

ALASKA

LEGISLATURE

COMMITTEE

FILES,

1989-1990

8672

836

6432

SENATE

LABOR

&

COMMERCE

Alaska State Legislature

Representative Fran Ulmer



P.O. Box V
Juneau, Alaska 99811
(907) 465-4947

HOUSE OF REPRESENTATIVES

LETTER OF INTENT

CSHB 70

It is the intent of the legislature that the State of Alaska shall implement a pharmaceutical medical assistance program for needy persons with the widest possible delivery of services. Toward that end, the legislature directs the state to plan and implement a program which uses the concepts of the Texas Model reimbursement system to back-up the "fourth option" reimbursement methodology put forth in the Myers and Stauffer "Report On the Cost of Dispensing Pharmaceutical Prescriptions in the State of Alaska. Both systems utilize a formula which is linked to the cost of ingredients. We recognize this system as more equitable to service providers and to be cost effective in implementation.

Alaska State Legislature

Representative Fran Ulmer



P.O. Box V
Juneau, Alaska 99811
(907) 465-4947

HOUSE OF REPRESENTATIVES

MEMORANDUM

March 16, 1989

TO: Members, House Finance Committee

FROM: Rep. Fran Ulmer

RE: CSHB 70

Last year when the Legislature passed CSSB 255 regarding pharmacy services as a Medicaid option, it contained a sunset date of June 10, 1989. The purpose of that sunset provision was to continue the legislative oversight of the program and to ensure that Alaska's program would adequately deliver the services intended.

Unfortunately, the program implemented by the Dept. of Health and Social Services under emergency regulations in January of this year is not having the desired effect. Within the last 30 days we have seen a growing number of providers withdraw from the program with the net result that at least one community is completely without service today. I believe that if we continue in the direction already indicated we will seriously jeopardize the delivery of services throughout Alaska.

For that reason, I recommend that we again add a sunset provision to this legislation, dated June 10, 1990. The legislature needs to continue its oversight of this program. In addition, I recommend that we append a letter of intent to this legislation which directs the Department of Health and Social Services to propose and implement a program which will ensure the widest possible participation by providers and thus the widest delivery of services.

Specifically, I suggest that we direct the department to submit a program proposal to the federal government which uses the Texas reimbursement model for fee structures. This program has been in operation since September, 1985 and was formally approved by the federal government in 1987 when the Medicaid guidelines were changed. Since implementation, the state of Texas reports a

savings of \$103.5 million resulting from the use of their fee structure in combination with an upper limits policy. The administrator of that program, Mr. Robert Harris, reported to me that Texas has hard data showing a \$1 saving per claim.

The Texas model is supported by the Alaska Pharmaceutical Association and will, I believe, result in broad participation by providers. This model is essentially the same as option "four" in the Myers and Stauffer study conducted for the State of Alaska in 1988. The reason that this fee structure is more acceptable than the formula currently in place is that reimbursement is tied to actual cost of goods. The result is a more equitable program. An explanation of the formula is attached.

The administrator of the Texas program reports that the program is relatively easy to implement. The pricing information regarding drugs can either be managed in-house by one professional or can be purchased from computer companies such as First Data Co. in San Francisco.

A fee structure similar to the Texas model was discussed by the agency with Region 10 personnel who said the Alaska program would not be approved. It is clear that, if we move forward with the Texas model in the Alaska program, there will be some objection from the federal government. However, I do not believe the federal government can disallow a program proposal which has already been formally accepted elsewhere in the country. I believe that risk is worth taking, however, in order to address the problem which has already arisen in Alaska in the last 30 days regarding service delivery.

Attached you will find a draft amendment and a letter of intent for which I request your support.

AMENDMENT TO CS HB 70 (HESS)

By ULMER

PAGE 3, LINE 22, replace Sec. 4 with new language:

"This act is repealed on June 10, 1990."

Renumber last section accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

BY COLLINS

TO: CSHB 70(Finance)

Page 1, lines 10 - 11:

Delete "changing the order of priority for eliminating medical assistance coverage for certain services;"

Page 1, line 19, to page 3, line 29:

Delete all material.

Insert new bill sections to read:

"* Sec. 3. Section 2, ch. 120, SLA 1988 is amended to read:

Sec. 2. This Act is repealed July 1, 1990 [1989].

* Sec. 4. Section 3 of this Act takes effect immediately under AS 01.-10.070(c)."

Renumber the following bill sections accordingly.

Page 4, line 6:

Delete "Sections 1 and 3 - 5"

Insert "Section 1"

Delete "take"

Insert "takes"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 27, 1989

SUBJECT: Explanation of amendment
(CSHB 70(Finance))

TO: Senator Dick Eliason

FROM: Terri Lauterbach 
Legislative Counsel

Enclosed is a draft of an amendment relating to pharmacists' liability for dispensing multiple source drugs for which the federal Health Care Financing Administration has established upper limits for reimbursement under the federal medicaid program.

Since Alaska already has a law (AS 08.80.295) limiting the liability of pharmacists for substituting generic drugs, I amended (g) of that section to clarify that a pharmacist could rely on the drug being listed by the HCFA rather than being required to independently judge the practices of a drug manufacturer. The pertinent substantive language addition is in the first several lines of the amendment. The changes in paragraphs (g)(1) - (8) are only grammatical cleanup changes that need not be made if you or the committee prefers not to.

AS 08.80.295(i) already provides that

A pharmacist who substitutes a drug in compliance with this section incurs no greater liability in filling the prescription by dispensing the equivalent drug product than would be incurred in filling the prescription by dispensing the prescribed brand name drug.

Therefore, under the enclosed amendment, a pharmacist would not be subject to greater liability for dispensing an HCFA-approved drug than for dispensing another prescribed drug.

I have enclosed a copy of AS 08.80.295 and the pertinent federal regulations. Please let me know if I can be of further assistance.

TL:kb
wkk4/053
Enclosure

A M E N D M E N T

OFFERED IN THE SENATE

BY ELIASON

TO: CSHB 70 (Finance)

Page 1, after line 16:

Insert a new bill section to read:

"* Sec. 2. AS 08.80.295(g) is amended to read:

(g) A pharmacist may not substitute a product under the provisions of this section unless it has been either identified by the federal Health Care Financing Administration as a multiple source drug for which an upper limit has been established for reimbursement under 42 U.S.C. 1396 - 1396p (Medicaid) or manufactured with the following minimum good manufacturing standards and practices:

(1) [MAINTAIN] quality control standards equal to those of the Food and Drug Administration;

(2) compliance [COMPLY] with regulations adopted by the Food and Drug Administration;

(3) product marking [MARK PRODUCTS] with identification code or monogram;

(4) product labeling [LABEL PRODUCTS] with expiration date;

(5) provision of [PROVIDE] reasonable services to accept returned goods that have reached their expiration date;

(6) maintenance of [MAINTAIN] 24-hour resources for product information where practicable and financially feasible;

(7) [MAINTAIN] recall capabilities for unsafe or defective

drugs;

(8) a prohibition against refusing [MAY NOT REFUSE] to sell
to any properly licensed pharmacy."

Renumber the following bill sections accordingly.

Page 4, line 1:

Delete "2"

Insert "3"

Page 4, line 6:

Delete "and 3 - 5"

Insert ", 2, and 4 - 6"

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

PO BOX H
JUNEAU, ALASKA 99811-0601
PHONE (907) 465-3030

March 15, 1989

Mr. David Moore
Harry Race Pharmacy
Box 1480
Sitka, Alaska 99835

Dear Mr. Moore:

I am very concerned to learn of your withdrawal from the Medicaid pharmacy program within just the first month of operation. I am especially dismayed that you withdrew without providing even the minimum 30-day notice so that program recipients could be advised of alternative means to obtain needed medications. Unfortunately, it does not appear that you have given either a fair chance to this program or to the low income Sitka residents who have come to depend on you. I hope you will look at the impact of your actions and reconsider your decision.

