

OCTOBER, 2009

Department of Veterans Affairs, Dear Manufacturing Letter – October 16, 2009

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Dear Colleagues and Friends,

As you know, the Department of Veterans Affairs issued a Dear Manufacturer letter on October 16, 2009, and the “GP Geeks” at CIS would like to share our thoughts, opinions and analysis on the implications of this letter, as it relates to Non-FAMP reporting in accordance with Section 603 of Public Law 102-585 (Veteran’s Health Care Act of 1992; 38 U.S.C. 8126), as well as provide some key take-away points.

The U.S. Bureau of Labor Statistics indicates the percent change to the Consumer Price Index for All Urban Consumers (CPI-U) is -1.28%. As such, a zero (0) will be used as the CPI-U for the Federal Ceiling Price (FCP) calculations due on November 16, 2009.

The permanent FSS contract price for dual priced manufacturers is the September 30, 2009 price charged to other, non-“Big Four,” government agencies.

The lower of the 2009 annual Non-FAMP calculation and the 2010 FSS Price Cap will become the 2010 FCP.

Manufacturers must back out TRICARE sales/units that went to wholesalers/merchant middlemen at Wholesale Acquisition Cost (WAC). Direct sales to retail chains/retail pharmacies are not included in the calculation as they are not part of the merchant middleman transaction.

The periods in play for the application of backing out TRICARE sales/units are as follows: 2nd quarter 2008, 3rd quarter 2008, 4th quarter 2008, and 1st quarter 2009. Tricare Retail Pharmacy (TRRx) utilization is captured based on the due date (not the paid date). As the due date for payments is 70 days after the invoice date, this creates a two quarter lag.[1]

Sub-ceiling contract transactions that are executed through the 340B Prime Vendor are accordingly considered 340B transactions and are excludable from Non-FAMP calculations.

Sales of specific inpatient covered drugs to disproportionate share hospitals at Sec. 602 prices may be excluded from Non-FAMP if manufacturers have obtained a “hold harmless” letter from the VA.

It should be noted that manufacturers DO NOT have to re-perform Non-FAMP calculations to reflect TRICARE usage for prior periods. The Secretary of the VA has issued a re-filing waiver that is applicable to every manufacturer regardless of when or whether the manufacturer actually paid DoD refunds/rebates for TRICARE script purchases during this timeframe.

We recommend that all manufacturers submit their calculations electronically to Pharmacy Benefits Management (PBM) at the following email address: NonFamp@va.gov.

The PBM will review Non-FAMP submissions and calculate changes in Non-FAMP, additional discounts, and 2010 FCP. Upon conclusion, the PBM will electronically send its calculations back to the manufacturers.

We highly recommend that all manufacturers review the returned files from the PBM for accuracy and completeness. If there are any discrepancies with the PBM's calculations, manufacturers must contact the PBM (preferably by email) within five working days. If the manufacturer does not question the consistency of the calculations, this will constitute acceptance of the VA's FCP calculations.

You can find a copy of the VA's October 16, 2009 Dear Manufacturer Letter on the GP PCX (<http://gp.cis-pcx.com/>) under "Hot Topics." To register for a 30 day free trial of the GP PCX, please click here: <http://gp.cis-pcx.com/register/>

Additional source:

[1] Process and Procedures Guide – Retail Utilization Refunds and Voluntary Agreements for Uniform Formulary Placement:

http://www.tricare.mil/pharm_mfg/downloads/PROCESS%20AND%20PROCEDURES%20GUIDE_040209.pdf