

## LEGAL NOTICE

### STATE OF NEW JERSEY

#### DEPARTMENT OF HUMAN SERVICES

#### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Medicaid Pharmacy Services and Reimbursement State Fiscal Year 2013

**TAKE NOTICE** that the New Jersey Department of Human Services (DHS), Division of Medical Assistance and Health Services (DMAHS) intends to seek approval from the United States Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS), for an amendment to the New Jersey Medicaid (Title XIX) State Plan, in order to implement State Fiscal Year 2013 (SFY 13) budget provisions included in the Appropriations Act. This Notice is intended to satisfy the requirements of Federal law and regulations, section 1902(a)(13) of the Social Security Act, 42 U.S.C. § 1396a(a)(13) and 42 CFR 447.205.

The amendment would provide that, notwithstanding the provisions of any law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205 where applicable, the amounts hereinabove appropriated for fee-for-service prescription drugs in the Payments for Medical Assistance Recipients – Prescription Drugs or General Assistance Medical Services Account are subject to the following conditions:

(1) the maximum allowable cost for legend and non-legend drugs shall be calculated based on the lowest of

(i) the Estimated Acquisition Cost (EAC), defined as a drug's Wholesale Acquisition Cost less a volume discount of one (1) percent;

(ii) the federal upper limit (FUL); or (iii) the State upper limit (SUL); and

(iv) cost acquisition data submitted by providers of pharmaceutical services for single-source or brand-name multi-source drugs where an alternative pricing benchmark is not available;

(2) pharmacy reimbursement for legend and non-legend drugs shall be calculated based on

(i) the lowest of the EAC, FUL or SUL plus a dispensing fee of \$3.73 to \$3.99; or a provider's usual and customary charge; or

(ii) the lower of cost acquisition data submitted by providers of pharmaceutical services for single-source or brand-name multi-source drugs, where an alternative pricing benchmark is not available, plus a professional fee; or a provider's usual and customary charge.

To effectuate the calculation of SUL rates and/or the calculation of single-source and brand-name multi-source legend and non-legend drug costs where an alternative pricing benchmark is not available, which is intended to be budget neutral, the Department of Human Services shall mandate ongoing submission of current drug

acquisition data by providers of pharmaceutical services. No funds hereinabove appropriated shall be paid to any entity that fails to submit required data.

A copy of this Notice is available for public review at the local Medical Assistance Customer Centers, County Welfare Agencies, and on the Department's website at <http://www.state.nj.us/humanservices/providers/grants/public/index.html>. Comments or inquiries must be submitted in writing within 30 days of the date of this notice to:

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