

January 21, 2004

MEDICAID DRUG REBATE PROGRAM

RELEASE #128

For State Medicaid Directors

RESCISSION OF LABELER TERMINATION

By overnight fax and in State Medicaid Directors' release # 127, you were informed that labeler # 00168, E. Fougera, would be terminated from the Drug Rebate Program as of January 1, 2004. Subsequent to that release, the labeler has assured us that all invoices from quarters 1 & 2/2003 have been processed and paid. They have also supplied us with all missing pricing data.

Because E. Fougera has paid their invoices and submitted their missing data and because it would be a tremendous burden on states to not have this labeler's drugs covered, we are rescinding our termination action. Please disregard our earlier notice of their termination.

AMENDMENTS TO BEST PRICE UNDER THE MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003 ENACTED DECEMBER 8, 2003

Discount Card Program

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MPDIMA) establishes a Medicare Prescription Drug Discount Card and Transitional Assistance Program at section 1860D-31 of the Social Security Act (the Act). The discount card program must begin no later than June 8, 2004. Under the discount card program, drug card sponsors will negotiate discounted drug prices with drug manufacturers on behalf of Medicare

beneficiaries using the card. Section 103(e)(1) of MPDIMA amends section 1927(c)(1)(C)(i) of the Act by adding an exemption to best price in a new subclause (V). Under subclause (V), prices negotiated with drug manufacturers for covered discount card drugs under an endorsed discount card program under section 1860D-31 of the Act are exempt from best price. Negotiated prices take into account negotiated price concessions, such as discounts, direct or indirect subsidies, and direct or indirect remunerations, for covered part D drugs. Due to the temporary nature of the discount card program, which will be replaced by the new Medicare part D drug benefit in January 2006, this best price exemption will apply for a limited time.

Medicare Part D Drug Benefit

The MPDIMA also establishes a voluntary prescription drug benefit for Medicare beneficiaries as of January 1, 2006. Section 103(e)(1) of MPDIMA also amends section 1927(c)(1)(C)(i) of the Act by adding an exemption to best price in a new subclause (VI). Under subclause (VI), any prices charged which are negotiated by a prescription drug plan under part D of title XVIII, by a Medicare Advantage plan that provides qualified prescription drug coverage, or by a qualified retiree prescription drug plan (as defined in section 1860D-22(a)(2)) with respect to such drugs on behalf of individuals entitled to benefits under part A or enrolled under part B of title XVIII are exempt from best price. This exemption shall apply to prices charged for drugs dispensed on or after January 1, 2006.

LABELER NAME & ADDRESS CHANGES

We received an e-mail from a labeler that had erroneously sent letters to all state agencies, instructing them to change the name and address of the Technical contact for that labeler. Some states made this change.

This is to remind you that the current labeler name and address file is sent as the second file on the quarterly cartridge along with the URA file from CMS. This is the official updated name and address file and is the only one you should use for dealing with the labelers. You should not accept contact changes directly from any labeler. Please use the official CMS name and address file ONLY.

EMAIL ADDRESS FOR DISPUTE RESOLUTION PROGRAM

Effective immediately, any non-state specific Dispute Resolution Program (DRP) questions or issues may be emailed to DRP@cms.hhs.gov. This email address has been established to facilitate only non-state specific DRP questions or issues. All state specific DRP issues should continue to be directed to the Regional Office DRP Team members. A list of contact names may be found on our web page at:

<http://www.cms.hhs.gov/medicaid/drugs/drpcoor.pdf>.

DELETION OF NON-DRUG PRODUCTS UNDER LABELER 37205

After a review of their drug rebate MDRI data base, Leader (labeler 37205) has removed the following non-drug products from their MDRI data base. Please remove these NDCs from your state drug rebate file as they are not rebatable products. NDC2 and NDC3 only are shown:

0002-34	0004-34	0005-03	0006-03	0007-03	0009-16
0010-16	0011-26	0012-43	0012-45	0015-34	0016-34
0017-34	0018-34	0022-10	0024-26	0026-03	0028-89
0029-84	0032-73	0033-60	0038-74	0040-74	0041-84
0043-60	0044-89	0046-60	0053-75	0057-65	0058-73
0059-52	0062-89	0063-72	0068-72	0069-27	0069-86
0071-78	0072-81	0073-78	0074-78	0075-78	0076-78
0079-72	0080-78	0081-78	0082-78	0083-78	0084-78
0086-78	0088-81	0089-78	0089-85	0090-87	0096-71
0098-72	0099-78	0100-71	0108-78	0129-78	0141-78
0143-78	0144-72	0147-78	0149-78	0155-78	0156-71
0158-71	0174-78	0176-78	0178-51	0179-51	0180-72
0184-72	0185-81	0186-34	0188-85	0189-78	0219-98
0227-43	0240-75	0252-75	0254-75	0259-71	0267-71
0307-78	0311-78	0318-45	0318-97	0388-78	0389-78
0390-78	0391-72	0392-72	0413-78	0414-78	0602-07
0602-43	0664-45	0783-87	0822-43	0831-43	0871-34
0871-43	0871-45				

