

September 9, 2009

Montana Healthcare Programs Notice

Pharmacy, Physician, Mid-Level Practitioner

First DataBank, Medi-Span, and McKesson AWP Litigation Settlements: Pharmacy Reimbursements May Be Impacted by Upcoming Reporting Change

Montana Medicaid and the Mental Health Services Plan use the Blue Book Average Wholesale Price (AWP) published by First DataBank to calculate the Estimated Acquisition Cost (EAC) for outpatient pharmacy reimbursement and for some physician administered drugs. The current EAC formula is AWP-15%.

First DataBank has announced that effective September 26, 2009, they are adjusting the Blue Book AWP for certain prescription drugs pursuant to the final order and judgment entered by the United States District Court for the District of Massachusetts.

The Department does not intend to adjust its EAC as a result of this ruling. As a result, your reimbursement for outpatient prescription drugs and some physician administered drugs may be impacted by this reporting change.

Background

On March 30, 2009, the U.S. District Court for the District of Massachusetts entered a Final Order and Judgment approving a long-awaited class action settlement that involved two major publishers of drug pricing information, First DataBank and Medi-Span. The lawsuit alleged that AWP indices were not based on a survey of wholesalers as claimed and that the Wholesale Acquisition Cost (WAC)-to-AWP spread was arbitrarily raised from 20% to 25% on more than 400 brand-name drugs beginning in 2002. The suit alleged that only one wholesaler (McKesson Corporation) was surveyed. Historically, the AWP was calculated by adding 20% to WAC, a price set by drug manufacturers.

Settlement Provisions and Additional Reporting Changes

First DataBank and Medi-Span agreed to:

- “Rollback” the WAC-to-AWP spread from 25% to 20% for all National Drug Codes (NDCs) for which AWP is set based upon a WAC or Direct Price markup in excess of 1.20. The rollback may include NDCs for drugs that were not included in the lawsuit. This change is scheduled to occur on September 26, 2009.
- Cease publishing AWP data no later than two years following the date that the AW adjustments noted above are implemented.

Future Action

In anticipation of the cessation of the publication of AWP, the Department will evaluate changes

necessary to the Administrative Rules for future calculations of the EAC for outpatient pharmacy reimbursement.

Contact Information

For claims questions or additional information, contact Provider Relations:

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Visit the Provider Information website:

<http://www.mtmedicaid.org>