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MAIL AND PHARMACY PRESCRIPTION DRUG PURCHASING PARITY

The 2004 Vermont Legislature enacted 8 V.S.A. § 4089j (Retail Pharmacies; Filling of Prescriptions). This Bulletin is intended to notify affected parties of the new statute and to issuance guidance from the Department as to the new statute.

Mail and Pharmacy Parity for Prescription Drug Purchases - 8 V.S.A. § 4089j

Section 4089j requires that health insurers and pharmacy benefit managers¹ doing business in Vermont permit a retail pharmacist to fill prescriptions in the same manner and at the same level of reimbursement as those prescriptions are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.

Filling a prescription in the same manner as the mail order pharmacy means that prescriptions are filled so that the consumer has the same cost-sharing obligation and is subject to the same formulary pricing. For example, if a beneficiary could obtain a 90 day supply of a prescribed drug through a mail order pharmacy, and would be charged the co-payment applicable for only one prescription filling or refilling, the beneficiary

¹ A "pharmacy benefit manager" is an entity that performs pharmacy benefit management. "Pharmacy benefit management" is defined in the law to mean "an arrangement for the procurement of prescription drugs at negotiated dispensing rates, the administration or management of prescription drug benefits provided by a health insurance plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

- (A) mail service pharmacy;
- (B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;
- (C) clinical formulary development and management services;
- (D) rebate contracting and administration;
- (E) certain patient compliance, therapeutic intervention, and generic substitution programs; and
- (F) disease management programs." 8 V.S.A. § 4089j(b)(2)

must be able to obtain a 90 day supply from a retail pharmacy while paying the co-payment applicable for only one prescription filling or refilling. Likewise, if a prescription is filled at the mail order pharmacy with cost sharing at the third tier of a prescription drug formulary, it must be filled at the retail pharmacy with the cost sharing applicable to the third tier of the formulary.

The statute's requirement that the prescription be filled at the same level of reimbursement concerns the compensation to the pharmacy. Health insurers and pharmacy benefit managers must permit a retail pharmacist to fill a prescription, with the same amount of the prescribed medication, at the total price that would have been paid to the mail order pharmacy. This total price includes payments by an insurer or pharmacy benefit manager and the insured's cost-sharing payment. For example, if a mail order pharmacy is paid \$105 total (including any cost-sharing by the health plan beneficiary) for a 90-day supply of a particular medication, the retail pharmacy shall receive the same total compensation of \$105.

Retail pharmacies are not obligated to participate or to accept the same level of reimbursement provided to the mail order pharmacy. A retail pharmacy may, for example, continue to fill prescriptions for a 30-day supply and receive the retail pharmacy reimbursement level rather than the amount paid to the mail order pharmacy for that quantity of the medication. In order for a retail pharmacy to determine whether to participate and accept the level of reimbursement provided to mail order pharmacies, all health insurers must disclose the applicable level of reimbursement upon written request from a retail pharmacy.

This law applies to all health insurers, including health insurance companies, health maintenance organizations, and Blue Cross Blue Shield plans, Medicaid, the Vermont health access plan, the VScript pharmaceutical assistance program, and any other public health care assistance program. The law applies to pharmacy benefit managers which perform pharmacy benefit management services for health insurers, including health insurance companies, health maintenance organizations, and Blue Cross Blue Shield plans, Medicaid, the Vermont health access plan, the VScript pharmaceutical assistance program, and any other public health care assistance program. The law does not apply to self-insured plans that are exempt from state regulation by virtue of federal law, and the law does not apply to pharmacy benefit managers that perform pharmacy benefit management services for such exempt plans. For health insurance policies, the provisions apply upon the first renewal or anniversary date (whichever is sooner) on or after October 1, 2004, but in no event later than September 30, 2005. For all others, the law is effective on June 1, 2004.

If you have any questions concerning this Bulletin, please contact Cassandra S. Edson at (802) 828-2900.

5/11/05

John P. Crowley, Commissioner