



State of New Jersey

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October 27, 2011

RECEIVED

OCT 31 2011

WEISSMAN & MINTZ LLC

Via E-Mail and Regular Mail

Steven P. Weissman, Esq.
Weissman & Mintz
One Executive Drive
Suite 200
Somerset, NJ 08873

Re: Implementation of Medco Arbitration Award

Dear Steve:

Please accept this letter as a response to the issues raised in your August 3, 2011 letter. As you note, the Arbitrator's remedy is both retroactive and prospective. As to the retroactive "make whole" part of the remedy, the award directed that all employees who can prove individual additional costs associated with the impact of the Preferred Drug Step Therapy (PDST) program shall be made whole by the State through reimbursement of "actual added costs" due to the implementation of the PDST program. An employee seeking reimbursement must provide proof of "actual additional costs" before reimbursement will be made.

The State plans to begin implementation of the "make whole" portion of the remedy as follows. Attached please find a PDST Reimbursement Form together with a cover memo from Pensions explaining the purpose of the form and giving instructions for its completion. Affected union members or covered dependents who were denied approval for coverage of a nonpreferred drug and who paid more for the drug than the applicable copay in the collective negotiations agreement will be notified and provided the Reimbursement Form and memo.



As to the prospective part of the remedy, rather than suggesting that the June 30, 2011 expiration of the parties' collective negotiations agreement had an effect upon the award, I raised the issue of the effect of the enactment of P.L. 2011, Chapter 78. As you correctly note, the law vests in the State Health Benefits Plan (SHBP) Design Committee the "responsibility for and authority over the various plans and components of those plans, including for medical benefits, prescription benefits, dental, vision, and any other health care benefits, offered or administered by the program." Moreover, the law provides that the committee "shall have the authority to create, modify, or terminate any plan or component, at its sole discretion."

The implementation steps as to the prospective portion of the award were inextricably tied to the SHBP Design Committee's action which occurred on October 5, 2011 and takes effect on January 1, 2012. The SHBP Design Committee set the plan coverage for prescription drug benefits and determined that the PDST "program and the prescription drug tiers will not be changed from the current program for those groups covered under the arbitration award." Thus, this action provides for the same result as the prospective portion of the remedy in the arbitration award.

Due to the recent action of the SHBP Design Committee and the time required to shut down the PDST program, this shutdown cannot take effect until January 1, 2012, which is also the effective date of the Design Committee's action. Between now and January 1, 2012, any affected union members or covered dependents who pay more for a nonpreferred drug than the applicable copay in the collective negotiations agreement may seek reimbursement using the attached form.

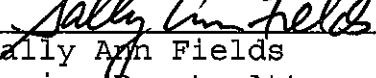
Please note that the reimbursement period covers prescription drug claims that were denied between February 1, 2010 when the PDST program began through December 31, 2011 when the PDST program terminates for affected union members. Because a sixty-day period is being allowed, all reimbursement forms must be filed on or before March 1, 2012.

Please also be advised that it is the State's position that if the SHBP Design Committee should act in the future to set the plan coverage for prescription drug benefits to be effective after December 31, 2012, the Medco arbitration award may no longer be effective as it may be preempted by the Design Committee's plan and the operation of P.L. 2011, Chapter 78.

If you should have any questions, please let me know.

Sincerely,

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By: 
Sally Ann Fields
Senior Deputy Attorney General

att.
SAF/cma

c: Via E-mail and regular mail with attachments

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Sherryl Gordon, Executive Director, AFSCME Council 1
Timothy Rudolph, President, IFPTE Local 195
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October 2011

TO: CWA, AFT, AFSCME, IFPTE, or Local 518 employees
FROM: Division of Pensions and Benefits, State Health Benefits Program
SUBJECT: Reimbursement to Union Members for Prescription Drug Claims Denied under PDST Program

You are receiving this notice because you are a State employee or an employee of a State college or university and represented by CWA, AFT, AFSCME, IFPTE, or Local 518 and were denied coverage under the Employee Prescription Drug Plan for a nonpreferred prescription drug under the Preferred Drug Step Therapy (PDST) program. Under an Arbitration Award applicable to you, you may be entitled to reimbursement as described below if you request reimbursement and meet the following requirements.

