



**CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES**

Steven L. Beshear
Governor

275 East Main Street, 6W-A
Frankfort, KY 40621
P: 502-564-4321
F: 502-564-0509
www.chfs.ky.gov

Audrey Tayse Haynes
Secretary

Lawrence Kissner
Commissioner

October 1, 2013

Jackie Glaze
Associate Regional Director
Centers for Medicare and Medicaid Services
61 Forsyth Street, SW, Suite 4T20
Atlanta, Georgia 30303-8909

RE: State Plan Amendment 13-016 - Pharmacy Benefits

Dear Ms. Glaze:

Enclosed for your review and approval is Kentucky Title XIX State Plan Amendment No. 13-0016. The purpose of this State Plan Amendment is to remove the current four (4) script limit in the pharmacy program. As this SPA does not make any changes to reimbursement, no public notice or funding questions are required.

Any questions or correspondence relating to this SPA should be sent to Sharley Hughes.

Please let me know if you have any questions relating to this matter.

Sincerely,


Lawrence Kissner
Commissioner

LK/sjh

Enclosure



**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:
13-016

2. STATE
Kentucky

FOR: HEALTH CARE FINANCING ADMINISTRATION

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
January 1, 2014

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

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

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

6. FEDERAL STATUTE/REGULATION CITATION:
42 CFR 440.80

7. FEDERAL BUDGET IMPACT:
a. FFY 2014 \$Budget Neutral
b. FFY 2015 \$Budget Neutral

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Att. 3.1-A, Page 7.5.2
Att. 3.1-B, Page 31.1
Att. 3.1-B, Page 31.1(a)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION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

10. SUBJECT OF AMENDMENT:

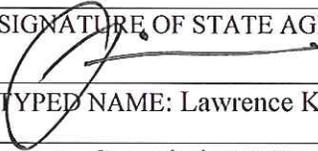
The purpose of this State Plan Amendment is to remove the four (4) script limit for pharmacy benefits

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

OTHER, AS SPECIFIED: Review delegated
to Commissioner, Department for Medicaid
Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:



13. TYPED NAME: Lawrence Kissner

14. TITLE: Commissioner, Department for Medicaid Services

15. DATE SUBMITTED: 10/1/13

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:

- (c) A drug for which the drug manufacturer has not entered into or has not complied with a rebate agreement in accordance with 42 USC 1396r-8(a) unless there has been a review and determination by the department that it shall be in the best interest of Medicaid recipients for the department to make payment for the non-rebated drug. Note: Because federal financial participation is not generally available for a non-rebated drug, state funds will be used to cover such drugs if necessary to protect the health of a Medicaid recipient and no other appropriate options exist;
- (d) A drug provided to a recipient in an institution in which drugs are considered a part of the reasonable allowable costs under the Kentucky Medicaid Program;
- (e) A drug used to treat sexual or erectile dysfunction, unless the drug is FDA approved to treat a condition other than sexual or erectile dysfunction. (This provision is effective 01-01-06); and
- (f) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service. However, a legend drug may be provided through prior authorization to a recipient admitted to an inpatient facility that does not bill patients, Medicaid, or other third-party payers for health care services.
- (4) Except for emergencies, a recipient "locked-in" to one pharmacy due to over-utilization may receive prescriptions:
- Only from his/her designated lock-in pharmacy and prescribed by his/her lock-in provider; or
 - For specified controlled substances prescribed by his/her designated controlled substance lock-in prescriber.
- (5) If authorized by the prescriber, a prescription for a controlled substance in Schedule III-V may be refilled up to five times within a six month period from the date the prescription was written or ordered; a noncontrolled substance may be refilled up to 11 times within a 12 month period from the date the prescription was written or ordered. In addition, a prescription fill for a maintenance drug shall be dispensed in a 92-day supply if a recipient has demonstrated stability on the maintenance drug. However, a 92-day supply of a maintenance drug shall not be dispensed if a prescribing provider specifies that the quantity should be less. Also, individuals receiving supports for community living services shall not be subject to the 92-day supply requirement.
- (6) A refill of a prescription shall not be covered unless at least 90 percent of the prescription time period has elapsed. However, a refill may be covered before 90 percent of the prescription time period has elapsed if the prescribing provider or dispensing pharmacy submits a prior authorization request by phone or fax. Medicaid recipients residing in a long-term care facility or personal care home will be exempt from the 90 percent requirement and will be allowed a refill at 80 percent of the prescription time period having elapsed.
- (7) Supplemental Rebate Program:
The state is in compliance with Section 1927 of the Social Security Act. The state has the following policies for the Supplemental Rebate Program for the Medicaid population:
- CMS has authorized the Commonwealth of Kentucky to enter into the Michigan multi—state pooling agreement (MMSPA) also referred to as the National Medicaid Pooling Initiative (NMPI) for drugs provided to Medicaid beneficiaries. The NMPI Supplemental Rebate Agreement (SRA) and the Amendment to the SRA submitted to CMS on January 6, 2005 have been authorized for pharmaceutical manufacturers' existing agreements through their current expiration dates. The updated NMPI SRA submitted to CMS on March 11, 2008 has been authorized for renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid beneficiaries.

