DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DEC 11 2014

J. Ruth Kennedy
State Medicaid Director
Louisiana Department of Health and Hospitals
628 N. 4th Street
P.O. Box 91030
Baton Rouge, LA 70821

Dear Ms. Kennedy:

We have reviewed Louisiana State plan amendment (SPA) 12-66B, received by the Centers for Medicare & Medicaid Services (CMS) on December 20, 2012. Under this SPA, Louisiana proposes to revise the current pharmacy reimbursement methodology for estimated acquisition cost (EAC) which is currently calculated as average acquisition cost (AAC) of the drug dispensed to a new calculation of AAC adjusted by a multiplier of 1.1 for multiple source drugs and 1.01 for single source drugs. In addition, the state proposes a reimbursement methodology of wholesale acquisition cost (WAC) adjusted by a multiplier of 1.05 for state-defined specialty therapeutic classes of drugs. The effective date for Louisiana SPA 12-66B is November 1, 2012. For reasons set forth below, I am unable to approve Louisiana SPA 12-66B as submitted, because it does not comply with the requirements of section 1902(a)(30)(A) of the Social Security Act (the Act).

Section 1902(a)(30)(A) of the Act requires, in part, that states have methods and procedures to assure that payment rates are consistent with efficiency, economy, and quality of care. Under that authority, the Secretary has issued regulations prescribing state rate setting procedures and requirements. Longstanding requirements of federal regulations codified at 42 CFR 447.512 provide that payments for drugs are to be based, in part, on the ingredient cost of the drug and a reasonable dispensing fee. States establish their reimbursement methodologies for the ingredient cost of a drug by establishing an EAC. The definition of EAC under 42 CFR 447.502 is "the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler in the package size of drug most frequently purchased by providers." As we explain in greater detail below, we find that the state's submission is not consistent with these requirements of the statute and regulations.

In support of its proposal, the state reported, in its response to CMS's request for additional information (RAI), that numerous concerns were received from community pharmacies, legislators and other stakeholders after a preceding approved SPA (Louisiana SPA 12-55) became effective, changing the EAC reimbursement to equal AAC with no mark-up. The state further indicated that it was making the proposed changes included in SPA 12-66B based upon

its review and analysis of cost and reimbursement data and information received from a workgroup of independent and chain community pharmacies.

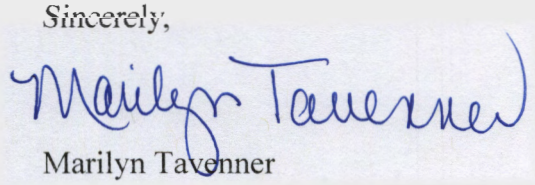
Despite these submissions, under Louisiana SPA 12-66B, the state has failed to demonstrate that the proposed payment increases are consistent with the definition of EAC in 42 CFR 447.502. Although the state indicates it received concerns regarding the approved AAC reimbursement methodology under the preceding Louisiana SPA 12-55, the state, in submitting SPA 12-66B, did not present evidence of how it calculated the increased reimbursement methodology or how this methodology is consistent with the current definition of EAC. The state also presented no evidence to support increasing that reimbursement methodology for the state-defined specialty therapeutic classes of drugs, as SPA 12-66B calls for. Accordingly, the state has not demonstrated that the proposed reimbursement methodology increase based on the mark-up factor or WAC prices represent the price generally and currently paid by providers consistent with the definition of EAC in 42 CFR 447.502.

Therefore, I find that the proposed increased payment methodology does not comply with the requirements of section 1902(a)(30)(A) of the Act and federal regulations governing the EAC.

Based on the above, and after consultation with the Secretary as required by federal regulations at 42 CFR 430.15(c)(2), I am disapproving Louisiana SPA 12-66B. If you are dissatisfied with this determination, you may petition for reconsideration within 60 days after receipt of this letter in accordance with the procedures set forth at 42 CFR 430.18. Your request for reconsideration may be sent to Ms. Barbara Washington, Centers for Medicare & Medicaid Services, Center for Medicaid and CHIP Services, 7500 Security Boulevard, Mail Stop S2-26-12, Baltimore, MD 21244-1850.

If you have any questions or otherwise wish to discuss this determination, please contact John M. Coster, Director, Division of Pharmacy at (410) 786-1121.

Sincerely,



Marilyn Tavenner