

DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations

December 11, 1998

MEDICAID DRUG REBATE PROGRAM RELEASE #39
TODAY'S NEWS for Participating Drug Manufacturers

IMPORTANT NOTICE

**MEETING SCHEDULE - DISPUTE RESOLUTION
PROJECT**

We are announcing our FY 99 schedule for the Dispute Resolution Project (DRP) national meetings to be held in the Western Consortium in Denver. These meetings are a continuation of the highly successful DRP national meetings held in Denver last September. The attached form provides the specific dates and instructions for States and manufacturers interested in participating. Please read the information. As was the case in September, these meetings are open to ALL States and manufacturers.

Given the enthusiastic support of Western Consortium leadership and in light of probable budgetary constraints, we have decided that Denver will continue to be the site of our national DRP meetings throughout 1999 and we will concentrate our dispute resolution efforts at these meetings. Due to limited resources and time concerns, there is only a slight possibility that we may schedule other meetings at other dates and locations during 1999; thus, we strongly encourage all States and manufacturers to participate in the Denver meetings.

As was the case during our September national meetings, adequate DRP staff and facilities from both our Denver and Dallas Regional Offices, as well as HCFA Central Office, will be available to conduct concurrent meetings throughout the three, one-week sessions. In order for us to effectively plan the meetings, it is imperative that you respond per the attached form as soon as possible.

WITHHOLDING PAYMENT ON UNDISPUTED REBATES AND THE INAPPROPRIATE IMPOSITION OF INTEREST

It has come to our attention through our DRP meetings that while most manufacturers and States are committed to resolving disputes in an equitable and timely manner, two disturbing problems have surfaced. In both cases, the problems may be isolated and we are taking steps to address the issues with those manufacturers and States individually; however, we believe it appropriate to clarify the two separate issues with the following examples at this time to all States and manufacturers.

Situation A. -- A manufacturer disputes rebates on a portion of the units invoiced but withholds payment on the entire invoice.

A manufacturer is required to pay rebates timely or notify the State of those units and amounts specifically disputed. We believe it is unreasonable and a violation of the rebate agreement for a manufacturer to withhold payment on any unit not in dispute.

Situation B. -- A State invoices a manufacturer for 1,000 units; the manufacturer timely pays rebates for 600 units and disputes 400 units. Through dispute resolution efforts, it is ultimately agreed that the 400 units disputed should be reduced to 100 units.

The manufacturer must pay rebates on the additional 100 units plus the applicable interest. It is not acceptable for the manufacturer in this situation to take interest credit on the 300 unit reduction since the manufacturer did not pay rebates on those units initially.

Please refer to the Topical Index for previous releases containing guidance on interest.

We trust this information clarifies these two situations and, as we indicated earlier, we are taking steps to address these issues individually with the manufacturers and States involved. If any State or manufacturer encounters similar situations or any obstacles to resolving disputes, we remind you to contact the appropriate regional office drug rebate coordinator. If further assistance is required, please contact either of the DRP coordinators, Mike Keogh at 410-786-5910 or Vince Powell at 410-786-3314.

Page 3 - Medicaid Drug Rebate Program Release Number 39

TRAINING GUIDE CORRECTION

Page F6, updated in Release Number 38, contained a print error. Please use the attached page F6 as the revised page for 11/98.

OTHER ATTACHMENTS

A copy of the topic index and a current listing of the 90-day treasury bill auction rates for the period beginning September 15, 1997 are attached.

Please remember to direct your drug rebate questions to a staff member listed in section "O" of the Medicaid Drug Rebate Operational Training Guide.

Sally K. Richardson
Director

Attachment

cc:

All Regional Administrators

All Associate Regional Administrators, Division of Medicaid