CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

Steven L. Beshear
Governor

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Janie Miller
Secretary

Neville Wise
Acting Commissioner

November 15, 2011

Jackie Glaze
Associate Regional Administrator
Division of Medicaid and Children's Health Operations
Centers for Medicare and Medicaid Services
61 Forsyth Street, SW, Suite 4T20
Atlanta, Georgia 30303-8909

RE: Kentucky State Plan Amendment 11-010

Dear Ms. Glaze:

Enclosed please find Kentucky Title XIX Transmittal Number 11-010. The purpose of this SPA is to change pharmacy reimbursement from Average Wholesale Price to Wholesale Acquisition Cost effective October 1, 2011 and to remove the Behavioral Pharmacy Management Program from the State Plan as this program no longer exists.

If additional information is needed, please contact my office at 502-564-4321.

Sincerely,

Neville I. Wise

Neville Wise
Acting Commissioner

NW/sjh

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 11-010

2. STATE: Kentucky

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
10/01/2011

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN X AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:

7. FEDERAL BUDGET IMPACT:
a. FFY 2011 - Budget Neutral
b. FFY 2012 - Budget Neutral

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Page 3.1-A, Page 7.5.2(a)
Page 4.19-B, Page 21.1
Page 4.19-B, Page 21.1(a)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:

Same

10. SUBJECT OF AMENDMENT
The purpose of this SPA is to change pharmacy reimbursement from Average Wholesale Price to Wholesale Acquisition Cost effective October 1, 2011 and to remove the Behavioral Pharmacy Management Program from the State Plan as this program no longer exists.

11. GOVERNOR'S REVIEW *(Check One)*:
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
X OTHER, AS SPECIFIED: Review delegated to Commissioner, Department for Medicaid Services

12. SIGNATURE OF STATE AGENCY OFFICIAL: Neville L Wise

13. TYPED NAME: Neville Wise

14. TITLE: Acting Commissioner, Department for Medicaid Services

15. DATE SUBMITTED: Nov 15, 2011

16. RETURN TO:

Department for Medicaid Services
275 East Main Street 6W-A
Frankfort, Kentucky 40621

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

18. DATE APPROVED:

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

22. TITLE:

23. REMARKS:

Methods and Standards for Establishing Payment Rates — Other Types of Care

I. Drugs

A. Reimbursement

1. Participating pharmacies are reimbursed for the cost of the drug plus a dispensing fee. Payments shall not exceed the upper limits specified in 42 CFR 447.331 through 447.334.

2. Participating dispensing physicians are reimbursed for the cost of the drug only.

3. Providers will be reimbursed only for drugs supplied from pharmaceutical manufacturers who have signed a rebate agreement.

B. Payment Limits — Payment for the cost of drugs shall be the lesser of:

1. The Federal Maximum Allowable Cost (FMAC) of the drug for multiple source drugs other than those brand name drugs for which a prescriber has certified in writing as "brand medically necessary" or "brand Necessary";

2. The State Maximum Allowable Cost (SMAC). A SMAC may be established for any drug for which two or more A-rated therapeutically equivalent, multi- source, non-innovator drugs with a significant cost difference exist. The SMAC will be determined taking into account drug price status (nonrebatable, rebatable), marketplace status (obsolete, regional availability), equivalency rating (A-rated), and relative comparable pricing. Other factors considered are clinical indications of generic substitution, utilization and availability in the marketplace. The source of comparable drug prices will be nationally recognized comprehensive data files maintained by a vendor under contract with the Department for Medicaid Services. Resources accessed to determine SMAC include Wholesale Acquisition Cost, and Direct Price (to retail pharmacies) with weights applied based on the distribution of the volume purchased.

a. Multiple drug pricing resources are utilized to determine the estimated acquisition cost for the generic drugs. These resources include pharmacy providers, wholesalers, drug file vendors such as First Data Bank, and pharmaceutical manufacturers;

b. The estimated acquisition cost for each product is maintained in a WAC pricing file database;

c. Products are then sorted into drug groups by GCN, which denotes the same generic name, strength, and dosage form;

d. A filter is applied to remove all drug products that are obsolete, are not therapeutically equivalent, or are not available in the marketplace;

e. The acquisition cost for the remaining drug products are analyzed to produce the estimated acquisition cost for the drug group giving due consideration (which consists of utilization and availability in the marketplace) to the lower cost products;

f. The resulting estimated acquisition cost is used to produce a SMAC rate. The resulting SMAC is always greater than the pharmacy provider actual acquisition cost and is designed to provide the pharmacy with an appropriate profit margin;

g. The SMAC rate will then be applied to all brand and generic drug products in that specific GCN;

h. The SMAC file is updated monthly. Kentucky's MAC list may be downloaded from the following website: http://www.chfs.ky.gov/dms.

i. A pharmacy provider may appeal a SMAC price;

3. Effective September 23, 2011, the Estimated Acquisition Cost (EAC) for a generic drug shall equal the Wholesale Acquisition Cost (WAC) plus 3.2% and for a brand drug shall equal the WAC plus 2%; or

4. The provider's usual and customary charge.

(b) CMS has authorized Kentucky's collection of supplemental rebates through the MMSPA.

(c) Supplemental rebates received by the State in excess of those required under the national drug rebate agreement will be shared with the Federal Government on the same percentage basis as applied under the national drug rebate agreement.

(d) All drugs covered by the program, irrespective of a supplemental rebate agreement, will comply with the provision of the national drug rebate agreement.

(e) Any contracts not authorized by CMS will be submitted for CMS approval in the future.

(f) As specified in Section 1927(b)(3)(D) of the Act, not withstanding any other provisions of law, rebate information disclosed by a manufacturer shall not be disclosed by the state for purposes other than rebate invoicing and verification.

(9) Tobacco Cessation

(a) Prescription drugs

The state will provide coverage for tobacco cessation drugs that require a prescription if prescribed by a Medicaid enrolled provider authorized to prescribe drugs. Coverage will be limited to two (2) three (3) month supplies of tobacco cessation prescription drugs in a calendar year. Prior authorization is required.

(b) Over-the-counter drugs

The state will provide coverage for over-the-counter tobacco cessation products if prescribed by a Medicaid enrolled provider authorized to prescribe drugs. Coverage will be limited to two (2) three (3) month supplies of over-the-counter tobacco cessation drugs in a calendar year. Prior authorization is required.