

Pharmacy Solutions

August 2009

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AWP Rollback Spurs PBMs to Use Different Contract Approaches for Cost Neutrality

A recent court settlement against First DataBank (FDB) and McKesson Corporation is resulting in changes to the way pharmacy benefits are priced by PBMs **effective September 26th, 2009**.

The settlement stems from allegations that First DataBank, Inc. (FDB) conspired with drug wholesaler McKesson Corp. to fraudulently inflate the widely used AWP benchmark from 2001 to 2005, which caused consumers

and third-party payers to overpay for drugs by roughly 4%. Under the alleged scheme, FDB and McKesson increased the "spread," or difference, between the lower prices that retail and mail-order

pharmacies pay to acquire drugs using wholesale acquisition cost (WAC) and the higher prices they later spread from 20% to 25% starting in 2001 allowing retail pharmacies to reap larger profits at the expense of consumers, health plans and plan sponsors.

Under the FDB agreement and a separate settlement reached with publisher Medi-Span, a division of Wolters Kluwer Health, Inc., the companies have agreed to reduce AWP reimbursement rates by roughly 4% to 120% of WAC on 1,442 National Drug Codes (NDCs), representing more than 400 individual brand drugs in question. **Independent of the settlements, FDB and Medi-Span said they would apply the same rollback to all other NDCs in excess of 120% of WAC, and would stop publishing the AWP benchmark two years after settlement is finalized.**

All prescription benefit arrangements will be impacted, resulting in re-contracting of pharmacy benefits.

PBMs are renegotiating contracts with payers to reflect the rollback in average wholesale prices (AWPs) as part of a legal settlement. PBMs are using variations of two methods to ensure that payers' drug costs paid by health plans and employers remain the same even after AWPs are lowered by 4%. But auditing your pharmacy claims before and after this change is the only way to make sure it really is cost-neutral.

To provide an example of how clients will be affected by the rollback, suppose the inflated AWP for a tablet of XYZ drug was \$1 and prior to the rollback you were getting AWP minus 10%, so you were paying 90 cents. Once the settlement takes effect, the AWP level would be rolled back 4%, so the new AWP would be 96 cents. So to maintain cost neutrality, many PBMs are taking the approach and re-contracting their contracts to allow them to take the new AWP of 96 cents from our example and recalibrate the discount to maintain the 90 cents for the client. So in essence, the discount is going to go down to [AWP minus] 7%, since 96 cents minus 7% equals 90 cents. Both Express Scripts and Medco are using this approach.

CVS Caremark is using a somewhat different approach, basing drug costs on WAC. Suppose that if the AWP is \$1, WAC is 80 cents. And since WAC figures also are published, CVS Caremark will take the WAC for XYZ drug and continue to inflate it by 25% to calculate its own AWP of \$1. So in this scenario, your discount would stay at [AWP minus] 10%, but it would be based on a revised AWP calculated by CVS Caremark.



This approach will be a challenge from an audit perspective for any PBM that uses this approach with a proprietary AWP metric on some claims, but a published AWP on others.

PBMs Aim for ‘Cost Neutrality’

PBMs are in the process of sending out communication to each client to provide a table showing the current financial arrangement and the factor that would be used to adjust the deal to make is cost-neutral once the rollback takes place. The factor should ideally be based on the drug type with different values for brand-name, generic or specialty drugs, and those filled at retail versus mail-order facilities.

However, it is critical for payers to closely audit their experience with the new contract to make sure it really is cost-neutral.

The big three PBMs, CVS Caremark, Medco, and Express Scripts, have said they’re going to actually provide reports that show clients that they’ve maintained cost neutrality. I believe employers should go the additional step and request the pharmacy claims data for a pharmacy consulting specialist to do a drug to drug analysis to validate that cost neutrality was met.

What this change really does is to allow a PBM to change AWP discount rates to purportedly return the PBM to the same financial position it was before the AWP settlement occurred. Employers will see no financial benefit to this pricing change. I do not believe this was the intent of the settlement. I believe the courts intended for the PBM customers to receive a portion of the AWP pricing rollback. Many PBMs did not benefit from the inflated pharmacy prices at retail. However, PBMs that own the mail-order operation and purchasing the drugs directly and passing the deal on the price of those drugs onto the clientele did benefit from the inflated prices.

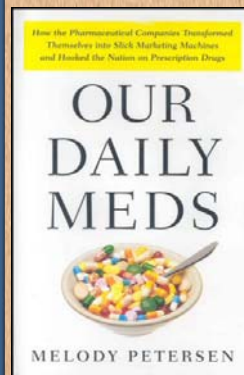
Before 2001, when the publisher allegedly increased the spread, payers were negotiating discounts of AWP minus 13% or 14% off retail pharmacy prices, but after 2001, due to market pressure and just normal economics, the discount shot up to AWP minus 16%, 17% or 18%, so payers’ prices were not fully inflated as a result of the increased spread. One could argue that the same thing happened at mail order.



As a final comment, this AWP rollback adjustment will be temporary until 2011 when FDB and Medi-Span will stop publishing the AWPs altogether.

Bulletin Board

Featuring publications, links to articles or resources providing insight into today's pharmaceutical landscape.



Our Daily Meds: How the Pharmaceutical Companies Transformed Themselves Into Slick Marketing Machines and Hooked the Nation on Prescription Drugs

The book *Our Daily Meds*, by *New York Times* reporter Melody Petersen, is the latest addition to a growing body of literature

on the deceptive marketing techniques of the pharmaceutical industry.

The book is broken up into 3 Parts. Part 1, titled *Rx Republic*, argues that drug companies have turned America into a medication nation by either creating new diseases or exaggerating the dangers of established disorders. Part 2, or *The Rise of the Medicine Merchants*, is about the history of pharmaceutical marketing techniques, culminating in a magnificent chapter called "Neurontin for Everything." Finally, part 3 details the dangers of side effects of modern medications.

Buy the book just to read Part 2, or *The Rise of the Medicine Merchants*. It is 137 pages of the most eye-opening descriptions of despicable drug-marketing practices I have ever read. It is worth buying for this extraordinary material alone. You will learn how and why the pharmaceutical industry has dug itself into an ethical hole and how it has dragged too many physicians along with it.

Email us your comments after reading the book to pharmacy@bxsi.com.