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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1201

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2011.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized by Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code; also the Patient Protection and Affordable Care Act (Affordable Care Act), P.L. 111-148 (amended Title XIX (Medicaid) of the Social Security Act).

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The federal Affordable Care Act of 2010 requires all state Medicaid programs to cover smoking cessation products for children and pregnant women. This rulemaking aligns this chapter of rules with federal law by adding exemptions for children and pregnant women to the rule that excludes coverage of smoking cessation products.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is being done to comply with deadlines in amendments to governing law or federal programs, in particular, the federal Affordable Care Act (P.L. 111-148).

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year.

The total projected budget impact is $11,114 ($3,330 in state funds and $7,784 in federal funds) for SFY 2012. Any savings from reduced health care costs due to a reduction in smoking related illnesses are not incorporated into this fiscal impact statement.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Matt Wimmer at (208) 364-1989.

DATED this 7th day of December, 2011.

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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0309-1201

662. PRESCRIPTION DRUGS: COVERAGE AND LIMITATIONS.

01. General Drug Coverage. The Department will pay for those prescription drugs not excluded by Subsection 662.04 of these rules which are legally obtainable by the order of a licensed prescriber whose licensing allows for the prescribing of legend drugs, as defined under Section 54-1705(28), Idaho Code, and which are deemed medically necessary as defined in Section 011 of these rules. (3-30-07)

02. Dispensing Fee. Dispensing Fee is defined as the cost of filling a prescription including direct pharmacy overhead and is one (1) of two (2) types: (3-30-07)

a. Regular Dose Fee. For services pertaining to the usual practice of pharmacy, including but not limited to: (3-30-07)

i. Interpretation, evaluation, compounding, and dispensing of prescription drug orders; (3-30-07)

ii. Participation in drug selection; (3-30-07)

iii. Drug administration; (3-30-07)

iv. Drug regimen and research reviews; (3-30-07)

v. Proper storage of drugs; (3-30-07)

vi. Maintenance of proper records; (3-30-07)

vii. Prescriber interaction; and (3-30-07)

viii. Patient counseling. (3-30-07)

b. Unit Dose Fee. Unit-dose dispensing is defined as a system of providing individually sealed and appropriately labeled unit dose medication that ensures no more than a twenty-four (24) hour supply in any participant's drug tray at any given time. These drug trays, which contain a twenty-four (24) hour supply of medication, must be delivered to the facility at a minimum of five (5) days per week. (3-30-07)

03. Limitations on Payment. Medicaid payment for prescription drugs will be limited as follows: (3-30-07)

a. Days' Supply. Medicaid will not cover any days' supply of prescription drugs that exceeds the quantity or dosage allowed by these rules. (3-30-07)

b. Brand Name Drugs. Medicaid will not pay for a brand name product that is part of the federal upper limit (FUL) or state maximum allowable cost (SMAC) listing when the physician has not specified the brand name drug to be medically necessary. (3-30-07)

c. Medication for Multiple Persons. When the medication dispensed is for more than one (1) person, Medicaid will only pay for the amount prescribed for the person or persons covered by Medicaid. (3-30-07)

d. No Prior Authorization. Medicaid will not pay for a covered drug or pharmacy item that requires, but has not received, prior authorization for Medicaid payment as required in Section 663 of these rules. (3-30-07)

e. Limitations to Discourage Waste. Medicaid may conduct drug utilization reviews and impose limitations for participants whose drug utilization exceeds the standard participant profile or disease management guidelines determined by the Department. (3-30-07)

