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## URGENT CALL TO ACTION

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# MINNESOTA MEDICAID IGNORES AWP ADJUSTMENTS

### BACKGROUND

Most State Medicaid programs, including Minnesota, reimburse pharmacies based on the Average Wholesale Price (AWP) for single source, brand name prescription drug products. The principal companies that calculate and report AWP are First DataBank (FDB) and Medi-Span (MS). Drug manufacturers provide the Wholesale Acquisition Price ("WAC") for drug products and then FDB and MS calculate AWP as 120-125 percent of WAC. The purpose of this mark-up is to reflect the fact that there is a difference between the prices paid by drug wholesalers and the prices paid by pharmacies. State Medicaid programs typically reimburse pharmacies at a discount off AWP (e.g., AWP minus 15 percent). \*

### LEGAL CHALLENGE

Two class action lawsuits were filed against FDB and MS, challenging the mark-up of WAC used to calculate AWP for 1,442 drug products. According to the plaintiffs, AWP for these products should have been 120 percent of WAC, not 125 percent of WAC. The class plaintiffs include unions and other third-party payers and consumers who paid for prescription drugs based on AWP. Federal and state government payers, including state Medicaid programs, were specifically excluded from the class. Both FDB and Medi-Span have denied any wrongdoing or responsibility.

### SETTLEMENTS

In 2006, the parties to the litigation proposed settlements that would have required FDB and MS to reduce AWP for 8,000 drug products to 120 percent of WAC. The settlements also would have required

FDB and MS to eventually stop publishing AWP. The settlements were rejected by the court in January, 2008 due, in part, to the potential negative impact that the settlements could have on community pharmacies.

Later in 2008, the parties amended their proposed settlements to require FDB and MS to reduce AWP for 1,442 drug products to 120 percent of WAC. FDB and MS subsequently issued customer letters stating that if the settlements were approved then FDB and MS will reduce AWP for essentially all drug products on September 26, 2009, and the companies will cease publishing AWP altogether two years later. On March 17, 2009, the settlements were approved by the court, with AWP reductions scheduled to begin on September 26, 2009

### IMPACT ON PHARMACIES

It is important to understand that the changes to be caused by the settlements will only reduce calculations of AWP – the settlements will not reduce the prices pharmacies pay for drugs. These changes to AWP would reduce Medicaid reimbursement to pharmacies by about 4 percent. However, for pharmacy providers that 4 percent reduction equates to a reduction of over 50 percent on per claim basis for the affected brand name prescription drugs. The example below illustrates this for an average priced Medicaid branded prescription.

Zyprexa 2.5mg #30

AWP - \$274.13

WAC – \$219.31-Pharmacy's purchase price  
from wholesaler

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MINNESOTA PHARMACISTS ASSOCIATION • 1935 West County Road B-2, Suite 165, Roseville, MN 55113

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Acquisition cost (WAC-2%) - \$214.92  
MN Care Tax (2% of invoice price) \$4.30

Reimbursement under current formula  
AWP-15% +\$3.65 - MN Care Tax = Total  
Rx Reimbursement  
 $(\$274.13) \times (0.85) = \$233.01 + \$3.65 - \$4.30 =$   
\$232.36

Reimbursement under new (lower) AWP prices  
 $(\$263.16) \times (0.85) = \$223.69 + \$3.65 - \$4.30 =$   
\$223.04

$\$232.36 - \$214.92 = \$17.44$  gross profit (old)  
 $\$223.04 - \$214.92 = \$8.12$  gross profit (new)

$\$8.12/\$17.44 \times 100 = 46\%$  or a **54% reduction**  
**in gross profit**

The average gross profit on a single source prescription under Minnesota Medicaid will be approximately **\$8.12**.

The estimated cost to dispense a Medicaid prescription in 2007 was **\$10.48** based on a cost of dispensing study commissioned by the State Of Minnesota in 2006.

Based on this, Minnesota pharmacies would lose, on average, **\$6.01** on every prescription they fill for a single source brand.

This scenario will occur unless state Medicaid programs take action to account for the revisions to AWP. Because the gross profit margin for pharmacies is small, even a relatively small % reduction to the AWP has a dramatic reduction in the payment to the pharmacy.

## APPROPRIATE RESPONSE BY STATE MEDICAID AGENCIES

MPhA requested two months ago that DHS quickly act to mitigate the effect of the AWP rollback on community pharmacies that provide services to citizens in Minnesota, especially those most in need of medications, the chronically ill and elderly, many of whom are served by State Medicaid programs. This is especially relevant in Minnesota where significant cost containment efforts have reduced reimbursement levels for pharmacy providers over the past several years.

Minnesota Medicaid has been asked to hold pharmacy providers economically neutral. Adjusting the pharmacy reimbursement formula to maintain economic neutrality will not require a change in funding for the Medicaid program. This necessary adjustment to the Medicaid reimbursement policy simply accounts for the revised AWP's.

**Commercial insurance plans have individually but universally announced adjustments (effective 9/26/09) to preserve the economic neutrality for pharmacy providers in their networks.**

## MPhA HAS REQUESTED DHS TO IMPLEMENT ONE OF THE FOLLOWING OPTIONS:

- Adjust the discount to AWP in the current Medicaid reimbursement formula so that pharmacies are in no worse position when the settlement is implemented.
- Adjust the payment for each of the affected brand name prescription drugs individually.
- Revise the AWP-minus formula to a corresponding WAC-plus formula.

Commercial plans and pharmacy benefit managers are adjusting their reimbursement models using one of these three methods. These necessary adjustments will ensure that pharmacies are not unfairly harmed by the court settlement.

**MPhA has learned that Minnesota Medicaid plans to do nothing to make these adjustments, which will result in windfall savings to the state at pharmacy's expense.**

## WHAT YOU NEED TO DO TO HELP:

- Call Cal Ludeman commissioner Department of Human Services:651-431-2907.
- Call your legislator. Find your representative using the following sites: [www.house.leg.state.mn.us](http://www.house.leg.state.mn.us) and [www.senate.leg.state.mn.us](http://www.senate.leg.state.mn.us)
- Call MPhA for more information: Julie Johnson 651-789-3204.