



November 13, 2023

Van T. Mitchell
Chair
Maryland Prescription Drug Affordability Board
1690 Science Drive, Suite 112-114
Bowie, MD 20715

Submitted via comments.pdab@maryland.gov

Re: Upper Payment Limit Action Plan

Chair Mitchell,

On behalf of our members operating in Maryland, the National Association of Chain Drug Stores (NACDS) is writing to comment on the Prescription Drug Affordability Board's proposed Upper Payment Limit (UPL) Action Plan which was discussed at the last Stakeholder Council meeting on October 23. We fear that there may be significant impact on the availability and accessibility of certain prescription drugs at a patient's neighborhood pharmacy through the unintended consequences of inadequate and unfair pharmacy reimbursement by some payers resulting from the implementation of a UPL for certain drugs.

Reimbursement Overview

Pharmacy reimbursement is typically made up of two parts: 1) the product cost; and 2) a professional dispensing fee. The dispensing fee is calculated to incorporate the costs of a pharmacist's time reviewing the patient's medication history/coverage, filling the container, performing a drug utilization review, overhead expenses (rent, heat, etc.), labor expenses, patient counseling, medication therapy management and more to provide quality patient care¹. In 2016, the Centers for Medicare & Medicaid Services (CMS) required all states adopt a more transparent reimbursement model under the 2016 Covered Outpatient Drug Final rule². That rule used actual acquisition cost and a professional dispensing fee to balance the need for affordable solutions and adequate reimbursement for actual costs. Maryland Medicaid performed a cost of dispensing (COD) study in 2020 that found on average, Maryland pharmacies, including specialty, spent \$13.72 to dispense most medications. Additionally, for non-specialty pharmacies only, the average cost of dispensing was \$12.03 per prescription.

Without the necessary guardrails, the proposed Upper Payment Limit Action Plan could inadvertently result in inadequate reimbursements to pharmacy providers and pharmacies by not making up the difference between the UPL and the pharmacy's cost to acquire and dispense the prescribed drug. This outcome could force pharmacies to either operate at loss, make tough decisions regarding certain medications to stay afloat, or worse, close their doors permanently or completely—ultimately worsening patient outcomes and reducing medication adherence. Careful consideration of the impact on pharmacies is important to help avoid preventable adverse downstream consequences on patient access to vital medications and overall health outcomes under these actions.

¹ CMS defines the professional dispensing fee at 42 CFR § 447.502 <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-447/subpart-I/section-447.502>

² Medicaid Program; Covered Outpatient Drugs, 81 FR 5169 <https://www.federalregister.gov/documents/2016/02/01/2016-01274/medicaid-program-covered-outpatient-drugs>

Proposed Solution to Ensure Marylanders' Access to Affordable Medications

The following proposals can easily address the issue of fair and adequate reimbursement. First, the PDAB must ensure that the established UPL, at a minimum, covers the cost for the pharmacy to acquire/purchase the prescription drug. This means that a prescription drug product purchaser or third-party payer cannot reimburse a pharmacy licensed by the state for a prescription drug product in an amount less than a UPL for the prescription drug product. Second, the UPL must include a requirement for payers to provide a professional dispensing fee or administration fee aligned with Maryland Medicaid's professional dispensing fee rates (discussed above) on any prescription claim subject to a UPL.

NACDS appreciates the board's endeavors to reduce prescription drug costs and to enhance affordability for Marylanders. We strongly encourage the incorporation of adequate reimbursement safeguards in the Upper Payment Limit Action Plan. This will ensure the PDAB protects all community pharmacies while continuing its vital work to alleviate patient costs. For questions or further discussion, please contact Jill McCormack, Regional Director of State Government Affairs, at JMcCormack@nacds.org.

Sincerely,



Steven C. Anderson, FASAE, CAE, IOM
President and Chief Executive Officer
National Association of Chain Drug Stores

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NACDS represents traditional drug stores, supermarkets and mass merchants with pharmacies. Chains operate over 40,000 pharmacies, and NACDS' member companies include regional chains, with a minimum of four stores, and national companies. Chains employ nearly 3 million individuals, including 155,000 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. NACDS members also include more than 900 supplier partners and over 70 international members representing 21 countries. Please visit NACDS.org.