

# Part D Advisors Newsletter

## 4<sup>th</sup> Quarter 2007

### RECONCILIATION, REBATES AND THE DRUG FILTER

#### RECONCILIATION SEASON

With the first round of reconciliations due on the 30<sup>th</sup> of November, several Plan Sponsors are scrambling to gather information and complete reconciliation requirements. While only about half of Plan Sponsors are affected by this November 30<sup>th</sup> deadline, it is still creating quite a stir throughout the market. This 12 step endeavor will force Plan Sponsors and Pharmacy Benefit Managers (PBMs) to work together in ways never previously anticipated. The beginning of cost reporting in July of 2006 showed PBMs and Plan Sponsors as teammates working to file accurate, correct and efficient cost reports. However, many Plan Sponsors are growing concerned to see that partnership downgraded to a basic vendor role. While PBMs happily did a good amount of heavy lifting early in the process, few PBMs have stepped up to handle even 1 of the 12 steps in the reconciliation.

#### WHAT DOES FINAL RECONCILIATION MEAN TO ME?

The Retiree Drug Subsidy (RDS) program initially placed a heavy emphasis on accuracy in the requests for payment. After all, as Plan Sponsors are requesting money from Uncle Sam, it is in everyone's best interests not to see money foolishly thrown around. While the last year has flooded Plan Sponsors with changes to reporting requirements and given ambiguous updates, Plan Sponsors are given a last chance to accurately report claims in the Final Reconciliation. The RDS has made the point that audits will place emphasis on the figures filed in Final Reconciliation, in effect, forgiving mistakes made during any interim payment requests.

In a nutshell, Final Reconciliation is not only a requirement of the application, but it is also your opportunity to correct any mistakes you have made along the way and correct your payment requests in the event of an audit. While it is great that the RDS is giving everyone a chance to correct mistakes, this does emphasize how important it is for Plan Sponsors to complete Final Reconciliation accurately.

#### HOW DO I KNOW THAT MY SUBSIDY CALCULATION IS ACCURATE?

There are many parts that make up the subsidy. The subsidy starts with your list of qualified retirees and their claims. When that list is compiled, the claims need to be totaled **by member** and then reduced by any Threshold and Limit Reductions. This portion of the subsidy forms the base of your request. Few Plan Sponsors experience difficulty accumulating this data from their PBM. However, how is a Plan Sponsor to properly filter out ineligible drugs and reduce rebates from the submitted costs?

#### Filtering of Ineligible Drugs

Medicare has identified that there are several drugs not eligible for the subsidy. Some of the drugs are never eligible for subsidy if they are categorized into groups such as Vitamins or Cosmetics. These *Statutory Exclusions* need to be removed from the cost reporting in all cases. However, there are other drugs that are eligible in some instances and ineligible in others, an example of these *Situational Exclusions* are Oral Anti-Cancer drugs. How do I know that my PBM is properly filtering my drugs?

## How does a Plan Filter their Drug Claims?

Unfortunately, Medicare has not given explicit and specific guidance on the drugs to be included or excluded from subsidy filings. So, it is up to each vendor to determine their own filter. For these *Situational Exclusions*, how does a PBM know when to include or exclude a particular claim? The RDS has given 6 options for drug filtering, and simply put they are:

- Exclude all Situational Exclusions
- Make a determination on a claim by claim basis whether each drug is eligible for subsidy or not
- The remaining 4 are approximations that allow Cost Reporters to include some of the drugs and reduce **all** claims by a percentage to account for the ineligible spend.

## What are the Pros and Cons of each Method?

This has been a frustrating topic for many of the Plan Sponsors we have encountered at Part D Advisors. Unfortunately, most PBMs follow the first method to exclude all of the drugs. This is by far the simplest, but can result in an underreporting of as much as **10%** in gross costs. That is a lot of subsidy for Plan Sponsors to lose. Some PBMs have elected to use one of the 4 approximation methods. In most cases, this will show a small improvement in a Plan's subsidy, but can actually cause the subsidy to **decrease**. Part D Advisors is yet to encounter a PBM that attempts multiple methods of filtering to determine how to maximize a Plan's subsidy payment. Worse still, Part D Advisors is yet to encounter a PBM that even attempts to determine claim by claim drug eligibility. Fortunately, there are consultants and third party services that offer these options for interested Plan Sponsors.

