

2023 Kansas Statutes

40-3830. Same; maximum allowable cost list requirements; frequency of updates; appeals process. A pharmacy benefits manager, including the pharmacy benefits manager for the state healthcare benefits program, shall:

- (a) Not place a drug on a MAC list unless there are at least two therapeutically equivalent multi-source generic drugs, or at least one generic drug available from at least one manufacturer, generally available for purchase by network pharmacies from national or regional wholesalers and the national drug code for the drug is not obsolete;
- (b) provide to each network pharmacy at the beginning of the term of a contract and upon request thereafter, the sources utilized to determine the maximum allowable cost price;
- (c) provide a process for each network pharmacy provider to readily access the maximum allowable price specific to that provider;
- (d) review and update each applicable maximum allowable cost list every seven business days and apply the updates to reimbursements not later than one business day;
- (e) ensure that dispensing fees are not included in the calculation of maximum allowable cost;
- (f) establish a reasonable administrative appeal procedure to allow a pharmacy or pharmacy's contracting agent to challenge MAC for a specific drug as:
 - (1) Not meeting the requirements of this section;
 - (2) being below the cost at which the pharmacy may obtain the drug;
- (g) include in any administrative appeals procedure the following:
 - (1) A dedicated telephone number and email address or website for the purpose of submitting administrative appeals; and
 - (2) the ability to submit an administrative appeal directly to the pharmacy benefits manager regarding the pharmacy benefits plan or program or through a pharmacy service administrative organization;
- (h) permit a network pharmacy or a network pharmacy's contracting agent to file an administrative appeal not later than 10 business days after the fill date;
- (i) require that the pharmacy benefits manager only request the following information to determine a MAC administrative appeal:
 - (1) The prescription number;
 - (2) the provider's name;
 - (3) the national drug code used during the filing of the claim;
 - (4) the date of the fill;
 - (5) the reimbursement amount; and
 - (6) such other information related to the appealed claim as required by contract; and
- (j) (1) provide a response to the appealing network pharmacy not later than 10 business days after receiving an appeal request containing information sufficient for the pharmacy benefits manager to process the appeal as specified by the contract.
 - (2) If the appeal is upheld, the pharmacy benefits manager:
 - (A) Shall make the adjustment in the drug price effective not later than one business day after the appeal is resolved;
 - (B) shall make the adjustment applicable to all similarly situated network pharmacy providers, as determined by the plan sponsor or pharmacy benefits manager, as appropriate; and
 - (C) * permit the appealing pharmacy to reverse and rebill the appealed claim.
 - (3) If the appeal is denied, the pharmacy benefits manager shall provide the appealing pharmacy the reason for the denial and the national drug code number from a national or regional wholesaler operating in Kansas where the drug is generally available for purchase at a price equal to or less than the maximum allowable cost, and when applicable, may be substituted lawfully.

History: L. 2016, ch. 13, § 2; L. 2022, ch. 44, § 10; July 1.

* The word "shall" should have been included.