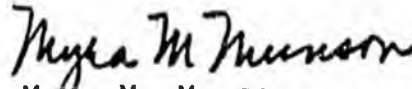
Our data indicates that Medicaid prescriptions only comprise approximately nine percent of your total volume. Additionally, our data shows that even if a 20 percent reduction occurred in Medicaid pharmaceutical rates, you would experience only a 1.5 percent decrease in your gross income. This negligible reduction in your gross income seems insufficient justification for the potential harm that may result from your refusal to serve Medicaid recipients.

If you do change your mind about withdrawing from the program, please let the Division of Medical Assistance know immediately so that Sitka residents and doctors can be notified. Since the legislators from your district have expressed an interest in this issue I have sent a copy of this letter to them and I will also notify them of your re-enrollment as a provider.

March 15, 1989

Although I am confident that we can develop alternate means for Medicaid eligibles to obtain timely access to medications, your decision to withdraw will not allow Sitka residents who rely on Medicaid to have the same direct personal contact with a professional pharmacist as other residents of the community. I hope that you will reconsider your decision and work with us to keep the Medicaid program serving Sitka residents in their home community.

Sincerely,



Myra M. Munson
Commissioner

cc: Representative Grussendorf
Senator Eliason ✓

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

PO. BOX H
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

March 15, 1989

Mr. Dirk White
White Pharmacy
705 Halibut Point Road
Sitka, Alaska 99835

Dear Mr. White:

I am very concerned to learn of your withdrawal from the Medicaid pharmacy program within just the first month of operation. I am especially dismayed that you withdrew without providing even the minimum 30-day notice so that program recipients could be advised of alternative means to obtain needed medications. Unfortunately, it does not appear that you have given either a fair chance to this program or to the low income Sitka residents who have come to depend on you. I hope you will look at the impact of your actions and reconsider your decision.

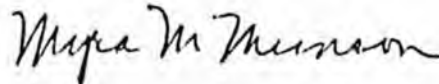
Our data indicates that Medicaid prescriptions only comprise approximately six percent of your total volume. Additionally, our data shows that even if a 20 percent reduction occurred in Medicaid pharmaceutical rates, you would experience only a one percent decrease in your gross annual income. This negligible reduction seems insufficient justification for the potential harm that may result from your refusal to serve Medicaid recipients.

If you do change your mind about withdrawing from the program, please let the Division of Medical Assistance know immediately so that Sitka residents and doctors can be notified. Since the legislators from your district have expressed an interest in this issue I have sent a copy of this letter to them and I will also notify them of your re-enrollment as a provider.

March 15, 1989

Although I am confident that we can develop alternate means for Medicaid eligibles to obtain timely access to medications, your decision to withdraw will not allow Sitka residents who rely on Medicaid to have the same direct personal contact with a professional pharmacist as other residents of the community. I hope that you will reconsider your decision and work with us to keep the Medicaid program serving Sitka residents in their home community.

Sincerely,



Myra M. Munson
Commissioner

cc: Representative Grussendorf
Senator Eliason ✓

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX H
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

April 21, 1989

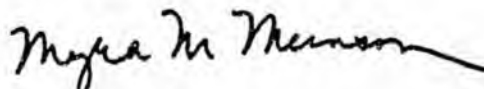
David Moore R.Ph
Sitka Pharmacy, Inc.
Harry Race Drug & Photo
106 Lincoln Street
Sitka, AK 99835

Dear Mr. Moore:

Thank you for the reply to my March 15 letter regarding your withdrawal from the Medicaid pharmacy program. I have added your letter to the record of comments on the regulations.

The Department of Health and Social Services is committed to working to sustain a viable pharmacy program within federal guidelines. I hope that at some point you will rejoin the program so that we can work together to assure all Alaskans have full access to necessary health care.

Sincerely,



Myra M. Munson
Commissioner

cc: Senator Dick Eliason
Representative Ben Grussendorf

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

PO BOX H
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

April 21, 1989

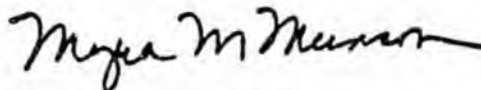
Trish White R.Ph
White's Pharmacy
705 Halibut Point Road
Sitka, AK 99835

Dear Ms. White:

Thank you for the reply to my March 15 letter regarding your withdrawal from the Medicaid pharmacy program. I have added your letter to the record of comments on the regulations.

The Department of Health and Social Services is committed to working to sustain a viable pharmacy program within federal guidelines. I hope that at some point you will rejoin the program so that we can work together to assure all Alaskans have full access to necessary health care.

Sincerely,



Myra M. Munson
Commissioner

cc: Senator Dick Eliason
Representative Ben Grussendorf

ALASKA STATE LEGISLATURE · SENATE

SENATOR RICHARD I. ELIASON

LABOR & COMMERCE COMMITTEE, CHAIRMAN

RESOURCES COMMITTEE

RULES COMMITTEE

SPECIAL COMMITTEE ON HIGH SEAS
SALMON INTERCEPTION

SELECT COMMITTEE ON
LEGISLATIVE ETHICS



P.O. BOX 143
SITKA, ALASKA 99815

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465 4918

FAX (907) 465 4928

March 15, 1989

Dirk White
White's Pharmacy
705 Halibut Point Road
Sitka, Alaska 99835

Dear Dirk:

I just wanted to take this opportunity to thank you for your letter of March 2, and to let you know that I appreciate the dilemma with which you are confronted as a result of the changes in the program.

I feel that I can appreciate the problems you face, as well as the difficulties which have led the state to make the changes in the program. While these changes don't appear to be entirely fair to you, the state is looking at a decrease in its revenues, and is trying to find a way out.

As you may know, the Dept. of Health and Social Services is finalizing its survey results this week, and hearings on the proposed emergency regulations are slated for the last part of March. I have requested that provision be made for Sitkans to testify; it's likely the hearing will be teleconferenced and Sitka will be a site, so you will have a chance to share your views.

It is my understanding that four or five pharmacies in the state are having problems with the new reimbursement system and have decided not to participate at this time. You have probably already received the list of pharmacies which will fill and mail Medicaid prescriptions to people, which answers the question posed in your letter about what to do for those people you used to serve. I do understand why you feel backed into a corner, and that the only option open to you is to refuse to fill Medicaid prescriptions. I sure don't have a good answer for you on that one, but I have hopes that the hearings will lead to some degree of resolution.

Sincerely,

A handwritten signature in cursive script that reads "Dick".

Senator Dick Eliason

Sheila → Dick



White's Inc. • 705 Halibut Point Rd. • Sitka, AK 99835 • (907) 747-5755

3/2/89

HONORABLE SENATOR EASON

ENCLOSURE FIND THE TOTAL THAT THE STATE STILL HAS NOT PAID OUR STORE SINCE THIS TIME LAST YEAR.

ALSO FIND COPIES OF THE PAPERWORK LEFT OVER FROM LAST MONTH. COPY OF TWO RTD'S (RESUBMISSION TURNAROUND DOCUMENT) FOR TWO PEOPLE AND I WILL WAIT ANOTHER 30 DAYS OR SO TO SEE ANY RESPONSE I MAY HAVE TO FILL OUT ANOTHER FORM OR BETTER ^{YET} GET PAID. THEN A COPY OF ONE FORM THAT WAS DENIED. I DON'T UNDERSTAND WHY HER RESOURCE CODES SHOW THAT SHE HAS NO OTHER RESOURCES. I WILL HAVE TO CALL AND TALK TO THE COMPUTER COMPANY ABOUT THIS WHICH WILL TAKE MY TIME OR SOMEBODY ELSE'S. LAST MONTH WAS EXCEPTIONAL WITH ONLY TWO RTD'S AND ONE DENY. EACH RTD TAKES ABOUT 15 MIN TO LOOK UP FILL OUT AND MOVE ON TO THE NEXT ONE PLUS I THEN MUST PAY POSTAGE TO SEND THESE BACK TO THE COMPUTER COMPANY AND THEY THEN ENTER THE DATA INTO THE COMPUTER AT A COST TO THE STATE AGAIN OF \$6.24. ONE OF THE RTD'S IS FOR A MEDICATION THAT HAS BEEN ON THE MARKET FOR A YEAR AND THEY STILL DON'T HAVE IT IN THE COMPUTER, I HAVE SENT RTD'S IN BEFORE WITH COPIES OF THE BOTTLE COPIES OF RED BOOK BUT THEY STILL DON'T HAVE IT IN THE COMPUTER SO I WILL MOST LIKELY NOT GET A RESPONSE BACK ON THAT CLAIM.

