



NATIONAL ASSOCIATION OF
CHAIN DRUG STORES

March 8, 2017

The Honorable Joe Schomacker
Chair, House Health and Human Services Reform Committee
509 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Chair Schomacker and Members of the Committee:

The National Association of Chain Drug Stores (NACDS) appreciates the opportunity to share its support of HF 1819 to implement cost-based reimbursement with an increased professional dispensing fee for prescription drugs dispensed to Medicaid beneficiaries in Minnesota. NACDS represents traditional drug stores and supermarkets and mass merchants with pharmacies. Chains operate 40,000 pharmacies, and NACDS' more than 100 chain member companies include regional chains, with a minimum of four stores, and national companies. Chains employ more than 3.2 million individuals, including 178,000 pharmacists. They fill over 3 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and healthcare affordability.

In Minnesota, NACDS is proud to partner with the Minnesota Retailers Association, the Minnesota Pharmacists Association, and the Minnesota Grocers Association to serve our shared membership. In Minnesota, there are about 951 pharmacies, of which 770 are chain pharmacies. Minnesota chain pharmacies employ approximately 70,230 Minnesota residents, including 2,890 pharmacists, and pay about \$948 million in taxes to the state annually. As a group, Minnesota chain and independent pharmacies employ approximately 71,360 full- and part-time workers, including about 3,260 pharmacists, paying about \$960 million in state taxes annually.

Covered Outpatient Drugs Final Rule.

In January 2016, the Centers for Medicare & Medicaid Services (CMS) issued the Covered Outpatient Drugs Final Rule (Final Rule), implementing significant changes to pharmacy reimbursement for both brand and generic drugs dispensed to the Medicaid population. The purpose of the Final Rule was to implement the changes to the Medicaid Drugs Rebate Program and prescription drug reimbursement system as enacted by the Affordable Care Act (ACA), which includes using average manufacturer price (AMP)-based federal upper limits as a basis for reimbursement for generic drugs. In addition to changing how FULs are calculated, the Final Rule, also requires states to adopt cost-based reimbursement methodologies for brand drugs.

Requirements of the Final Rule replace estimated acquisition cost (EAC) as a basis of reimbursement for brand name drugs and some generic drugs and base pharmacy reimbursement on actual acquisition cost (AAC) which reflects the actual prices paid by pharmacy providers to acquire drug products marketed or sold by specific manufacturers. As a part of this change, the Final Rule also requires states to consider both the ingredient cost reimbursement and the professional dispensing fee when proposing changes to either of these components to ensure that total reimbursement to the pharmacy provider is in accordance with access requirements in the Social Security Act. Lastly, the Final Rule requires states to provide adequate data such as regional data from another state or national survey of retail pharmacy providers, or other reliable data, to support any proposed changes to either or both components of the reimbursement methodology.

State Activity to Move to Cost-Based Reimbursement

Although several states have already made the changes to accommodate the move to cost-based reimbursement as required by the Final Rule, CMS has allowed additional compliance time for states to complete the necessary regulatory and legislative process needed to fully implement these changes in reimbursement. Under the Final Rule, states are required to file a state plan amendment (SPA) no later than June 30, 2017, with an effective date back to April 1, 2017. To date, fifteen states have adopted cost-based reimbursement with increased professional dispensing fees for Medicaid reimbursement. Nearly all other states are in the process of transitioning, making needed legislative and regulatory changes and submitting their State Plan Amendments.

Unfortunately, without enactment of HF 1819, Minnesota will not be on-track to comply. Not complying with the Final Rule could result in financial harm to participating pharmacies. Further delay in adopting the requirements of the Final Rule would increase this loss as the State will be required to adjust these payments retroactively further placing financial burden on pharmacies as those differences in funds will need to be recouped. Therefore, we strongly urge the legislature to adequately account for these changes in the final rule to adopt cost-based reimbursement with the required increase in professional dispensing fees by April 1, 2017 as required in the Final Rule to avoid any further impact on pharmacies.

Exemplary Minnesota Process to Comply

Fortunately, Minnesota's Department of Human Services (DHS) has been engaged with pharmacy stakeholders since the Final Rule was announced. DHS implemented a very transparent and inclusive process of explaining the Final Rule to stakeholders, starting with a Request for Information in July, 2016. DHS then received feedback through three webinars spanning September through November of 2017, culminating in a proposal for compliance, enacting legislative language, fiscal analysis, and a pathway to submitting the required State Plan Amendment. NACDS was pleased to participate on behalf of its members in every step of the process.

Conclusion

NACDS acknowledges and understands the complexity of changes required for states to implement the Final Rule. In collaboration with its partners, NACDS is committed to preserving Medicaid beneficiary access to their needed medications and the ability of our members to provide services to this important population. We believe that retail community pharmacies should receive fair and adequate reimbursement that is based on the cost of acquiring and dispensing prescription drugs in the Medicaid program. NACDS joins other pharmacy stakeholders in seeking your support for HF 1819 in order to keep Minnesota on-track to comply with the Final Rule. We appreciate the opportunity to submit these comments and we look forward to continuing to work with you in your efforts to ensure needed services to Medicaid beneficiaries in Minnesota.

Sincerely,



Joel Kurzman
Director, State Government Affairs