing Held: January 24, 2002

Approved by Attorney General: April 11, 2002

Approved by Governor: April 26, 2002

Filed with Secretary of State: April 30, 2002, 10:59 a.m.

Incorporated Documents Filed with Secretary of State: None