04. Excluded Drug Products. The following categories and specific products are excluded from coverage by Medicaid: (3-30-07)

a. Non-Legend Medications. Federal legend medications that change to non-legend status, as well as their therapeutic equivalents regardless of prescription, status unless: (3-30-07)

i. They are included in Subsection 662.05.b. of these rules; or (3-30-07)

ii. The Director determines that non-legend drug products are covered based upon appropriate criteria including the following: safety, effectiveness, clinical outcomes of the drug in comparison with other therapeutically interchangeable alternative drugs, cost, and the recommendation of the Pharmacy And Therapeutics Committee. Therapeutically interchangeable is defined in Subsection 663.01.e. of these rules. (3-30-07)

b. Legend Drugs. Any legend drugs for which federal financial participation is not available. (3-30-07)

c. Diet Supplements. Diet supplements and weight loss products, except lipase inhibitors when prior authorized as outlined in Section 663 of these rules. (3-30-07)

d. Amphetamines and Related Products. Amphetamines and related products for cosmetic purposes or weight loss. Amphetamines and related products which are deemed to be medically necessary may be covered if prior authorized as outlined in Section 663 of these rules. (3-30-07)

e. Ovulation/Fertility Drugs. Ovulation stimulants, fertility drugs, and similar products. (3-30-07)

f. Impotency Aids. Impotency aids, either as medication or prosthesis. (3-30-07)

g. Tobacco Cessation Products. Nicotine chewing gum, sprays, inhalers, transdermal patches and related products, with the exception that both legend and non-legend tobacco cessation products will be covered for children and pregnant women when prescribed by their physician. ~~(3-30-07)~~(7-1-11)T

h. Medications Utilized for Cosmetic Purposes. Medications utilized for cosmetic purposes or hair growth. Prior authorization may be granted for these medications if the Department finds other medically necessary indications. (3-30-07)

i. Vitamins. Vitamins unless included in Subsection 662.05.a. of these rules. (3-30-07)

j. Dual Eligibles. Drug classes covered under Medicare, Part D, for Medicaid participants who are also eligible for Medicare. (3-30-07)

05. Additional Covered Drug Products. Additional drug products will be allowed as follows: (3-30-07)

a. Therapeutic Vitamins. Therapeutic vitamins may include: (3-30-07)

i. Injectable vitamin B12 (cyanocobalamin and analogues); (3-30-07)

ii. Vitamin K and analogues; (3-30-07)

iii. Pediatric legend vitamin-fluoride preparations; (3-30-07)

iv. Legend prenatal vitamins for pregnant or lactating women; (3-30-07)

v. Legend folic acid; (3-30-07)

vi. Oral legend drugs containing folic acid in combination with Vitamin B12 and/or iron salts, without additional ingredients; ~~and~~ ~~(3-30-07)~~(7-1-11)T

vii. Legend vitamin D and analogues~~.~~; and ~~(3-30-07)~~(7-1-11)T

viii. Legend smoking cessation products for children and pregnant women. (7-1-11)T

b. Prescriptions for Nonlegend Products. Prescriptions for nonlegend products may include: (3-30-07)

i. Insulin; (3-30-07)

ii. Disposable insulin syringes and needles; (3-30-07)

iii. Oral iron salts; ~~and~~ ~~(3-30-07)~~(7-1-11)T

iv. Permethrin~~.~~; and ~~(3-30-07)~~(7-1-11)T

v. Smoking cessation products for children and pregnant women. (7-1-11)T

06. Limitation of Quantities. Medication refills provided before at least seventy-five percent (75%) of the estimated days' supply has been utilized are not covered, unless an increase in dosage is ordered. Days' supply is the number of days a medication is expected to last when used at the dosage prescribed for the participant. No more than a thirty-four (34) days' supply of continuously required medication is to be purchased in a calendar month as a result of a single prescription with the following exceptions: (3-30-07)

a. Doses of Medication. Up to one hundred (100) doses of medication may be dispensed, not to exceed a one hundred (100) day supply for: (3-30-07)

i. Cardiac glycosides; (3-30-07)

ii. Thyroid replacement hormones; (3-30-07)

iii. Prenatal vitamins; (3-30-07)

iv. Nitroglycerin products - oral or sublingual; (3-30-07)

v. Fluoride and vitamin/fluoride combination products; and (3-30-07)

vi. Nonlegend oral iron salts. (3-30-07)

b. Oral Contraceptive Products. Oral contraceptive products may be dispensed in a quantity sufficient for one (1), two (2), or three (3) cycles. (3-30-07)