It is also extremely important that Plan Sponsors get a degree of comfort from their PBM that the drugs are being removed accurately. In the event that a PBM fails to filter for drugs or includes drugs that should be excluded the Plan Sponsor could be required to pay back **all** subsidy monies collected and be fined for a violation of the false claims act. This excerpt is from the terms to which the Account Representative must agree before submitting for the final payment:

**The costs and other information displayed on this page must be actual, not estimated data. All data presented on this page must be complete and accurate. The completion of this step is for the purpose of obtaining Federal funds. Once this step is completed, it cannot be undone or reversed.**

## What Can a Plan Sponsor Do to Change Filtering Options?

My first piece of advice to any Plan Sponsor concerned about their drug filtering is to speak to their Cost Reporter (in most cases, the PBM). Any Cost Reporter will be able to tell you which method they use and why. Unless they tell you that they are determining claim eligibility for each claim, ask them if they offer other options and if you can get a report comparing the subsidy amount for each option. In the event that a PBM refuses or states that they only offer the first method, it may be in the Plan's best interest to enlist the assistance of a consultant or third party to filter the drug data externally from the PBM.

## Calculation of Actual Rebate Adjustment

The RDS program requires that all rebates paid on behalf of the Plan be reduced from the subsidy request. The RDS allows Plan Sponsors to allocate this reduction by taking the rebates as a percentage of all drug claims expended during the plan year. Allocating the rebates are ultimately the responsibility of the Plan Sponsor; please view this excerpt from the document "[CMS Guidance on Calculating and Reporting Rebates and Similar Price Concessions under the Retiree Drug Subsidy Program – 7/23/2007.](#)"

**"In the event the PBM refuses to provide CMS auditors or the OIG access to drug-event-specific aggregate rebate data as required under its vendor agreement with the RDS Plan Sponsor, CMS reserves the right to impose sanctions against the RDS Plan Sponsor as appropriate."**

### Which rebates need to be included in my Actual Rebate Adjustment?

The RDS requires all rebates be reported in the Actual Rebate Adjustment. This includes rebates that are:

- Received by the Plan Sponsor from the PBM or any Third Party,
- Received by the Plan Sponsor directly from the Drug Manufacturer,
- Retained by the PBM in exchange for a reduction in the Plan Sponsor's Administrative Fees, and
- Retained by the PBM as indirect (not stated) reductions to the Plan Sponsor's Administrative Fees.

### What if my PBM refuses to disclose Rebate Data?

While many Plan Sponsors have a section in their contract that describe the rebates that they will receive, there are not always clauses explaining how much of the rebates will be kept by the PBM. Many PBMs view that information as proprietary and confidential. Some PBMs attempt to "dodge" the issue by using a "Corporate Rebate Adjustment." This allows them to obscure your actual rebates by commingling it with the rest of their client base. Unfortunately, if you are one of the many Plan Sponsors whose PBM will not disclose all retained rebates or offers only a "Corporate Rebate Adjustment," it will be difficult to calculate your rebate adjustment without that figure. Since rebate adjustments vary between Plan Sponsors and PBMs, you should consult the advice of Retiree Drug Subsidy professionals to review the specifics of your situation for the calculation of those rebate figures.

Best of Luck!

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(This article was prepared by Part D Advisors, Inc as a Subsidy Tip in the October Newsletter. If you wish to print and share the information in this newsletter, this Part D Advisors, Inc "credit" statement must be included. For more information regarding Part D Advisors, Inc or its services, please visit [www.PartDAdvisors.com](http://www.PartDAdvisors.com) or contact Part D Advisors, Inc at (888) 447-2783.)