

## **DISPUTE RESOLUTION—BEST PRACTICES**

### **SUGGESTIONS FOR RESOLVING AGED DISPUTES WHEN DATA IS UNRELIABLE OR UNAVAILABLE**

The Office of the Inspector General's (OIG) recent multi-State review of the Medicaid Drug Rebate Program identified many States with inaccurate or incomplete drug rebate records and large amounts of outstanding disputes. In an effort to respond to the OIG's findings, many States have contacted CMS for suggestions on how to resolve outstanding disputes from the early years of the rebate program where the data needed to resolve the dispute is unreliable and/or unavailable. The following suggestions are specifically designed to address those situations and have been discussed with the OIG to assure that they will hold up to audit standards. When attempting to resolve aged disputes for which related data is unreliable and/or unavailable, States and labelers may want to consider using the following:

- Extrapolated data from the period of time closest to the dispute period. To assure the comparison is as accurate as possible, the data being used should be carefully analyzed and any changes to a State's Medicaid program/population that have occurred should be considered (e.g., changes in drug reimbursement methodology, dispensing fees, prescription limits, drug substitution, eligibility, waivers, etc...)
- Data from States with similar demographics
- State drug reimbursement data
- State drug utilization data
- A State's Federal Financial Participation (FFP) share
- CMS Unit Rebate Amount (URA) data (Please note that States are responsible for maintaining the URAs they receive from CMS and/or labelers)
- Data from other third party data sources
- Prior year invoices
- Prior year data maintained by the labelers or their contractor
- CMS-suggested tolerances (When applying tolerances, documentation must be maintained that clearly identifies the applicable labeler code, NDC(s), quarter(s) and tolerance amount. If CMS-suggested tolerances are applied, States will not be at risk for the loss of FFP for any amounts at or below the tolerances. As a reminder, all resolutions should be unit based and documented appropriately by both parties.

In our experience, the longer that disputes go unresolved, the more difficult it is to obtain the necessary data for resolution; therefore, we strongly urge the resolution of all aged disputes.

We hope you find these suggestions helpful in your dispute resolution efforts.