

51488.1 Pharmaceutical Recovery Standards Including Clinics with Special Permits

(a)

The Department shall recover the following pharmaceutical overpayments from pharmaceutical providers, including clinics with special permits, at their respective recovery rates: (1) Services not rendered. 100% of the ingredient cost and professional fee, if any, paid shall be recovered where: (A) The services billed were not provided. (2) Noncovered services. 100% of the ingredient cost and professional fee, if any, paid shall be recovered where: (A) The drug dispensed was different from the drug prescribed or authorized, or was dispensed contrary to the provisions of Section 51513.6. (B) The service billed was rendered to a person ineligible for Medi-Cal. (C) The service billed was not the same as the service rendered and the service rendered was not a covered benefit. (D) The service billed was not a covered benefit. (3) Prescription Splitting. Where the pharmacist, without authorization from the prescriber, dispensed a smaller quantity than prescribed or subsequently authorized which resulted in dispensing one or more refills to provide the beneficiary with an equivalent or nearly equivalent quantity as originally prescribed or subsequently authorized, 100% of the professional fee paid for each such refill shall be recovered. The provisions of this subsection are not applicable to prescriptions reduced to the extent necessary to comply with Section 51313(b). (4) Excessive refills. Where the refills dispensed exceed the directions

for use of the original prescription, 100% of the ingredient cost and professional fee, if any, paid for each refill shall be recovered. (5) Duplicate billings. 100% of the ingredient cost and professional fee, if any, shall be recovered where the provider bills or submits a claim to the Department for which the provider has received and retained payment from the Department, the beneficiary, or from another person on behalf of the beneficiary, subject to the exceptions found in Section 51471. (6) Discriminatory Billing. Where the provider bills or submits a claim for services in any amount in excess of the charge for the same service to the general public, the difference between the amount paid and the charge to the general public shall be recovered, subject to the exceptions found in Section 51480(b). (7) False and Misleading Information. 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the provider submits or causes to be submitted any false or misleading statement of material fact on or in connection with any claim which results in reimbursement for ingredient costs and professional fees, if any, not allowed under the regulations of this division. (8) Drug Discrepancy. (A) 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the drug dispensed is not a covered program benefit. (B) Where the pharmacy or clinic with a special permit dispensed a drug on Medi-Cal List of Contract Drugs, but billed the Department for a different and more costly drug on the Medi-Cal List of Contract Drugs, the difference in ingredient cost between the two drugs shall be recovered. (C) 100% of the ingredient cost shall be recovered, for those drug products subject to the provisions of Section 51513.6, where the pharmacy or clinic with a special permit dispensed a drug product other than the State-designated brand without prior authorization as provided in Section 51003 of this Title. (9) Quantity discrepancy. Where the quantity of drug billed is larger than the quantity of drug dispensed, the difference in the allowable cost

between the quantity paid and quantity dispensed shall be recovered. (10)

Strength discrepancy. Where the strength of the drug billed is greater than the strength of the drug prescribed or dispensed, the difference in the allowable cost between the strength paid and that prescribed or dispensed shall be recovered as long as both strengths are covered benefits. (11) Manufacturer discrepancy.

Where the brand of drug billed is more expensive than the brand of drug dispensed, the difference in the allowable cost between the brand billed and the brand dispensed shall be recovered; except when the brand billed was not stocked by the provider; 100% of the ingredient cost and professional fee, if any, paid shall

be recovered. (12) Lowest Cost Drug Discrepancy. Where the brand of generic drug billed was not the least costly brand of that generic drug stocked in the pharmacy or clinic with a special permit at the time of dispensing the difference in the allowable costs between the brand paid and the least costly brand stocked shall be recovered. No recovery will be sought where a prescriber prohibits

substitution as provided in Section 4047.6 of the Business and Professions Code and as provided in Section 51513(a)(14) of these regulations. (13) Dosage Form

