

November 26, 1996

MEDICAID DRUG REBATE PROGRAM Release No. 25

* * * IMMEDIATE ATTENTION REQUIRED * * *

NOTE TO: All Participating Drug Manufacturers

THERAPEUTIC EQUIVALENCY CODE

This year, the FDA issued a three-digit Therapeutic Equivalency (T.E.) Code to certain drugs that fall under the "AB" rating. These codes are used only in instances where more than one reference listed drug of the same strength has been designated under the same heading. When this occurs, rather than a rating of "AB", the rating will be "ABn" for all T.E. generic drugs where "n" is a numeric digit "1" through "9". Rather than increasing the size of this field from two to three positions and creating all the complex problems that accompany file conversions, we have decided that, IN THIS INSTANCE ONLY, the second position ("B") will be dropped and the numeric ("1" through "9") put in its place. Therefore, any labeler having a drug that requires this 3-digit T.E. designation, please report it to HCFA as explained above. Please refer any questions or comments to Vince Powell on (410) 786-3314.

MDRI DISKETTE SYSTEM - WINDOWS VERSION

We are preparing to release a Windows version of the Diskette system to all interested labelers. If your microcomputer uses Windows and you would like a Windows version of this operation, please complete the attached request form and follow FAX/Mailing instructions included. If your installation DOES NOT use Windows, please do not request this diskette. It is NOT an update to the diskette system. The version 3 diskette you currently have is still the latest version. This is just a replacement for labelers with the Windows operating system.

DESKTOP OPERATIONS TRAINING GUIDE

Hear Ye!! Hear Ye!! Believe it or not, we have finally been given permission to send the long-awaited desktop training guide to the printer!!!! We have been promised a completion by the first week of December (yes, 1996!!). It will be "in the mail" as soon as delivery is made to us. Expect this Christmas present to arrive at your desk sometime during mid-December.

Comments, corrections, etc. can be faxed to us at (410) 786-0390. Also, call Vince Powell at (410) 786-3314 or Sue Williams at (410) 786-3334.

ANOTHER REMINDER ON REBATE/REIMBURSEMENT DISPUTES

Recently, a manufacturer requested clarification on a rebate issue involving a situation when a state Medicaid agency was not the primary payer for a particular drug. The manufacturer had withheld payment of rebates for the drug alleging that, since Medicaid did not fully reimburse for the drug, there is no rebate associated with the drug. Once again, we are reiterating that the level or amount of Medicaid reimbursement is irrelevant to rebate liability. If a Medicaid agency paid any portion of a drug claim, including the dispensing fee, then, for purposes of the rebate agreement, the manufacturer is liable for the payment of rebates for those units of the drug. Manufacturers that persist in withholding rebates based solely on the level of Medicaid reimbursement may be found in violation of the rebate agreement and risk termination from the program.

OTHER ATTACHMENTS

Copies of the topic index and the latest listing of the 90-day treasury bill auction rates for the period of May 6, 1996 through November 25, 1996 are attached.

Please remember to direct your drug rebate questions to a staff member on the listing we provided with release number 18.

Judith D. Moore
Acting Director
Medicaid Bureau

3 Attachments

cc:

All Regional Administrators
All Associate Regional Administrators, Division of Medicaid