AS YOU CAN SEE PROBLEMS EXIST WITH THE PROGRAM THIS IS A SMALL SAMPLE THAT WE DEAL WITH. AT USUAL & CUSTOMARY FEES WE COULD HANDLE THE EXTRA OVERHEAD INVOLVED WITH MEDICINE PRESCRIPTIONS. NOW WITH THE NEW PROPOSAL AND (IVE WHOLESALE PRICE) - 11% + FEE WE LOOK TO TAKE QUITE A LOSS. AFTER LOOKING AT THIS AND TALKING TO OUR ACCOUNTANT WE CAN'T AFFORD TO SELL A PRODUCT AT 20-25% PROFIT SO WE ARE NOT FILLING MEDICINE PRESCRIPTIONS AT THIS TIME →

13.35 +
 17.65 +
 19.45 +
 134.00 +
 20.45 +
 13.05 +
 10.30 +
 13.30 +
 13.35 +
 17.65 +
 20.95 +
 4.00 +
 34.65 +
 4.40 +
 4.00 +
 5.85 +
 40.20 +
 15.05 +
 19.45 +
 28.40 +
 20.45 +
 136.10 +
 123.60 +
 111.40 +
 117.60 +
 19.95 +
 203.85 +
 107.80 +
 49.05 +
 86.35 +
 4.45 +
 24.90 +
 40.50 +
 4.40 +
 11.00 +
 2.10 +
 11.80 +
 13.05 +
 28.05 +
 22.70 +
 22.70 +
 7.50 +
 119.60 +
 38.35 +
 28.40 +
 37.15 +
 37.35 +
 40.58 +

↑ SAME AS ON OTHER SIDE

THIS IS THE TOTAL
 THAT THE STATE OWES
 OUR STORE FROM FEB
 1988 TIL NOW

065
2,490.01 *

000

0.00 *

81.50 +
 15.00 +
 35.50 +
 15.85 +
 3.00 +
 14.40 +
 69.80 +
 21.35 +
 147.00 +
 77.20 +
 24.35 +
 4.40 +
 13.30 +
 4.00 +
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 10.30 +
 34.65 +
 13.35 +
 17.65 +
 19.45 +
 134.00 +
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 17.65 +
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 4.00 +
 34.65 +
 4.40 +
 4.00 +
 5.85 +
 40.20 +
 15.05 +
 19.45 +
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 10.50 +
 133.10 +
 123.60 +
 111.40 +
 117.60 +
 19.95 +
 203.85 +
 107.80 +
 49.05 +
 86.35 +
 4.45 +
 24.90 +
 40.58 +

Con-Tow

WHITE'S PHARMACY
05 HALIBUT PT. ROAD
ITKA AK 99835

ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES
MEDICAID MANAGEMENT INFORMATION SYSTEM
REMITTANCE ADVICE

DATE: 02/21/89
PERMITTANCE: .36117
REMIT SEQ: 28
PAGE: 17

PROVIDER NO:PH0110

EOB CODE EOB DESCRIPTION

219 RECIPIENT NOT ELIGIBLE FOR SERVICES RENDERED

WHITE'S PHARMACY
705 HALIBUT ST. ROAD
SITKA AK 99835

ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES
MEDICAID MANAGEMENT INFORMATION SYSTEM
REMITTANCE ADVICE

DATE: 02/21/89
REMITTANCE: 36117
REMIT SEQ: 28
PAGE: 10

PROVIDER NO: PH0110
CLAIM TYPE 9 - PRESCRIBED DRUGS
ADJUDICATED CLAIMS

CLIENT ID	RECIPIENT NAME	CLAIM CONT. NBR	MED REC NBR	RENDER PROV									
LINK	DATE	RX-NBR	REFILL	BRAND	PHYSICIAN	NDC	QTY	BILLED	ALLOWED	CO-PAYMENT	PAYMENT	FOR	STATUS
0600119356	GREEN	V	90400006007					PH0110					
01	011789	115884	0	MD1672	00005347131		20	6.75	6.75	1.00	5.75		PAID
02	011789	115883	R	MD1672	00677062501		60	13.15	13.15	1.00	12.15		PAID
03	011789	115881	0	MD1672	00045052660		20	13.20	13.20	1.00	12.20		PAID
04	011789	115882	R	MD1672	00108501320		100	68.40	68.40	1.00	67.40		PAID
05	011989	115991	0	MD1672	00173032188		1	21.65	21.65	1.00	20.65		PAID
THIRD PARTY	0.00						CLAIM TOTAL	123.15	123.15	5.00	118.15		
0600197225	HANSON	JE	90400006009					PH0110					
01	011889	115920	0	MD1784	00008021201		6	13.30	0.00	0.00	0.00	219	DENY
02	011889	115933	0	MD1784	00536408001		10	25.45	0.00	0.00	0.00	219	DENY
THIRD PARTY	0.00						CLAIM TOTAL	38.75	0.00	0.00	0.00		
0600191741	HOGAN	KA	90400006010					PH0110					
01	012589	111107	R	MD1784	00062178115		28	16.95	16.95	1.00	15.95		PAID
THIRD PARTY	0.00						CLAIM TOTAL	16.95	16.95	1.00	15.95		
0600017531	JESKE	MU	90402007010					PH0110					
01	012689	116480	0	MD0313	00005386523		30	8.45	8.45	1.00	7.45		PAID
THIRD PARTY	0.00						CLAIM TOTAL	8.45	8.45	1.00	7.45		
0600000515	KALOUS	K	90400006011					PH0110					
01	010389	114983	0	MD0313	00777603567		15	15.35	15.35	1.00	14.35		PAID
02	010389	114984	0	MD0313	00074630413		24	8.40	8.40	1.00	7.40		PAID
03	010389	115007	0	MD0957	00005313023		35	17.40	17.40	1.00	16.40		PAID
04	011789	115846	0	MD0957	00005313023		35	17.80	17.80	1.00	16.80		PAID
05	012689	116417	0	MD0957	00074630113		56	13.85	13.85	1.00	12.85		PAID
06	013189	116776	0	MD0957	00005313031		35	17.40	17.40	1.00	16.40		PAID
THIRD PARTY	0.00						CLAIM TOTAL	90.20	90.20	6.00	84.20		
0600021376	KIMMEL	R	90400006012					PH0110					
01	010989	115402	0	MD0313	00060012770		6	4.80	4.80	1.00	3.80		PAID
02	011789	115847	0	MD0957	00879051205		12	5.00	5.00	1.00	4.00		PAID
03	011789	115848	0	MD0957	00005317223		12	5.00	5.00	1.00	4.00		PAID
04	012689	116459	0	MD0957	00005317223		12	5.00	5.00	1.00	4.00		PAID
THIRD PARTY	0.00						CLAIM TOTAL	19.80	19.80	4.00	15.80		
0600139330	KITKA	B	90400006013					PH0110					
01	011289	114157	R	MD1784	00062176115		28	15.95	15.95	1.00	14.95		PAID
02	012589	99938	R	MD1784	99999999999		60	21.95	21.95	1.00	20.95		PAID
THIRD PARTY	0.00						CLAIM TOTAL	37.90	37.90	2.00	35.90		
0600132929	LAWRENCE	SD	90400006014					PH0110					
01	013089	116744	0	MD0957	00029152522		1	15.80	15.80	1.00	14.80		PAID