- (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, notwithstanding 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.

(8) 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.

- (c) A drug for which the drug manufacturer has not entered into or has not complied with a rebate agreement in accordance with 42 USC 1396r-8(a) unless there has been a review and determination by the department that it shall be in the best interest of Medicaid recipients for the department to make payment for the non-rebated drug. Note: Because federal financial participation is not generally available for a non-rebated drug, state funds will be used to cover such drugs if necessary to protect the health of a Medicaid recipient and no other appropriate options exist;
 - (d) A drug provided to a recipient in an institution in which drugs are considered a part of the reasonable allowable costs under the Kentucky Medicaid Program;
 - (e) A drug used to treat sexual or erectile dysfunction, unless the drug is FDA approved to treat a condition other than sexual or erectile dysfunction. (This provision is effective 01-01-06); and
 - (f) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service. However, a legend drug may be provided through prior authorization to a recipient admitted to an inpatient facility that does not bill patients, Medicaid, or other third-party payers for health care services.
- (4) Except for emergencies, a recipient "locked-in" to one pharmacy due to over-utilization may receive prescriptions:
- (a) Only from his/her designated lock-in pharmacy and prescribed by his/her lock-in provider; or
 - (b) For specified controlled substances prescribed by his/her designated controlled substance lock-in prescriber.
- (5) If authorized by the prescriber, a prescription for a controlled substance in Schedule III-V may be refilled up to five times within a six month period from the date the prescription was written or ordered; a noncontrolled substance may be refilled up to 11 times within a 12 month period from the date the prescription was written or ordered. In addition, a prescription fill for a maintenance drug shall be dispensed in a 92-day supply if a recipient has demonstrated stability on the maintenance drug. However, a 92-day supply of a maintenance drug shall not be dispensed if a prescribing provider specifies that the quantity should be less. Also, individuals receiving supports for community living services shall not be subject to the 92-day supply requirement.
- (6) A refill of a prescription shall not be covered unless at least 90 percent of the prescription time period has elapsed. However, a refill may be covered before 90 percent of the prescription time period has elapsed if the prescribing provider or dispensing pharmacy submits a prior authorization request by phone or fax. Medicaid recipients residing in a long-term care facility or personal care home will be exempt from the 90 percent requirement and remain at the current 80 percent.
- (7) Supplemental Rebate Program:
The state is in compliance with Section 1927 of the Social Security Act. The state has the following policies for the Supplemental Rebate Program for the Medicaid population:
- (a) CMS has authorized the Commonwealth of Kentucky to enter into the Michigan multi-state pooling agreement (MMSPA) also referred to as the National Medicaid Pooling Initiative (NMPI) for drugs provided to Medicaid beneficiaries. The NMPI Supplemental Rebate Agreement (SRA) and the Amendment to the SRA submitted to CMS on January 6, 2005 have been authorized for pharmaceutical manufacturers' existing agreements through their current expiration dates. The updated NMPI SRA submitted to CMS on March 11, 2008 has been authorized for renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid beneficiaries.