



Center for Medicaid and State Operations

March 22, 2006

SDM 06-005

Dear State Medicaid Director:

This letter provides guidance concerning State Medicaid responsibility with regard to the redistribution of unused prescription medicines paid for by Medicaid for nursing facility (NF) residents. States must ensure that NFs are properly crediting the Medicaid program for the return of unused prescription medicines upon discontinuance of the prescription or transfer, discharge, or death of a Medicaid beneficiary.

In accordance with section 1903(i)(10) of the Social Security Act as amended by section 6033 of the Deficit Reduction Act of 2005, effective April 1, 2006, FFP is not available to States for the ingredient cost of a covered outpatient drug for which the pharmacy has already received payment (other than with respect to a reasonable restocking fee for such drug).

State Medicaid agencies should have a policy in place to require that unused prescription medicines paid by Medicaid are properly returned and payment credited.

In certain situations, unused drugs may be returned to NF pharmacies and resold by them, provided such returns and resales are consistent with provisions of Federal and State law. Certain States permit pharmacies to resell, reuse, or redistribute certain medications after being dispensed to a NF if the medication has been properly stored, returned unopened, and dispensed in the original packaging. When redistribution is permitted, the NF should adhere to State policy guidelines in place, which should include maintaining documentation of the quantity of medicines dispensed and consumed by the beneficiary, and showing a credit to the State Medicaid Agency when the medication is returned to the pharmacy. The NF and the State may be subject to a financial review to ensure drugs are being returned whenever permitted under State and Federal law, that the Medicaid program receives proper credit, and that no double billing and payment occurs.

States also may have policies in place that limit the amount of drugs a pharmacy can provide to a nursing facility at one given time. Such provisions help to curtail prescription drug waste.

These policies will help ensure that scarce State and Federal resources will better be used to serve the Medicaid population. If you have additional questions, please contact Deirdre Duzor, Director of the Division of Pharmacy at (410) 786-4626.

Sincerely,

/s/

Dennis G. Smith
Director

cc:

CMS Regional Administrators

CMS Associate Regional Administrators
for Medicaid and State Operations

Martha Roherty
Director, Health Policy Unit
American Public Human Services Association

Joy Wilson
Director, Health Committee
National Conference of State Legislatures

Matt Salo
Director of Health Legislation
National Governors Association

Jacalyn Bryan Carden
Director of Policy and Programs
Association of State and Territorial Health Officials

Christie Raniszewski Herrera
Director, Health and Human Services Task Force
American Legislative Exchange Council

Lynne Flynn
Director for Health Policy
Council of State Governments