

**Center for Medicaid and CHIP Services**

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**May 2, 2017**

**MEDICAID DRUG REBATE PROGRAM NOTICE**

**Release No. 104**

# **For Participating Drug Manufacturers**

## **Clarification on Medicaid Reimbursement and Rebates for Drugs Purchased Through the Federal Supply Schedule**

This guidance provides clarification on the Centers for Medicare & Medicaid Services' (CMS) reimbursement and rebate policies for drugs purchased through the Federal Supply Schedule (FSS). CMS previously issued [Manufacturer Release #53](#) on February 27, 2002 and [State Release #113](#) on March 12, 2002 to provide guidance regarding Medicaid-reimbursed drugs purchased through the Federal Supply Schedule (FSS).

These releases stated, in part, that Indian Health Services (IHS) facilities should not bill drugs that are purchased from the FSS to a third party payor, such as Medicaid. The releases further stated that "IHS facilities should maintain a separate inventory of drugs purchased at open market prices dispensed to Medicaid patients which can then be billed to Medicaid for Medicaid eligible patients." Additionally, the releases explained that manufacturer rebates are not authorized for drugs that are purchased through the 340B program or the FSS; however, drugs purchased through the open market are eligible for manufacturer rebates.

The purpose of this release is to inform states that Manufacturer Release #53 and State Release #113 are no longer valid. There is no statutory or regulatory provision that precludes drugs purchased through the FSS from being billed to and reimbursed by state Medicaid agencies when they are dispensed to Medicaid beneficiaries. Additionally, there is no statutory or regulatory preclusion barring states from billing manufacturers for rebates for these drugs when they are dispensed to Medicaid patients.

Finally, there is no statutory or regulatory preclusion barring states from billing manufacturers for rebates for these drugs when they are dispensed to Medicaid patients. Only drugs that have

been purchased through the 340B drug program that are dispensed to Medicaid patients are exempt from manufacturer rebates.

Questions regarding the Medicaid Drug Rebate Program can be submitted through the drug policy resource mailbox at [RxDrugPolicy@cms.hhs.gov](mailto:RxDrugPolicy@cms.hhs.gov).

Sincerely,

/s/

Michael Nardone  
Director  
Disabled and Elderly Health Programs Group