

Attachment A

THE MEDICAID DRUG REBATE PROGRAM
AND THE
STAGES OF THE DISPUTE RESOLUTION PROCESS

DISPUTE RESOLUTION PROCESS:

BEGINS: When the Manufacturer notifies State of disputed data, no later than 38 days after State utilization data is sent.

ENDS: When dispute is resolved and Manufacturer or State settles all disputed money amounts, including interest.

PHASE I: Exchange of Data Time Period:

Phase I of the process falls after the State receives the manufacturer's dispute and involves a period for both parties to seek resolution of dispute through exchange of information and informal negotiations. (The resolution of inconsistencies and the exchange of data should occur by the 38th day after State sends the utilization data.)

WHEN:

THEN:

By 60 days after the end of the quarter, State sends utilization data (invoice) to manufacturer. Manufacturer has 38 Days ~~After~~ *FROM past mark* Receipt of State Utilization Data (Invoice) to:

A. Mfr. edits State data & resolves data inconsistencies with State

Mfr. distinguishes between data inconsistencies & disputes by examining such items as:
-unit types,
-units dispensed matches amount paid,
-NDC numbers match Mfr. numbers,
-incorrect decimal position.

NOTE: This process can be initiated through telephone contact with State. If State gives written or telephone confirmation, resolution is recorded by the manufacturer. However, if this resolution has not been completed by the 38th day after State sends utilization data, the dispute resolution process applies.

B. Mfr. Agrees with invoice

Mfr. pays full rebate--process ends.

C. Mfr. considers cost effectiveness

Items that would have been disputed may be resolved if Mfr. considers it not cost effective to dispute.

WHEN:

THEN:

D. Mfr. pays partial rebate
& disputes some data

-Mfr. submits documentation
necessary to identify,
by NDC, the reason why data
are disputed (written notice
of dispute & check must be
postmarked by the 37th day
after the State data are
sent.

Interest starts on disputed
portion of invoice effective
38 calendar days from the
date the State mails the
State utilization data.

Within 90 days after receipt of manufacturer's dispute:

E. State contacts Mfr.
to discuss, by NDC number,
items disputed & reason

State contacts Mfr. by
telephone to discuss dispute.
State presents report of
preliminary response to
dispute resolution.

Within 150 days after receipt of manufacturer's dispute:

F. State takes steps to
resolve questionable data
(Manufacturer requests
additional supportive
documentation from State)

State provides:
-Zip-code level data,
-Pharmacy level data, OR
-Opt to conduct sampling
of pharmacy claims,
-Data of historical trends.

Note: Type of data provided
by State must match type of
data requested by Mfr.

F.1. Both parties unable to
resolve differences

-Mfr. requests State to
perform random sample of
pharmacies,
-State requests Mfr. to
validate data used by third
party for the purpose for
which the manufacturer
supplied it.

NOTE: States will ensure any exchange of data protects the
confidentiality requirements of section 1927(b)(3)(D) of the
Social Security Act. In the case of pharmacy level data, the
State may request the Mfr. supply its data if confidentiality
laws prevent State release of information.

Within 240 days after receipt of manufacturer's dispute:

WHEN:	THEN:
G. State considers cost effectiveness	<p>If the exchange of information fails to resolve dispute, and the disputed amount is BOTH</p> <ul style="list-style-type: none">-under \$10,000 per Mfr.'s labeler code, <p><u>AND</u></p> <ul style="list-style-type: none">-under \$1,000 per product code of Mfr.'s labeler code (at 9-digit NDC level) the State may choose to cease the dispute process. <p>NOTE: State maintains discretion to enter into the dispute process in cases that fall below these thresholds.</p>
H. State/Mfr. complete good faith negotiations	<p>Settlement can be made on:</p> <ul style="list-style-type: none">-State utilization data, (State should document incorrect data) <p><u>OR</u></p> <ul style="list-style-type: none">-Valid documentation that other data was acceptable.
I. State/Mfr. unable to reach agreement.	<p>The formal review processes are considered in Phase II of the Dispute Resolution Process. The State and Mfr. must proceed to Phase II - Formal Review Process</p>

PHASE II: Formal Review

Phase II of the process is initiated when the dispute is not resolved and when all steps in Phase I have been completed. A State or a manufacturer may proceed to phase II if either party has not fulfilled its obligations under a step in the first phase of the process.