Discrepancy. (A) Unless prior authorization was obtained, 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the directions for use of the dosage form billed do not call for utilization of the drug in the manner

designated for that dosage form in the Medi-Cal List of Contract Drugs. (B) Where the dosage form billed is different from the dosage form dispensed, the difference in allowable cost between the item paid and that dispensed shall be recovered, as

long as both dosage forms are covered benefits. (C) Where the drug quantity dispensed is not in compliance with the Medi-Cal minimum quantity requirements, 100% of the professional fee, if any, plus the difference in cost between the two

quantities paid shall be recovered. (14) Prior Authorization Requirements. 100% of

the ingredient cost and professional fee, if any, shall be recovered under any of the following circumstances: (A) The drug dispensed was not listed in the Medi-Cal List of Contract Drugs and was dispensed without prior authorization. (B) The drug was dispensed contrary to the provisions of Section 51513.6. (C) The drug was dispensed in any manner different from that which was authorized. (15) Code I prescriptions. Unless prior authorization was obtained, 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the drug dispensed is not in compliance with the Code I restrictions in Medi-Cal regulations.

(1)

Services not rendered. 100% of the ingredient cost and professional fee, if any, paid shall be recovered where: (A) The services billed were not provided.

(A)

The services billed were not provided.

(2)

Noncovered services. 100% of the ingredient cost and professional fee, if any, paid shall be recovered where: (A) The drug dispensed was different from the drug prescribed or authorized, or was dispensed contrary to the provisions of Section 51513.6. (B) The service billed was rendered to a person ineligible for Medi-Cal. (C) The service billed was not the same as the service rendered and the service rendered was not a covered benefit. (D) The service billed was not a covered benefit.

(A)

The drug dispensed was different from the drug prescribed or authorized, or was dispensed contrary to the provisions of Section 51513.6.

(B)

The service billed was rendered to a person ineligible for Medi-Cal.

(C)

The service billed was not the same as the service rendered and the service rendered was not a covered benefit.

(D)

The service billed was not a covered benefit.

(3)

Prescription Splitting. Where the pharmacist, without authorization from the prescriber, dispensed a smaller quantity than prescribed or subsequently authorized which resulted in dispensing one or more refills to provide the beneficiary with an equivalent or nearly equivalent quantity as originally prescribed or subsequently authorized, 100% of the professional fee paid for each such refill shall be recovered. The provisions of this subsection are not applicable to prescriptions reduced to the extent necessary to comply with Section 51313(b).

(4)

Excessive refills. Where the refills dispensed exceed the directions for use of the original prescription, 100% of the ingredient cost and professional fee, if any, paid for each refill shall be recovered.

(5)

Duplicate billings. 100% of the ingredient cost and professional fee, if any, shall be recovered where the provider bills or submits a claim to the Department for which the provider has received and retained payment from the Department, the beneficiary, or from another person on behalf of the beneficiary, subject to the exceptions found in Section 51471.

(6)

Discriminatory Billing. Where the provider bills or submits a claim for services in any amount in excess of the charge for the same service to the general public, the difference between the amount paid and the charge to the general public shall be

recovered, subject to the exceptions found in Section 51480(b).

(7)

False and Misleading Information. 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the provider submits or causes to be submitted any false or misleading statement of material fact on or in connection with any claim which results in reimbursement for ingredient costs and professional fees, if any, not allowed under the regulations of this division.

(8)

Drug Discrepancy. (A) 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the drug dispensed is not a covered program benefit. (B) Where the pharmacy or clinic with a special permit dispensed a drug on Medi-Cal List of Contract Drugs, but billed the Department for a different and more costly drug on the Medi-Cal List of Contract Drugs, the difference in ingredient cost between the two drugs shall be recovered. (C) 100% of the ingredient cost shall be recovered, for those drug products subject to the provisions of Section 51513.6, where the pharmacy or clinic with a special permit dispensed a drug product other than the State-designated brand without prior authorization as provided in Section 51003 of this Title.

(A)

100% of the ingredient cost and professional fee, if any, paid shall be recovered where the drug dispensed is not a covered program benefit.

