

10-16-2012  
Analyzing Changes to Medicaid Federal Upper Limit Amounts  
Complete Report

Summary

**WHY WE DID THIS STUDY**

Prior OIG work consistently found that the published prices used to set Medicaid's Federal upper limit (FUL) amounts often greatly exceeded prices available in the marketplace. Partly because of OIG work, provisions of the Deficit Reduction Act of 2005, P.L. 109-171, were crafted to substantially change the method for calculating FULs and most likely would have resulted in lower FUL amounts; however, these changes were never implemented because of an injunction against CMS and subsequent changes in the law. The Patient Protection and Affordable Care Act (ACA), P.L. 111-148, enacted in March 2010, also includes provisions that seek to change FUL amounts. In September 2011, CMS began releasing the new FUL amounts to the public in draft form. Given our previous findings that FUL amounts based on published prices greatly exceeded pharmacy acquisition costs and that the new FUL amounts have not taken effect, we compared FUL amounts based on published prices to FUL amounts based on average manufacturer prices (AMP) and then compared both FUL amounts to pharmacy acquisition costs.

**HOW WE DID THIS STUDY**

We compared aggregate pharmacy acquisition costs for selected drugs to (1) FUL amounts based on published prices and (2) FUL amounts based on post-ACA AMPs. We also compared FUL amounts based on published prices to FUL amounts based on post-ACA AMPs and calculated the difference for each drug.

**WHAT WE FOUND**

We found that FUL amounts based on published prices were more than four times greater than sampled pharmacy acquisition costs. We also found that FUL amounts based on AMPs were 61 percent lower than FUL amounts based on published prices, at the median. Despite the reduction in proposed reimbursement, FUL amounts based on AMPs still exceed sampled pharmacy acquisition costs by 43 percent in the aggregate. CMS had not

implemented FUL amounts based on AMPs as of August 2012. Although CMS has taken steps to implement FUL amounts based on AMPs by calculating the new amounts and issuing draft files for review, FUL amounts continued to be based on published prices as of August 2012.

### **WHAT WE RECOMMEND**

Given the results of the body of OIG work and the potential reduction in Medicaid expenditures, we recommend that CMS complete the implementation of the post-ACA AMP-based FUL amounts. CMS concurred with our recommendation and stated that it plans to implement FUL amounts based on AMPs in the near future.

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