Within 30 days from the end of Phase I process the State must schedule a hearing that must be conducted no later than one year from the 240th day after the State receives manufacturer's dispute. The State and Manufacturer may continue to attempt to settle disputes before the hearing is conducted by considering the settlement options described below.

WHEN:

THEN:

A. Mediation Review

Process in which mediator assists parties in reaching their own settlement but does not have authority to make a binding decision

- Both parties sign agreement to mediate,
- Request for mediation prepared with brief statement of dispute,
 - +Both parties agree on how to share mediation expense,
 - +Qualified mediator selected,
 - +Both parties agree on mediator,
 - +Mediator will have no financial or personal interest in result of mediation,
 - +Agreement reached,
 - +Both parties sign settlement agreement,
 - +Agreement states settlement & payment of mediation expense,
 - +Amount in dispute paid plus interest due,
 - +Mfr./State records documented,
 - +Agreement not reached,
 - +Both parties declare in writing that mediation ended,
 - +Parties pursue Binding Arbitration or State Hearing.

WHEN:

THEN:

B. Non-Binding Arbitration

Process in which each party presents its case at an informal hearing to a neutral party

- Both parties agree to participate in arbitration by submitting an informal request to the other party,
- Parties agree on share of arbitration fee,
- Both parties agree on arbitrator

- Decision reached & settlement agreed by both parties,
- Agreement states settlement and payment of fees,
- Final decision subject to confirmation at a higher State Agency level,
- Amount in dispute paid including interest,
- Mfr./State records documented,
- Agreement not reached,
- Parties agree on share of arbitration fee,
- Parties pursue Binding Arbitration or State Hearing.

WHEN:	THEN:
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C. Binding Arbitration
 Process in which a dispute is submitted to one or more impartial persons for a final and binding decision

- Both parties agree to participate in arbitration,
- Both parties agree on arbitrator or panel,
 - +Arbitrator could be panel of individuals agreed to by the State agency & Manufacturer,
 - +Arbitrator could be independent arbitration association.e.g., American Arbitration Association,
- Settlement agreed by both parties,
- Award submitted by arbitrator stating relief and arbitration fees,
- If arbitration panel consists of more than one arbitrator the majority decision is binding.

D. Administrative Review
 Upon request by either party for a hearing, an administrative review would be conducted by an impartial individual or

- State requests date for State hearing,
- Administrative Review scheduled prior to hearing,
- Hearing officer appointed for Administrative Review,

panel appointed or hired as a hearing officer to facilitate settlement.

This review would occur while State Hearing date is being scheduled. If agreement reached, State hearing would be cancelled.

- Settlement reached at administrative review level,
 - +Amount of rebate paid plus interest.
 - +Settlement documented,
 - +Request for State hearing cancelled
- Agreement not reached at Administrative Review level,
 - +Parties proceed to a State hearing which was scheduled prior to Admin. Review.

State Hearing must be conducted no later than one year from the 240th day after State receives Manufacturer's dispute.

E. State Hearing

State will make available its State hearing mechanism as defined in the statute and State law

- Hearing Held
- Decision rendered
- Dispute resolved
- Rebates+interest pd.
- Records documented

OPTIONAL ALTERNATIVES

The following option falls outside of the dispute resolution process, however, the National Rebate Agreement provides the following as an alternative States may pursue after receipt of manufacturers written dispute.

WHEN:	THEN:
Mfr. & State unable to resolve dispute	State may schedule an administrative hearing or tentatively schedule a hearing.
Mfr. & State agree on resolution. Mfr. pays rebate due but <u>not interest due.</u>	State tracks interest due and follows up with Mfr. Interest starts accruing on unpaid interest.

Phase I of the Dispute Resolution Process describes the type of data Manufacturers may request and States may provide in an attempt to resolve a dispute. Excluded from this level of the dispute process would be audits, i.e, fraudulent claims and claims level data requests. An audit may be pursued at any time throughout the dispute resolution process.

WHEN:

THEN:

CLAIMS DATA AUDITS

-Manufacturer requests
audit of State utilization
data

-State, with appropriate
Manufacturer input, develops
mutually agreeable audit
procedures

-Manufacturer requests pharmacy
claims level data

-State agrees to audit
pharmacy
-State has independent third
party audit pharmacy
-Payment for audit determined
between parties.

