



NATIONAL ASSOCIATION OF
CHAIN DRUG STORES

May 10, 2024

Shelley Bailey
Chair
Oregon Prescription Drug Affordability Board
350 Winter St. NE Room 410
Salem, OR

Re: Upper Payment Limit Approach

Chair Bailey,

On behalf of our members operating in Oregon, the National Association of Chain Drug Stores (NACDS) is writing to comment on the Prescription Drug Affordability Board's proposed Upper Payment Limit (UPL) Approach Fact Sheet which was disseminated on April 24. We fear that there may be a significant impact on the availability and accessibility of certain prescription drugs at a patient's neighborhood pharmacy through the unintended consequences of inadequate and unfair pharmacy reimbursement by some payers resulting from the implementation of a UPL for certain drugs. Specifically, the language found in the fact sheet mentions that all supply chain participants could "amend current business processes and/or pricing algorithms to be based upon the Oregon UPL." Even more concerning, the fact sheet states that downstream supply chain participants could "purchase or reimburse **at or below the UPL, but not above**" (emphasis added). As outlined below, allowing PBMs leeway to reimburse below the UPL will have dangerous and avoidable consequences for community pharmacies and threaten patient access to critical medications and health care services.

Reimbursement Overview

Pharmacy reimbursement is typically made up of two parts: 1) the product cost; and 2) a professional dispensing fee. The dispensing fee is calculated to incorporate the costs of a pharmacist's time reviewing the patient's medication history/coverage, filling the container, performing a drug utilization review, overhead expenses (rent, heat, etc.), labor expenses, patient counseling, medication therapy management and more to provide quality patient care. In 2016, the Centers for Medicare & Medicaid Services (CMS) required all states to adopt a more transparent reimbursement model under the 2016 Covered Outpatient Drug Final rule. That rule used actual acquisition costs and a professional dispensing fee to balance the need for affordable solutions and adequate reimbursement for actual costs.

Without the necessary guardrails, the proposed Upper Payment Limit Action Plan could inadvertently result in inadequate reimbursements to pharmacy providers and pharmacies by failing to make up the difference between the UPL and the pharmacy's cost to acquire the drug. This outcome could ultimately force pharmacies to either operate at a loss, make tough decisions regarding certain medications to stay afloat, or worse, close their doors permanently or completely. Careful consideration of the impact on pharmacies is important to help avoid unintended adverse downstream consequences on patient access to vital medications and overall health outcomes under these actions.

Proposed Solution to Ensure Access to Affordable Medications

The following proposals can easily address the issue of fair and adequate pharmacy reimbursement. First, the PDAB must ensure that the established UPL, at a minimum, covers the cost for the pharmacy to acquire/purchase the prescription drug. This means that a prescription drug product purchaser or third-party payer **cannot** reimburse a pharmacy licensed by the state for a prescription drug product in an amount less than a UPL for the prescription drug product. Second, the UPL must include a requirement for payers to provide a professional dispensing fee aligned with Oregon Medicaid’s professional dispensing fee rates on any prescription claim subject to a UPL.

NACDS appreciates the board's endeavors to reduce prescription drug costs and enhance affordability for Oregonians. We strongly encourage the incorporation of adequate reimbursement safeguards in the proposed Upper Payment Limit Approach. This will ensure the PDAB protects all community pharmacies while continuing its vital work to alleviate patient costs. For questions or further discussion, please contact Sandra Guckian, Vice President of State Pharmacy & Advocacy, at SGuckian@NACDS.org.

Sincerely,



Steven C. Anderson, FASAE, CAE, IOM
President and Chief Executive Officer
National Association of Chain Drug Stores

###

NACDS represents traditional drug stores, supermarkets and mass merchants with pharmacies. Chains operate over 40,000 pharmacies, and NACDS’ member companies include regional chains, with a minimum of four stores, and national companies. Chains employ nearly 3 million individuals, including 155,000 pharmacists. They fill over 3 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and healthcare affordability. NACDS members also include more than 900 supplier partners and over 70 international members representing 21 countries. Please visit NACDS.org.