White's Inc. - 705 Halibut Point Rd. • Sitka, AK 99835



THE VIRGINIA COMP COMPANY
PO Box 240729
ANCHORAGE, ALASKA
99524-0729



FEB 1989

THE VIRGINIA COMPUTER COMPANY



P.O. BOX ~~240729~~
ANCHORAGE, ALASKA ~~99524-0729~~

WHITE'S PHARMACY
SITKA, ALASKA

RETURN ADDRESS

FOR CLAIMS ONLY

PROVIDER NO: P00110
PROVIDER NAME: WHITE'S PHARMACY
PROVIDER ADDR: 705 HALIBUT PT. ROAD
CCH: 90400006008

SITVA AK 99835

DATE: 02/21/89

PROV. NAME ON CLAIM: WHITE'S PHARMACY

CLIENT ID: 0600173475 | BENEFIT NAME: HANNA, HILDA M | INITIALS: E | BILLING DATE: 01/31/89

EPSDT IND: N | TEL IND: Y | TPL AMOUNT: 0.00 | TOTAL AMOUNT: 22.50

LN	SERV. DATE:	RX-NO:	REFILL CODE:	DRUG CODE:	QUANTITY:	PRESC PHYS:	B/N IND:	AMT BILL
01	01/12/89	115617	0	00062330500	1	MD0957		18.60

RETURN REASON*** CODE: 232 MESSAGE: PROC/DRUG CODE NOT ON FILE OR NOT VALID FOR PROVIDER OR MODIFIER

SERV. DATE:	RX-NO:	REFILL CODE:	DRUG CODE:	QUANTITY:	PRESC PHYS:	B/N IND:	AMT BILL
01/26/89	116491	R	001198000	1	MD0957		22.50

RETURN REASON*** CODE: 232 MESSAGE: PROC/DRUG CODE NOT ON FILE OR NOT VALID FOR PROVIDER OR MODIFIER

CORRECT AND RESUBMIT THIS COPY. THIS INFORMATION IS NOT BE RECEIVED LATER 05/18/89
MAKE YOUR CORRECTION BELOW THE INFORMATION TO BE CORRECTED.

I HEREBY AMEND/CORRECT, AS INDICATED ABOVE, THE MEDICAID CLAIM(S) IDENTIFIED ABOVE ON THIS SHEET AND I REQUEST THAT REPROCESSING OF THE SAID CLAIM(S) BE MADE WITH THE INFORMATION PROVIDED ON THIS DOCUMENT. ALL INFORMATION ON THE CLAIM(S), IDENTIFIED ABOVE AND NOT AMENDED SHALL REMAIN AS IS. I HEREBY CERTIFY THAT THE(S) CLAIM(S) FOR SERVICE(S) AND INFORMATION IS/ARE TRUE AND CORRECT. I UNDERSTAND AND AGREE THAT THE TERMS AND CONDITIONS ON THE ORIGINAL CLAIM(S), FRONT AND REVERSE SIDES, AND THE CURRENT MEDICAID PROVIDER MANUAL APPLY TO THE AMENDMENTS/CORRECTIONS AS IF INCORPORATED HEREIN. I UNDERSTAND THAT PAYMENT OF THE(S) CLAIM(S) WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSIFICATION, OR CONCEALMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER FEDERAL AND STATE LAWS.

PROVIDER SIGNATURE: *[Signature]* DATE OF SIGNATURE: 3/1/89

PLEASE RETURN TO: THE VIRGINIA COMPUTER COMPANY
P.O. BOX 240729
ANCHORAGE ALASKA 99524-0729

ENCLOSED / ATTACHED SEE PHOTO COPTS OF ACTUAL CONTAINERS
LN 01 IS A DIAPHRAGM 75mm FROM ORTIS - THIS PRODUCT HAS BEEN OUT ON MARKET FOR 25 YEARS WHY ISNT IT IN THE VZ COMPUTER?
LN 03 IS A BOTTLE OF EYE DROPS FROM ALCON
THIS IS
BE CAREFUL (ATTENTION)

PLEASE ENTER THESE NDC CODES INTO YOUR COMPUTER

THIS DOCUMENT IS A NOTICE THAT WE MUST FILL OUT & SEND BACK TO THEM WHICH THEY WILL RESUBMIT AT A COST TO THE STATE OF ANOTHER \$6.24 AND IT TOOK ME 15 MIN OF MY TIME TO FILL OUT & ADDRESS AN ENVELOPE & PAY POSTAGE ON WHILE I WAIT ON MY \$3.60

0600173475 F0351

CH HANNA

Y ** ** 20 0100

THE VIRGINIA COMPUTER COMPANY

AFFIX LABEL HERE

PHARMACY INVOICE

ALASKA MEDICAL PAYMENT SYSTEM

1. RECIPIENT NAME Hanna, Eileen		2. NAME AND ADDRESS OF HEALTH CARE PROFESSIONAL (HCP)
3. RECIPIENT ID NUMBER 0600173475		
5. HCP IDENTIFICATION NUMBER DH0110		7. PAY TO IDENTIFICATION NUMBER
6. HAVE ALL OTHER PAYMENT SOURCES BEEN EXHAUSTED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDC OR OTHER SERVICE (HCPC)	12. PRIOR AUTHORIZATION NUMBER	13. QTY.	14. PRESCRIBING PHYSICIAN ID NO	15. FP	16.	17. CHARGE
01289	115617	0	0062-3305-00		1	MD0957			18.60
012389	116265	R	0008-2536-01		1	MD0957			15.05
012689	116491	R	11980-122-15		1	MD0957			22.95

13. HCP CERTIFICATION THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE, ACCURATE AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSIFICATION OF THIS STATEMENT OR DOCUMENT OR CONCEALMENT OF MATERIAL INFORMATION BY PROVIDER MAY BE SUBJECT TO APPLICABLE FEDERAL AND STATE LAWS. TO THE REST OF MY PRACTICE	19.	20. TOTAL CHARGE	56.60
	INSURANCE 23. PATIENT OR OTHER	24. TOTAL DEDUCTIONS	3.00
		25. AMOUNT BILLED	53.60

COMMENTS:

Hari Seelig 1-31-89
 HCP SIGNATURE DATE

PROVIDER NO: PH0110

PROVIDER NAME: WHITE'S PHARMACY

PROVIDER ADDR: 705 HALIBUT PT. ROAD

SITKA

AK 99835

PHONE: 90402007008

DATE: 02/21/89

PHARM: ON CLAIM: WHITE'S PHARMACY

IDENT ID: 0600171051	RECIPIENT NAME: TWEEDY, REGAN I	INITIAL: R	BILLING DATE: 01/31/89
EPSDT IND: N	TPL IND: Y	TPL AMOUNT: 0.00	TOTAL AMOUNT:

SERV DATE	RX-NO	REFILL CODE	DRUG CODE	QUANTITY	PRESC PHYS	B/N IND	AMT BILL
01/26/89	116498	0	01039327642	14	MD1784		18.85
			11239327642				

REASON CODE: 232 MESSAGE: PROC/DRUG CODE NOT ON FILE OR NOT VALID FOR PROVIDER OR MODIFIER

CORRECT AND RESUBMIT THIS COPY. THIS CORRECTED COPY MUST BE RECEIVED BEFORE 05/18/89
MAKE YOUR CORRECTION BELOW THE INFORMATION TO BE CORRECTED.