CONTACT INFORMATION

Please remember to use the forms in section “M” of the operations guide when a contact name, address, phone number or fax number changes. ALL State releases are mailed to the **TECHNICAL** contact listed for your state. Also, ALL faxes dealing with new or reinstated labelers are faxed to the **TECHNICAL** contact for **IMMEDIATE** release to the proper person(s) responsible for maintaining new/reinstated labeler codes for reporting to your pharmaceutical community. Recently, there has been some confusion between a few states and a reinstated labeler due to the information for those state Technical contacts not being updated. It is the state’s responsibility to keep your pharmaceutical community updated in these matters.

NEW LABELERS

<u>Labeler Name/Labeler Code</u>	<u>Mandatory Coverage Date</u>	<u>Optional Coverage Date</u>
Victory Pharma, Inc.(Labeler Code 68453)	04/01/2004	12/23/2003
Wockhardt Americas (Labeler Code 64679)	04/01/2004	12/13/2003
Armstrong Pharmaceuticals (Labeler Code 17270)	04/01/2004	12/11/2003
Pronova Corporation (Labeler code 67555)	04/01/2004	12/11/2003
Midlothian Laboratories, LLC (Labeler Code 68308)	04/01/2004	12/01/2003
Skin Medica (Labeler Code 67402)	04/01/2004	11/24/2003
Harvest Pharmaceuticals, Inc. (Labeler Code 67754)	04/01/2004	01/06/2004

REINSTATED LABELER

AM2PAT, Inc., Labeler Code 64054, has signed a new rebate agreement and was reinstated in the drug rebate program effective 01/01/2004.

TERMINATED LABELERS

The following labeler codes are being terminated effective April 1, 2004:

International Ethical Lab (Labeler Code 11584);
Hyperion Medical, Inc. (Labeler Code 54002); and
Faulding Pharmaceutical Company (Labeler Code 61703).

The following labeler codes are being voluntarily terminated effective April 1, 2004:

Marsam (Labeler Code 00209);
Abana Pharmaceuticals, Inc. (Labeler Code 12463);
Cody Laboratories, Inc. (Labeler Code 65893); and
Verum Pharmaceuticals, Inc. (Labeler Code 67000).

OTHER ATTACHMENT

A copy of the current listing of the 90-day treasury bill auction rates beginning with the period November 18, 2002, is 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.

/s/

David McNally
Acting Director
Finance, Systems and Budget Group
Center for Medicaid and State Operations

2 Attachments

cc:
All State Drug Rebate Technical Contacts
All Regional Administrators

WEEKLY U.S. T-BILL DISCOUNT RATE

weekly 90-day treasury bill auction rates

Date of Auction	Discount Rate	Date of Auction	Discount Rate	Date of Auction	Discount Rate
11-18-02	1.227	06-16-03	0.854	01-12-04	0.887
11-25-02	1.228	06-23-03	0.830		
12-02-02	1.231	06-30-03	0.903		
12-09-02	1.215	07-07-03	0.907		
12-16-02	1.219	07-14-03	0.895		
12-23-02	1.207	07-21-03	0.911		
12-30-02	1.207	07-28-03	0.964		
01-06-03	1.207	08-04-03	0.964		
01-13-03	1.199	08-11-03	0.960		
01-21-03	1.179	08-18-03	0.964		
01-27-03	1.159	08-25-03	0.997		
02-03-03	1.175	09-02-03	0.988		
02-10-03	1.171	09-08-03	0.951		
02-18-03	1.179	09-15-03	0.947		
02-24-03	1.195	09-22-03	0.953		
03-03-03	1.198	09-29-03	0.953		
03-10-03	1.077	10-06-03	0.939		
03-17-03	1.137	10-14-03	0.923		
03-24-03	1.174	10-20-03	0.939		
03-31-03	1.121	10-27-03	0.960		
04-07-03	1.158	11-03-03	0.960		
04-14-03	1.186	11-10-03	0.951		
04-21-03	1.182	11-17-03	0.951		
04-28-03	1.141	11-24-03	0.946		
05-05-03	1.117	12-01-03	0.943		
05-12-03	1.089	12-08-03	0.915		
05-20-03	1.040	12-15-03	0.903		
05-28-03	1.121	12-22-03	0.884		
06-02-03	1.133	12-29-03	0.901		
06-09-03	1.024	01-05-04	0.939		

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