-Audit indicates either State
utilization was greater
or less than previously
specified or information
inaccurate

-Adjustments to rebates
made
-Dispute ends

-After audit performed,
State and Manufacturer still
in dispute

-Dispute still exists
-Proceed to Phase II

STATE TAPES STATUS REPORT

11/28/94

STATE	1/91	2/91	3/91	4/91	1/92	2/92	3/92	4/92	1/93	2/93	3/93	4/93	1/94	2/94	ALL QTRS
AK	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
AL	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
AR	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
CA	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
CO	X	X	X	X	X	X	X	X	X	X	X	X	X*	X*	X
CT	X	X	X	X	X	X	X	X	X	X	X	X			
DC	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
DE	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
FL	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
GA	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
HI	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
IA	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
ID	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
IL	U	X	X	X	X	X	X	X	X	X	X	X	X		
IN	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
KS	X	X	X	U	X	X	X	X	X	X	X	X	X*	X*	X
KY	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
LA	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
MA	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
MD	X	X	U	X	X	X	X	X	X	X	X	X	X*	X*	
ME	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
MI	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
MN	X	X	X	X	X	X	X	X	X	X	X	X	X		
MO	X	X	X	X	X	X	X	X	X	X	X	X	X		
MS	U	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
MT	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
NC	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
ND	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
NE	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
NH	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
NJ	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
NM	U	U	X	X	X	X	X	X	X	X	X	X	X	X*	
NV	U	X	X	X	X	X	X	X	X	X	X				
NY	X	X	X	X	X	X	X	X	X	X	X	X*	X*	X*	X
OH	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
OK	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
OR	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
PA	X	X	X	X	X	X	X	X	X	X	X	X	X		
RI	X	X	X	X	X	X	X	X	X	X	X	X	X		
SC	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
SD	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X
TN	X	X	X	X	X	X	X	X	X	X	X		X		

STATE	1/91	2/91	3/91	4/91	1/92	2/92	3/92	4/92	1/93	2/93	3/93	4/93	1/94	2/94	ALL QTRS
TX	X	X	X	X	X	X	X	X	X	X	X	X	X	*X	X
UT	U	X	X	X	X	X	X	X	X	X	X	X			
VA	X	X	X	X	X	X	X	X	X	X	X	X	*X	*X	X
VT	X	X	X	X	X	X	X	X	X	X	X	X	*X		
WA	X	X	X	X	X	X	X	X	X	X	X	X	X	*X	X
WI	X	X	X	X	X	X	X	X	X	X	X	X	X	*X	X
WV	X	X	X	X	X	X	X	X	X	X	X	X	X	*X	X
WY	X	X	X	X	X	X	X	X	X	X	X	X	X	*X	X
TOTAL	45-45	49-49	49-49	49-49	50-50	50-50	50-50	50-50	50-50	50-50	50-50	48-48	47-47	40-40	38

* - Tapes received since last (8/31/94) Report.

X - Files processed; good data.

R - Files rejected and must be corrected.

U - State is unable to generate and submit tapes for this Quarter.

Second Total amount shown indicates number of usable tapes received.

WEEKLY U.S. T-BILL DISCOUNT RATE

The latest weekly 90-day treasury bill auction rates for January 3, 1994 through November 28, 1994 are as follows:

DATE OF AUCTION	TRUE DISCOUNT RATE
01/03/94	3.170
01/10/94	3.084
01/18/94	3.055
01/24/94	3.023
01/31/94	3.055
02/07/94	3.312
02/14/94	3.353
02/22/94	3.406
02/28/94	3.475
03/07/94	3.602
03/14/94	3.651
03/21/94	3.696
03/28/94	3.581
04/04/94	3.798
04/11/94	3.716
04/18/94	3.847
04/25/94	3.941
05/02/94	4.097
05/09/94	4.428
05/16/94	4.326
05/23/94	4.334
05/31/94	4.334
06/06/94	4.252
06/13/94	4.264
06/20/94	4.285
06/27/94	4.305
07/05/94	4.416
07/11/94	4.613
07/18/94	4.416
07/25/94	4.543
08/01/94	4.461
08/08/94	4.543
08/15/94	4.707
08/22/94	4.742
08/29/94	4.728
09/06/94	4.699
09/12/94	4.728
09/19/94	4.728
09/26/94	4.917
10/03/94	5.053
10/10/94	5.053
10/17/94	5.053
10/24/94	5.209
10/31/94	5.209
11/07/94	5.394
11/14/94	5.435
11/21/94	5.550
11/28/94	5.592