I HEREBY AMEND/CORRECT, AS INDICATED ABOVE, THE MEDICAID CLAIM(S) IDENTIFIED ABOVE ON THIS SHEET AND I REQUEST THAT REPROCESSING OF THE SAID CLAIM(S) BE MADE WITH THE INFORMATION PROVIDED ON THIS DOCUMENT. ALL INFORMATION ON THE CLAIM(S) IDENTIFIED ABOVE AND NOT AMENDED SHALL REMAIN AS IS. I HEREBY CERTIFY THAT THE(SB) CLAIM(S) FOR SERVICE(S) AND INFORMATION IS/ARE TRUE AND CORRECT. I UNDERSTAND AND AGREE THAT THE TERMS AND CONDITIONS ON THE ORIGINAL CLAIM(S), FRONT AND REVERSE SIDES, AND THE CURRENT MEDICAID PROVIDER MANUAL APPLY TO THE AMENDMENTS/CORRECTIONS AS IF INCORPORATED HEREIN. I UNDERSTAND THAT PAYMENT OF THE(SB) CLAIM(S) WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSIFICATION, OR CONCEALMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER FEDERAL AND STATE LAWS.

PROVIDER SIGNATURE: *John White* DATE OF SIGNATURE: 3/1/89

PLEASE RETURN TO: THE VIRGINIA COMPUTER COMPANY
P.O. BOX 240729
ANCHORAGE ALASKA 99524-0729



THIS IS THE SYNTEX ENOC CODE
FOR ANAPROX DS
PLEASE CHANGE OR ENTER IN
YOUR COMPUTER!!

THIS MEDICATION HAS BEEN OUT
FOR A YEAR AND IT STILL
IS NOT ENTERED IN THE COMPUTER
SO I WAIT FOR \$78.00

AFFIX LABEL HERE

AFFIX LABEL HERE

CLAIM CONTROL NUMBER - FOR TVCC USE ONLY

THE VIRGINIA COMPUTER COMPANY

1. RECIPIENT NAME

Tweedy Regan

2. RECIPIENT ID NUMBER

0600171051

5. HCP IDENTIFICATION NUMBER

PH0110

6. HAVE ALL OTHER PAYMENT SOURCES BEEN EXHAUSTED?

YES NO

7. PAY TO IDENTIFICATION NUMBER

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RP. FILL	11. DRUG CODE INDCI OR OTHER SERVICE INDCI	12. PRIOR AUTHORIZATION NUMBER	13. QTY	14. PRESCRIBING PHYSICIAN ID NO.	15. PP	16.	17. CHANGE
<i>01189</i>	<i>116203</i>	<i>R</i>				<i>101784</i>			<i>39.55</i>
<i>012389</i>	<i>116203</i>	<i>R</i>							<i>22.60</i>
<i>012389</i>	<i>116203</i>	<i>R</i>	<i>0046-0471-31</i>		<i>30</i>	<i>MD1784</i>			<i>21.00</i>
<i>012689</i>	<i>116498</i>	<i>U</i>	<i>1839-3276-42</i>		<i>14</i>	<i>101784</i>			<i>18.85</i>

18. HCP CERTIFICATION
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Kari Seelig 1-31-89
HCP SIGNATURE

19. OTHER BENEFITS	21.	22. INSURANCE	23. PATIENT OR OTHER	20. TOTAL CHARGE	<i>81.00</i>
				24. TOTAL DEDUCTIONS	<i>3.00</i>
					<i>78.00</i>

COMMENTS:

FORWARD THIS CLAIM TO: TVCC P.O. BOX. 240729 ANCHORAGE, ALASKA, 99524-0729

AKC (1/81)

DBA Harry Race Drug & Photo
 106 Lincoln Street
 Sitka, Alaska 99835

March 13, 1989

Representative Ben Grussendorf
 Pouch V
 Juneau, Alaska 99811

The emergency regulations adopted by HESS on January 24, 1989, changing the Medicaid reimbursements to pharmacies, provided for February 1, 1989 as an effective date. Our pharmacy was notified on January 31, 1989 that we would be reimbursed average wholesale price (AWP) less 5%, plus a fee of 20% less than the average usual and customary price, as recorded by Myers & Stouffer's Alaska Pharmacy Cost Study, page 33, printed on December 7, 1988. We continued billing Medicaid in February and found we experienced a 22% loss in revenue to our usual and customary billing. Our pharmacy finds that this present reimbursement is below our cost of providing Medicaid assistance.

We would like to work toward a solution to the problem. Eric Hansen, Chief of Medical Assistance, has indicated the reimbursement might be reduced another 5-6%. I do not agree with his statement that the Federal Government will not approve a Medicaid reimbursement plan at A.W.P. as a starting point.

I propose the State of Alaska rescind the emergency regulations, amending 7 AAC 43.005, 7 AAC 43.255, 7 AAC 43.312, 7 ACC 43.590, 7 ACC 43.591, 7 ACC 43.592, 7 ACC 43.950, & 7 ACC 47.271. Further, the State should submit a plan to the Federal Government that is compatible with provider pharmacies. Such a plan could be; A.W.P. & \$4.45 & 23% of A.W.P. as reasonable reimbursement. The Federal Government must state by written letter from a significant source why the State's plan is unacceptable should that be the decision. To my knowledge Alaska has not received any written indication that such a proposal will not be accepted.

Ben, in light of what's happening in your district, don't you think you should be talking with me directly?

Sincerely,

David E. Moore

David E. Moore, R. Ph.

c.c. HOUSE Finance Comm.
 Sen. Eliason
 Eric Hansen

THE FOLLOWING DOCUMENT MAY NOT FILM
LEGIBLY BECAUSE OF THE POOR QUALITY OF THE
ORIGINAL

IVCC Recovery Cover

Penalties to Recover

by [unclear] *on [unclear]*
at *[unclear]* *City of [unclear]*

Number of pages 5 including this cover sheet

Special Instructions:

We are hereby certifying that the above is a true and correct copy of the original as shown to us by [unclear] on [unclear] at [unclear].

Operator: *W. P. [unclear]*

Location: *Arctic Circle*

Arctic Circle

Date: *10/10/68* *10:15* *AM*

and names of the following

- 1910-1911 Donald D. Cook, M.D.
- 1911-1912 Robert C. Hunter, D.V., M.B.
- 1912-1913 Donald Johnson, M.D.
- 1913-1914 J. Paul Jones, M.D.
- 1914-1915 Edward B. Moore, M.D.
- 1915-1916 John M. Taylor, M.D.
- 1916-1917 Rodney K. Wagner
- 1917-1918 Eugene H. Lawrence, M.D.
- 1918-1919 Thomas Johnson, M.D.
- 1919-1920 James Johnson, M.D.
- 1920-1921 Mrs. Anne Johnson, M.D.
- 1921-1922
- 1922-1923
- 1923-1924
- 1924-1925
- 1925-1926
- 1926-1927
- 1927-1928
- 1928-1929
- 1929-1930



Sitka Pharmacy, Inc.
Harry Race Drug & Photo

106 LINCOLN STREET
SITKA, ALASKA 99835
(907) 747-8006

March 23, 1989

Myra Munson
Commissioner
Dept. of Health & Social Services
Box 11
Juneau, Alaska 99811-0601

Dear Ms. Munson:

Your letter of March 15, 1989 has left me with concerns of my own. The primary one being your inability to recognize what the figures you are using mean. I am also concerned about where you are obtaining information about my store income. Am I under some kind of investigation? Because you feel a 20% reduction in medicaid rates equates to a mere 1.5% of the corporation's gross income, you feel that is not justification for withdrawing from the program? I must ask you what is justification? You have just stated that we should fire two employees or somehow find the extra money to pay for their services. Our price is justifiable and the lowest it can be, and I resent a state agency dictating to me what I shall be doing. Yes, I am very concerned about you, and the legislators who would idly sit by and allow this travesty to occur. If you people want pharmacies to provide service, you should consider providing a plan that will not cause a loss of revenue. Such plans have been proposed but you chose to ignore them.

As far as your dismay about not providing a 30 day notice of non-participation, your letter was signed on January 24, 1989 and we received word on January 31, 1989 that the emergency regulations would begin February 1, 1989. A one day notice! Is that fair? I don't owe you anything if that is your attitude. You ask why I don't give the program a chance? What chance are you giving me? The chance to loose up to \$1,000.00 per month while you folks have time to nail in permanent regulations that do not allow for a 10% per year pharmaceutical inflation which will cost me an additional \$2,500.00 per year. By June, one would assume, or continue to create an impression to the legislators that the pharmacy community is "happy to have the medicaid business". Your contracts aren't worth the paper they're written on.