(B)

Where the pharmacy or clinic with a special permit dispensed a drug on Medi-Cal List of Contract Drugs, but billed the Department for a different and more costly drug on the Medi-Cal List of Contract Drugs, the difference in ingredient cost between the two drugs shall be recovered.

(C)

100% of the ingredient cost shall be recovered, for those drug products subject to the provisions of Section 51513.6, where the pharmacy or clinic with a special permit dispensed a drug product other than the State-designated brand without prior authorization as provided in Section 51003 of this Title.

(9)

Quantity discrepancy. Where the quantity of drug billed is larger than the quantity of drug dispensed, the difference in the allowable cost between the quantity paid and quantity dispensed shall be recovered.

(10)

Strength discrepancy. Where the strength of the drug billed is greater than the strength of the drug prescribed or dispensed, the difference in the allowable cost between the strength paid and that prescribed or dispensed shall be recovered as long as both strengths are covered benefits.

(11)

Manufacturer discrepancy. Where the brand of drug billed is more expensive than the brand of drug dispensed, the difference in the allowable cost between the brand billed and the brand dispensed shall be recovered; except when the brand billed was not stocked by the provider; 100% of the ingredient cost and professional fee, if any, paid shall be recovered.

(12)

Lowest Cost Drug Discrepancy. Where the brand of generic drug billed was not the least costly brand of that generic drug stocked in the pharmacy or clinic with a special permit at the time of dispensing the difference in the allowable costs between the brand paid and the least costly brand stocked shall be recovered. No recovery will be sought where a prescriber prohibits substitution as provided in Section 4047.6 of the Business and Professions Code and as provided in Section 51513(a)(14) of these regulations.

(13)

Dosage Form Discrepancy. (A) Unless prior authorization was obtained, 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the directions for use of the dosage form billed do not call for utilization of the drug in the manner designated for that dosage form in the Medi-Cal List of Contract Drugs. (B) Where the dosage form billed is different from the dosage form dispensed, the difference in allowable cost between the item paid and that dispensed shall be recovered, as long as both dosage forms are covered benefits. (C) Where the drug quantity dispensed is not in compliance with the Medi-Cal minimum quantity requirements, 100% of the professional fee, if any, plus the difference in cost between the two quantities paid shall be recovered.

(A)

Unless prior authorization was obtained, 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the directions for use of the dosage form billed do not call for utilization of the drug in the manner designated for that dosage form in the Medi-Cal List of Contract Drugs.

(B)

Where the dosage form billed is different from the dosage form dispensed, the difference in allowable cost between the item paid and that dispensed shall be recovered, as long as both dosage forms are covered benefits.

(C)

Where the drug quantity dispensed is not in compliance with the Medi-Cal minimum quantity requirements, 100% of the professional fee, if any, plus the difference in cost between the two quantities paid shall be recovered.

(14)

Prior Authorization Requirements. 100% of the ingredient cost and professional fee, if

any, shall be recovered under any of the following circumstances: (A) The drug dispensed was not listed in the Medi-Cal List of Contract Drugs and was dispensed without prior authorization. (B) The drug was dispensed contrary to the provisions of Section 51513.6. (C) The drug was dispensed in any manner different from that which was authorized.

(A)

The drug dispensed was not listed in the Medi-Cal List of Contract Drugs and was dispensed without prior authorization.

(B)

The drug was dispensed contrary to the provisions of Section 51513.6.

(C)

The drug was dispensed in any manner different from that which was authorized.

(15)

Code I prescriptions. Unless prior authorization was obtained, 100% of the ingredient cost and professional fee, if any, paid shall be recovered where the drug dispensed is not in compliance with the Code I restrictions in Medi-Cal regulations.

(b)

Audit Findings. Notwithstanding the provisions of paragraph (a) where a service has been rendered, mitigating or ameliorating facts and circumstances will be considered in determining the audit findings.

(c)

Recovery shall be made for services not in conformance with new program requirements only when there has been notice of such requirements in Department bulletins or fiscal intermediary mailings. All previously published Department bulletins and fiscal intermediary mailings, mailed to providers prior to the operative date of this section shall remain in effect until amended or

withdrawn by the Department.