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MEMORANDUM

**DATE:** April 3, 2009

**FROM:** Director  
Financial Services Group  
Office of Financial Management

**SUBJECT:** Medicare Secondary Payer--Workers' Compensation--INFORMATION

**TO:** Consortium Administrator for Financial Management and Fee-for-Service Operations

The purpose of this memorandum is to set forth the Centers for Medicare & Medicaid Services' (CMS') procedures regarding the methodology of pricing future prescription drug treatment costs/expenses in Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) proposals.

**NOTE:** References to "prescription drugs" in this document are limited to those prescription drugs covered by Medicare for the treatment of the Workers' Compensation (WC) related injury(ies) and/or illness(es)/disease(s) (hereinafter referred to as "WC injury") at issue.

The CMS will begin independently pricing future prescription drug treatment costs/expenses in WCMSA proposals beginning June 1, 2009. Effective with complete WCMSA submissions received by CMS' Coordination of Benefits (COB) Contractor on or after June 1, 2009, where the WC related injury warrant(s) the need of prescription drugs for the ongoing treatment of the WC related injury, CMS' independent pricing of the prescription drug amount will be calculated and priced using average wholesale price (AWP). The CMS will not use or recognize any other pricing, discounting, or calculation methods when determining the adequacy of the prescription drug amounts in WCMSA proposals.

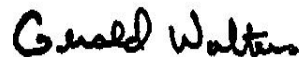
The CMS will apply the following procedures to all WCMSA proposals received on or after June 1, 2009. This procedure will also apply to all closed WCMSA cases that reopen on or after June 1, 2009, as noted below.

If an entity submits a WCMSA proposal to CMS' COB contractor that does not contain an amount for prescription drugs for the treatment of a WC related injury and if, upon further review, CMS deems that the WCMSA warranted the need for prescription drugs for the treatment of the WC related injury, CMS will default to pricing using a pricing strategy of AWP for brand name drugs in determining the adequacy of the prescription drug amount.

If an entity submits a WCMSA proposal to CMS' COB Contractor and the submitter priced the future prescription drug treatment costs/expenses as being "Generic" and there is no "Generic" available, CMS will default to the AWP pricing for brand name drugs in determining the adequacy of the prescription drug amount.

**NOTE:** With regard to closed cases, when the CMS' COB contractor receives the previously requested necessary documentation, the case is considered a new WCMSA submission and the requirements included in all of CMS' current published policy memorandums related to: (1) future medical treatment; and (2) future prescription drug treatment will be applied to the new WCMSA submission.

Please direct questions or concerns to Frank Johnson of my staff at (410) 786-2892.



Gerald Walters

Attachment