We are not a non-profit organization, and can ill afford your program. As far as my concern for our medicaid recipients, we have not allowed patients to go without medication, just as we did not before your program came into existance.

Regards,

David Moore
David Moore R.Ph

cc: Rep. Grussendorf
Sen. Eliason

Side, I've tried to keep Lisa up to date on this but it's a House situation at this time. Hope to see you over Easter Break - Dave



White's Inc. • 705 Halibut Point Rd. • Sitka, AK 99835 • (907) 747-5755

March 23, 1989

Commissioner Myra Munson
Dept. of Health and Social Services
PO BOX 11
Juneau, AK 99811-0601

Dear Commissioner Munson:

Thank you for your personal response to our dilemma. It was a difficult decision for my husband and me to make re: our position with medicaid. At this point, financially, as well as professionally; we have no choice. Although we had not given your department an official written 30-day notice (mostly because we do not have a signed medicaid contract with the state); we did let our medicaid patients know. This was at the time we received notification regarding the Emergency Medical ruling on Jan 28th.

We DO care about these people and contrary to what has been often-times stated, we are not refusing to serve any medicaid patients-we never have.

We have a mutual respect relationship with these patients-one which we are proud of and have worked hard to establish. We have spent ALOT of time explaining the system and the new restrictions. Such as over 5000 drugs that were at one time covered on medicaid and now are not. The restriction that bothers me the most, however, is the mandatory generic substitution. We must fill medicaid prescriptions with generics that we do not normally stock. Generics that often times do not show bioavailability bioequivalency. We are forced to dispense the 'cheaper' product-a process which we are liable for. So, at added inventory expense and liability we must dispense medication we don't have confidence in.

To address your comment about giving the program a fair chance, please see the enclosed sampling of our February 1989 reimbursement. (If you would like to see more examples, just let me know). Also, written in the margin, are the REDWOOD AWP (average wholesale prices). Please note what we were paid compared to what it cost us.

It is true, we do sometimes receive a percentage discount off of AWP; but this is based on a business agreement that is dependent on prompt payment to our wholesaler---which is every two weeks. The program is taking that away from us.

Dear Dick

wanted you to see my reply

to Comm. Munson's letter of March 15th



White's Inc. • 705 Halibut Point Rd. • Sitka, AK 99835 • (907) 747-5755

I'm not sure where you get the figures on our volume of medicaid prescriptions--it is more like 9% of our total. When you mentioned a 1% decrease in our gross annual, all I could think of was how that equaled one of our employees' wages. I don't want to have to lay someone off. Please note other costs here which have not been included in these percentages--ie: freight(a very REAL expense to us southeasterners) and increased inventory. As it stands now, we still have over \$2500.00 outstanding in unpaid medicaid claims from 1988.

I am hoping that some agreement can be reached on HB70. Some modifications will have to be made before we can subscribe to the program. Again, thank you for your time- I hope we can work together on a solution that will be satisfactory to both parties.

Sincerely,

Trish White

Trish White RPh
White's Pharmacy

CC: Representative Grussendorf
Senator Eliason

*they didn't
 even pay
 what it costs
 us - let alone
 a fee*

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG-CODE (INCI OR OTHER SERVICE (HCPC))	12. PRIOR AUTHORIZATION NUMBER	13. QTY.	14. PRESCRIBING PHYSICIAN ID NO.	15. FP	16.	17. CHARGE
021389	117667	0	INTAL INHALEIL 0585-0675-02	AWP 25.66	1	PAID 10.24 MD0957			32.70
021389	117666	R	PAID INHALER REFILL 0085-0614-03	COST AWP 13.27	1	PAID 8.00 MD0957			20.40
022889	118720	0	PCE 0074-0290-53		30	MD0957			21.90

18. HCP CERTIFICATION
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Kari Seelig 2-28-89
 HCP SIGNATURE DATE

19. OTHER BENEFIT			20. TOTAL CHARGE	75.00
22. INSURANCE	23. PATIENT OR OTHER	24. TOTAL DEDUCTIONS	—	
			25. AMOUNT BILLED	75.00

COMMENTS: *48% decrease*
 MEDS UNOBTAINABLE AT PHS
 39.04

FOR TVCC USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AK-C (10/8)

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDCI OR OTHER SERVICE (HCPC)	12. PRIOR AUTHORIZATION NUMBER	13. QTY.	14. PRESCRIBING PHYSICIAN ID NO.	15. FP	16.	17. CHARGE
022589	118493	0	0005-3130-23		25	m00957			12.65
022489	118471	0	0009-0017-01		14	m00957			8.00
022489	118470	0	0005-3110-23		30	m00957			5.70
022589	118516	0	0005-3130-23		12	m00957			7.30
022889	118729	0	0005-3130-23		50	m00957			24.85

18. HCP CERTIFICATION THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE ACCURATE AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS.	19.			20. TOTAL CHARGE	58.50	
	OTHER BENEFITS	21.	22. INSURANCE	23. PATIENT OR OTHER	24. TOTAL DEDUCTIONS	—
	HCP SIGNATURE: <u>Kari Seelig</u> DATE: <u>2-28-89</u>				25. AMOUNT BILLED	58.50

45% *lev*
 Total payment → 38.39

MEDS UNOBTAINABLE AT PHS

FOR TVCC USE ONLY		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	AK - C (10/8)

FORWARD THIS CLAIM TO: TVCC P.O. BOX 240729, ANCHORAGE, ALASKA, 99524-0729

RETAIN FOR YOUR RECORDS

fee pymt was included here

B. DATE OF SERVICE	D. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDCI OR OTHER SERVICE (HCPC)	12. PRIOR AUTHORIZATION NUMBER	13. QTY.	14. PRESCRIBING PHYSICIAN ID NO.	15. FP	16.	17. CHARGE
020889	115902	R	XMAF.S AND 0009-0055-01	23.49 PA 10	60	Hegyvary			28.35
020889	115901	R	PROZ AWP 0777-3105-02	172.69 PA 11	120	Hegyvary			240.85

18. HCP CERTIFICATION THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE ACCURATE AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS, STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS TO THE REST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS <i>Kari Seelig</i> 2-28-89 HCP SIGNATURE DATE	19.			20. TOTAL CHARGE	269.20
	OTHER BENEFITS	21.	22. INSURANCE	23. PATIENT OR OTHER	24. TOTAL DEDUCTIONS
					25. AMOUNT BILLED

COMMENTS: 199.63

FOR TVCC USE ONLY

AK-03 (10/88)

FOR TVCC USE ONLY

RECORD RETAIN FOR
 FORWARD THIS CLAIM TO TVCC P.O. BOX 240729, ANCHORAGE, ALASKA 99524-0729

MEMOS UNOBTAINABLE AT THIS

12.15

COMMENTS

HCP SIGNATURE: *Theri Seely*
 DATE: 2-28-89

18. THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE, ACCURATE, AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS AND THAT ANY FALSE CLAIMS STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS.

TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS

19. TOTAL CHARGE	20. TOTAL CHARGE	21. PATIENT OR OTHER DEDUCTIONS	22. INSURANCE	23. PATIENT OR OTHER DEDUCTIONS	24. TOTAL DEDUCTIONS	25. AMOUNT BILLED
25.25	25.25	—				25.25

And already a note
 is a separate
 but apparently
 not accurate
 enough

10. DRUG CODE INDCI OR OTHER SERVICE INCP	11. PRESCRIPTION NUMBER	12. DATE OF SERVICE
W05-371-23 THORAZINE 250	117845	021689

13. PHOR AUTHORIZATION NUMBER	14. PRESCRIBING PHYSICIAN ID NO	15. CHARGE
84	Read	25.25

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDCI OR OTHER SERVICE IHCCI	12. PRIOR AUTHORIZATION NUMBER	13. QTY.	14. PRESCRIBING PHYSICIAN ID NO.	15. FE	16.	17. CHARGE	
022389	118297	R	TUSSIONEX 0018-0893-67	SUSP	60 ml	MD1672			10.70	
022389	118298	R	0005-4542-23		20	MD1672			6.40	
022589	118297	D	TUSSIONEX 0018-0893-67	SUSP	60 ml	MD1672			10.70	
			" LESS THAN EFFECTIVE "							
			None of this paid for acc'd to new Fed. rulings							
18. HCP CERTIFICATION THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE ACCURATE, AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS, STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS?			19. OTHER BENEFITS			21.	22. INSURANCE	23. PATIENT OR OTHER	24. TOTAL DEDUCTIONS	25. AMOUNT BILLED
<i>Kari Seelig</i> HCP SIGNATURE			2-29-89 DATE						27.80	27.80

COMMENTS

FOR TVCC USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AK - C (10/8)

FORWARD THIS CLAIM TO: TVCC P.O. BOX 240729, ANCHORAGE, ALASKA, 99524-0729

RETAIN FOR YOUR RECORDS

DATE OF SERVICE	PRESCRIPTION NUMBER	10 RE-FILL	11. DRUG CODE (HDCI OR OTHER SERVICE (HCP)	PRIOR AUTHORIZATION NUMBER	13. QTY	14. PRESCRIBING PHYSICIAN ID NO.	15. FP	16.	17. CHARGE
020189	115979	0	0029-6090-22		150 ml	MD1672			32.10
022481	118489	0	0062-5434-01 MONISTAT ORAM 47M	12.01 PAIP 7.65	1	MD1672			19.05

there is no generic product available for this

18. HCP CERTIFICATION
 THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE ACCURATE, AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS, STATEMENTS OR DOCUMENTS, OR CONCEALMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS

Kari Seelig 2-28-89
 HCP SIGNATURE DATE

19. OTHER BENEFITS	21.	22. INSURANCE	23. PATIENT OR OTHER	20. TOTAL CHARGE	51.15
				24. TOTAL DEDUCTIONS	—
				25. AMOUNT BILLED	51.15

COMMENTS:

39.75

FOR TVCC USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	AK - 0 (10/8E)

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDCI OR OTHER SERVICE (HCP)	12. PRIOR AUTHORIZATION NUMBER	13. QTY	14. PRESCRIBING PHYSICIAN ID NO.	15. FP	16.	17. CHARGE	
021289	117560	R	PERMARIN VAG (KRM) PAID 7.62 004b-0872-93		1	MD1672			23.45	
18. HCP CERTIFICATION THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE ACCURATE AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE COLOR OR NATIONAL ORIGIN I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS AND THAT ANY FALSE CLAIMS STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS <i>Kari Seelig</i> 2-28-89 HCP SIGNATURE DATE			19. OTHER BENEFITS 21. INSURANCE 22. PATIENT OR OTHER 23.			20. TOTAL CHARGE 23.45		24. TOTAL DEDUCTIONS —		25. AMOUNT BILLED 23.45

*We should have stated
 that this patient
 request by Dr
 get brand name -
 as stated in
 new regulations
 but we did not
 therefore lost out
 when the dr
 did request
 brand name*

COMMENTS:

FOR TVCC USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	AK - 03 (10/88)

FORWARD THIS CLAIM TO TVCC P.O. BOX 240729 MEMPHIS, TN 38124-0729

RETAIN FOR RECORD

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDCI OR OTHER SERVICE IHCPC1	12. PRIOR AUTHORIZATION NUMBER	13. PRESCRIBING PHYSICIAN ID NO.	15. FP	17. CHARGE
020189	116835	0	AWP 52.71 PAID 57.36 0002-3062-02 VERLOR 500	21	MD1672		76.85
021089	116798	R	AWP 22.96 PAID 7.49 0068-0045-55 NIGORG.PP.	1	MD1672		28.75

*this product had always been covered in the past by use 1 in quantity
1 box = 96 pieces perhaps we were to use 96 for quantity = no notification as such*

18. HCP CERTIFICATION
THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE, ACCURATE, AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS, STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS

Hari Seelie 2-28-89
HCP SIGNATURE DATE

19. OTHER BENEFITS	21.	22. INSURANCE	23. PATIENT OR OTHER	20. TOTAL CHARGE	105.60
				24. TOTAL DEDUCTION	—
				25. AMOUNT BILLED	105.60

COMMENTS:

MEDS UNOBTAINABLE AT PHS

64.85

IDENTIFICATION NUMBER

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDCI OR OTHER SERVICE IHCCI	12. PRIOR AUTHORIZATION NUMBER	13. QTY.	14. PRESCRIBING PHYSICIAN ID NO.	15. PP	16.	17. CHARGE
022589	118518	0	0074-6290-53		21	MD1672			15.95
022589	118517	R	AWP 14.66 0085-0614-02 PROVENTIL CAMP	PAID 807	1	MD1672			20.70
022789	99807	R	AWP 14.70 0008-2514-02 LOLOVANAL-28	PAID 782	1	MD1672			15.05

18. HCP CERTIFICATION
 THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE, ACCURATE, AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS.
 TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS

Kari Seelig 2-28-89
 HCP SIGNATURE DATE

19.			20. TOTAL CHARGE	51.70
OTHER BENEFITS	21.	22. INSURANCE	23. PATIENT OR OTHER	24. TOTAL DEDUCTIONS
				—
			25. AMOUNT BILLED	51.70

COMMENTS

31.84

FOR TVCC USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	AK - 03 (10/88)

FORWARD THIS CLAIM TO: TVCC P.O. BOX 240729, ANCHORAGE, ALASKA, 99524-0729

RETAIN FOR YOUR RECORDS

the one is right m

9. DATE OF SERVICE	10. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE INDCI OR OTHER SERVICE (ICPC)	12. AUTHORIZATION NUMBER	13. QTY	14. PRESCRIBING PHYSICIAN ID NO	15. RX	17. CHARGE
022189	115882	R	Awf 5490 0108-5013-20 The Mart 3ccing	PA10 5491	100	MD1672		72.95
022189	115883	R	Awf-5490 0677-0625-01 S. Alwood Drive 25	PA10 901	60	MD1672		13.15
022189	118106	0	Awf 149 0005-3471-31 DUFFIN DRIVE	PA10 7169	30	MD1672		9.35
022189	118107	0	Awf 9.89 0081-0493-94 2001 BAY AVENUE	PA10 8.76	1	MD1672		16.90

18. THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE, ACCURATE, AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE PROVIDED BY FEDERAL STATE LAWS AND THAT MATERIAL FACTS WILL BE PROVIDED TO FEDERAL GOVERNMENT AND THAT MATERIAL FACTS WILL BE PROSECUTED UNDER FEDERAL OR STATE LAWS TO THE BEST OF MY KNOWLEDGE AND OTHER RESOURCE EYES.
Ann Seelig
HCP SIGNATURE
2-28-89
DATE

COMMENTS:

112.35
84.89

19. TOTAL CHARGE 112.35

21. OTHER BENEFITS	22. INSURANCE	23. PATIENT OR OTHER

24. TOTAL CHARGE 112.35
25. PAYMENT 84.89

USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. DATE OF SERVICE	9. PRESCRIPTION NUMBER	10. RE-FILL	11. DRUG CODE (NDC) OR OTHER SERVICE (HCPC)	12. PRIOR AUTHORIZATION NUMBER	13. QTY	14. PRESCRIBING PHYSICIAN ID NO.	15. FP	16.	17. CHARGE
020889	99939	R	99999-9999-99		60 gm	MD1672			21.95
022589	99938	R	99999-9999-99		60 gm	MD1672			21.95
18. HCP CERTIFICATION THIS IS TO CERTIFY THAT THE FOREGOING IS TRUE, ACCURATE, AND COMPLETE AND IS IN COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 WHICH PRECLUDES EXCLUSION OR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, OR NATIONAL ORIGIN. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS STATEMENTS OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS TO THE BEST OF MY KNOWLEDGE NO OTHER RESOURCE EXISTS.				19. OTHER BENEFITS		20. TOTAL CHARGE 43.90			
HCP SIGNATURE: <u>Kari Seelig</u> DATE: <u>2-28-89</u>				21. OTHER BENEFITS		22. INSURANCE		23. PATIENT OR OTHER	
								24. TOTAL DEDUCTIONS —	
								25. AMOUNT BILLED 43.90	

