

§ 58-56A-5. Maximum allowable cost price.

(a) In order to place a prescription drug on the maximum allowable cost price list, the drug must be available for purchase by pharmacies in North Carolina from national or regional wholesalers, must not be obsolete, and must meet one of the following conditions:

- (1) The drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book.
- (2) The drug has a "NR" or "NA" rating, or a similar rating, by a nationally recognized reference.

(b) A pharmacy benefits manager shall adjust or remove the maximum allowable cost price for a prescription drug to remain consistent with changes in the national marketplace for prescription drugs. A review of the maximum allowable cost prices for removal or modification shall be completed by the pharmacy benefits manager at least once every seven business days, and any removal or modification shall occur within seven business days of the review. A pharmacy benefits manager shall provide a means by which the contracted pharmacies may promptly review current prices in an electronic, print, or telephonic format within one business day of the removal or modification.

(c) A pharmacy benefits manager shall ensure that dispensing fees are not included in the calculation of maximum allowable cost price.

(d) A pharmacy benefits manager shall establish an administrative appeals procedure by which a contracted pharmacy or pharmacist, or a designee, may appeal the provider's reimbursement for a prescription drug subject to maximum allowable cost pricing if the amount of reimbursement for the drug is less than the net amount that the network provider paid to the suppliers of the drug. The reasonable administrative appeal procedure must include all of the following:

- (1) A dedicated telephone number and email address or website for the purpose of submitting administrative appeals.
- (2) The ability to submit an administrative appeal regarding the pharmacy benefits plan or program directly to the pharmacy benefits manager or through a pharmacy service administrative organization if the pharmacy service administrative organization has a contract with the pharmacy benefits manager that allows for the submission of appeals.
- (3) No less than 10 calendar days after the applicable prescription fill date to file an administrative appeal.
- (4) A period of no more than 10 calendar days after receipt of notice of the filing of the administrative appeal by the pharmacy benefits manager for a decision to be made on the appeal.
- (5) A requirement that if an appeal is upheld, then, within 10 calendar days of the decision, the pharmacy benefits manager shall take all of the following actions:
 - a. Notify the appellant of the decision.
 - b. Apply the change in the maximum allowable cost effective as of the date the appeal was resolved and make the change effective for all similarly situated pharmacies or pharmacists, as defined by the payor subject to the Maximum Allowable Cost list.
 - c. Permit the appellant to reverse and rebill the claim that was appealed.
- (6) A requirement that if the appeal is denied, then, within 10 calendar days of the decision, the pharmacy benefits manager shall notify the appellant of the decision and provide all of the following information:
 - a. The reason for denial.

- b. The National Drug Code number for the prescription drug that is the subject of the appeal.
- c. The names of the national or regional pharmaceutical wholesalers operating in the State. (2014-120, s. 20(a); 2021-161, s. 1(b).)