



MARYLAND Department of Health

Larry Hogan, Governor • Boyd Rutherford, Lt. Governor • Dennis Schrader, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM
MCO Transmittal No. 121
Pharmacy Transmittal No. 205
November 28, 2017

TO: Managed Care Organizations
Pharmacies

FROM: Athos Alexandrou, Director
Division of Pharmacy Services
Susan J. Tucker
Susan J. Tucker, Executive Director
Office of Health Services

RE: Charging Participants for Unauthorized Covered Drugs

NOTE: **Please ensure that appropriate staff members in your organization are informed of the contents of this transmittal.**

This transmittal clarifies Maryland Medicaid Program (Program) regulations prohibiting Medicaid providers from charging Program participants for covered items and services. Specifically, it addresses the practice by some pharmacies of charging Program participants for prescribed opioids that do not meet the Program’s authorization requirements. It also addresses the sale of brand name drugs to participants when the Program has not approved those drugs under its medical necessity criteria. These drug sales by pharmacies to Program participants are prohibited.

In order to qualify for Program reimbursement, covered drugs must meet the Program’s authorization criteria. If a covered drug does not meet the Program’s authorization criteria, pharmacies may not charge or accept money from the participant for the drug. State and federal regulations, including 42 CFR 447.15, COMAR 10.09.03.03D, COMAR 10.09.36.03A(9), and the Medicaid Provider Agreement Section I.G., require providers, including pharmacies, to accept Program reimbursement as payment in full for covered items and services. Providers may only charge participants the applicable co-pay amount for all covered drugs, including covered drugs that do not meet the Program’s medical necessity criteria. COMAR 10.09.03.03K states: “[I]f the Program denies payment or requests repayment on the basis that an otherwise covered service was not medically necessary, the provider may not seek payment for that service from the participant.” Accordingly, pharmacies may not sell to Program participants opioids that do not meet its authorization requirements.



The Program is aware of the practice of some pharmacies of selling to Program participants brand name drugs that do not meet the Program's medical necessity criteria. This practice, too, is prohibited by the above-referenced authorities. Those drugs are covered items for which the provider must accept Medicaid reimbursement as payment in full (except for the applicable copay). If Program rules require substitution of a generic drug, for instance, the pharmacy must accept the Program's generic drug reimbursement amount and may not sell to the participant a brand name equivalent, even if the participant agrees to pay the price charged by the pharmacy.

If you have further questions please contact the Maryland Medicaid Fee-for-Service Pharmacy Hotline at (800) 492-5231, option 3.