You are eligible to receive a reimbursement if:

- 1) A doctor prescribed a medication for you or your covered dependent and when you or your covered dependent presented the prescription to a retail pharmacy or to Medco for a mail order prescription, the prescription was denied for coverage according to the guidelines of the PDST program because it was for a nonpreferred drug; **and**
- 2) As a result of the denial of coverage, you or your covered dependent had to pay:
 - A) The full cost of the drug as evidenced by attaching a copy of the receipt for payment to the form; **or**
 - B) an amount that was more for the drug than the applicable copay set forth in the union contract because the prescription was obtained under a different prescription drug plan.

The reimbursement period covers claims denied under the PDST program between February 1, 2010 through December 31, 2011. To receive a reimbursement, you **MUST** submit the enclosed Reimbursement Form and attach receipts for the purchase of the prescription drugs that were denied coverage. By submitting the enclosed reimbursement form, you are certifying that you or your covered dependent did not receive any reimbursement (including reimbursement from a flexible spending account) for any part of the claimed prescription drug expense. All reimbursement forms must be submitted before March 1, 2012.

Please follow the directions on the reimbursement form and mail the completed and signed form along with all receipts to Medco Health Solutions, Inc. at the address on the back of the form.

Preferred Drug Step Therapy (PDST) Prescription Drug Reimbursement Form

See the back for instructions. Complete all information.
An incomplete form may delay your reimbursement.



medco[®]

Member/Subscriber Information *See your prescription drug ID card.*

Group No.

Member ID

Member Name (First, Last) _____

Street Address _____

City State Zip

Patient Information

Patient Name (First, Last) _____

Patient Date of Birth (Month/Day/Year)

Sex Female Male Relationship to Plan Member
 1 Self 2 Spouse 3 Eligible Child 4 Dependent Student
 5 Disabled Dependent 6 Dependent Parent 7 Nonspouse Partner 8 Other

Pharmacy Information

Name of Pharmacy _____

Street Address _____

City State Zip

Telephone (include area code)

Is this an on-site nursing home pharmacy? Yes No

Acknowledgment

I certify that the medication(s) described above was received for use by the patient listed above, and that I (or the patient, if not myself) am eligible for prescription drug benefits. I also certify that the medication received was not for an on-the-job injury. I recognize that reimbursement will be paid directly to me, and that assignment of these benefits to a pharmacy or any other party is void.

Signature of Member _____

Claim Receipts

Tape receipts or itemized bills on the back.
See back for details.

Check the box below if any receipts or bills are for a:

Medication purchased outside of the United States
 Please indicate:
 Country _____
 Currency used _____

Any person who knowingly and with intent to defraud, injure, or deceive any insurance company, submits a claim or application containing any materially false, deceptive, incomplete or misleading information pertaining to such claim may be committing a fraudulent insurance act which is a crime and may subject such person to criminal or civil penalties, including fines and/or imprisonment, or denial of benefits.*

Please tape receipts on the back.

Claim Receipts

Please tape your receipts here. **Do not staple!** If you have additional receipts, tape them on a separate piece of paper.

Tape receipt for prescription 1 here.

Receipts must contain the following information:

- Date prescription filled
- Name and address of pharmacy
- Doctor name or ID number
- NDC number (drug number)
- Name of drug and strength
- Quantity and days' supply
- Prescription number (Rx number)
- DAW (Dispense As Written)
- Amount paid

Tape receipt for prescription 2 here.

Receipts must contain the following information:

- Date prescription filled
- Name and address of pharmacy
- Doctor name or ID number
- NDC number (drug number)
- Name of drug and strength
- Quantity and days' supply
- Prescription number (Rx number)
- DAW (Dispense As Written)
- Amount paid

Direct Reimbursement Claim Instructions

Read carefully before completing this form.

1. **Be sure your receipts are complete.**

In order for your request to be processed, all receipts must contain the information listed above. Your pharmacist can provide the necessary information if your claim or bill is not itemized.

2. The plan member should read the acknowledgment carefully, then sign and date this form.

3. Return the completed form and receipt(s) to:

Medco
P.O. Box 14711
Lexington, KY 40512

* **California:** For your protection California law requires the following to appear on this form: Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

Pennsylvania: Any person who knowingly and with intent to defraud any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

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