These were compounded medicines - none of it was covered

COMMENTS:

MEIDS UNOBTAINABLE AT HHS

NOT PAID

99938 - Triamcandone 0.1% in Aquaphor
 99939 - Triamcandone 0.1% with Lid 5%

FOR TVCC USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AK - 0 (10/86)

FORWARD THIS CLAIM TO: TVCC P.O. BOX 240729, ANCHORAGE, ALASKA, 99524-0729

RETAIN FOR YOUR RECORDS

11. SERVICE	12. PRESCRIPTION NUMBER	13. RE-FILL	14. DRUG CODE INDICATOR OR OTHER SERVICE IHCPCI	15. PRIOR AUTHORIZATION NUMBER	16. QTY.	17. PRESCRIBING PHYSICIAN ID NO.	18. FP	19.	20. CHARGE
021389	117668	0	0008-0212-01		12	MD0957			22.70
021389	117669	0	0005-3144-31		30	MD0957			10.35
021589	117793	0	0005-5426-23		40	MD0957			19.50

18. HCP CERTIFICATION
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Ann Seelig 7-28-89
 HCP SIGNATURE DATE

19. OTHER BENEFITS 21. 22. INSURANCE 23. PATIENT OR OTHER

20. TOTAL CHARGE 52.55

24. TOTAL DEDUCTIONS —

25. AMOUNT BILLED 52.55

COMMENTS:

51.88

FOR TVCC USE ONLY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AK-03 (10/88)

FORWARD THIS CLAIM TO: TVCC P.O. BOX 240729, ANCHORAGE, ALASKA, 99524-0729
 RETAIN FOR YOUR RECORDS

OUR LADY
OF COMPASSION
CARE CENTER

4900 EAGLE STREET
ANCHORAGE, ALASKA 99503-7446
PHONE:(907) 562-2281



SERVING IN THE WEST SINCE 1856

March 22, 1989

The Honorable Dick Eliason
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Eliason:

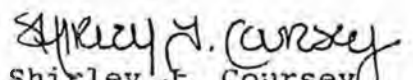
I am very concerned by HB 70. As I understand it, HB 70 will remove the Sunset Clause from SB 255 which is a directive to the State to implement a Federal Pharmacy Medicaid program. I support SB 255 and the implementation of a Federal Pharmacy Medicaid program. Unfortunately, the State has not yet been able to develop a program that has been Federally approved. Therefore, I support an extension of the Sunset Clause for an additional year to allow:

1. The Department of Health and Social Services to finalize a plan for a Pharmacy Medicaid program;
2. Federal HCFA officials to approve the plan;
3. Implementation of a program until the next legislative session; and,
4. Legislative review of the impact of the program.

I would like to request that you either vote against HB 70 in order to retain legislative review, or consider an amendment to extend the Sunset Clause provision one additional year.

I would appreciate receiving your views on this issue.

Sincerely,


Shirley J. Coursey
Consultant Pharmacist

Report
On the Cost of Dispensing
Pharmaceutical Prescriptions
In the State of Alaska

Prepared for the

Division of Medical Assistance
Department of Health and Social Services
State of Alaska
4433 Business Park Boulevard, Building "M"
Anchorage, Alaska 99503

Prepared by

Myers and Stauffer, Chartered
Certified Public Accountants
909 Topeka Avenue
Topeka, Kansas 66612

In Consultation with

Gene Hotchkiss, RPh
Carol Morgan, RPh

December 1988



Alaska State Legislature

SENATE

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

LETTER OF INTENT ON SB 255

It is the intent of the Legislature that as regulations are developed to implement this legislation that the form of the current general relief medical pharmacy program be duplicated to the extent consistent with federal guidelines. The goal of the Department of Health and Social Services shall be to seek a reimbursement system consistent with the usual, customary and reasonable fees charged by pharmacies to the Alaskan general public. The regulations should avoid harsh economic impact on the pharmacy provider community to insure the participation of the largest number of pharmacy providers across the state to allow the maximum access to pharmacy services by the medicaid recipient community. Legislative Audit shall perform a review of the program and report to the Legislature by February 1, 1989.

- December 7th • Kim Busch, Eric Hansen, Bert Parrish, and Darrell Stauffer meet with federal HCFA officials in Baltimore to review state plan.
- 14th • State meets with regional HCFA officials in Seattle to review state plan
- 16th • Steering committee meets by teleconference. Also in attendance are Chris Coursey, Bernie Klouda. Eric Hansen reviews federal response to state plan. Feds firmly reject percentage markup formula as well as AWP as reimbursement for ingredient cost. Feds require state to perform survey to determine actual ingredient costs being paid by Alaskan pharmacies. State desires to implement interim plan by February 1st while performing ingredient cost survey. If final plan approved by Feds by March 1st, the state can be reimbursed retroactive to January 1st. State proposes to pay AWP minus 5% plus fee of \$7.90 (average-varies individually) until survey is done at which time ingredient cost will be adjusted to survey results. All non-pharmacist members of the committee vote yes with Eric Hansen abstaining. Pharmacist members ask for conference prior to taking position.
- 18th • Dave Swanson, Ron Sedgwick, Chris Coursey and Bernie Klouda meet by teleconference to discuss position on interim program proposed by state. Dave Swanson conferred with Bill Larson who could not attend this meeting. Pharmacists unanimously agreed that they could only support the initial state plan (AWP plus markup plus fee) and would vote no to the backup proposal by the state.
- 19th • Chris Coursey communicated the votes (3 nays) of the steering committee members (Sedgwick, Swanson, Larson) to Eric Hansen.
- 22nd • Eric Hansen contacts Chris Coursey with new state proposal. State will reimburse AWP plus 7.90 fee (average) starting Feb. 1st, until the ingredient cost survey is done, at which time AWP would be replaced with the actual ingredient cost as determined by the survey. In addition, the state would require the Association to provide a letter supporting the final program and agreeing not to oppose HESS during the upcoming legislative session.
- 22nd • After reviewing proposal with Dave Swanson, Ron Sedgwick, and Bernie Klouda, Chris Coursey informs Kim Busch that the Association cannot provide the letter as requested and will take no action which limits the options of the pharmacy providers. Kim Busch indicates that the state will probably adopt AWP minus 5% plus a fee of \$7.90 (average) until the cost ingredient survey is completed.

RICHARD VERME ASSOCIATES

422 East Bay Drive, #27
Olympia, Washington 98506

STATE OF ALASKA

MEDICAID ESTIMATED ACQUISITION COST (EAC) DRUG SURVEY

1. **ENGAGEMENT DESCRIPTION**-- Under the authority of Contract ASPS Number 06-89-124 with the State of Alaska, Department of Health and Social Services, Richard Verme Associates (RVA) performed the following described consulting services. Except for follow-up consultation, this report represents the completion of all other tasks, deliverables, obligations, and performance under this contract.
 - 1.1 **Purpose**-- The purpose of this engagement was to conduct a survey of Alaskan prescription drug prices in a representative number of pharmacies in Alaska providing those drugs under the Medicaid program.
 - 1.2 **Objectives**-- The objective of this engagement was two-fold.
 - 1.2.1 First, it was to determine Estimated Acquisition Costs (EAC) for certain Medicaid prescription drugs in Alaskan pharmacies. The state required this work conform to federal acceptance standards.
 - 1.2.2 Second, it was to show the EAC as a percent of the Average Wholesale Price (AWP). The state required use of the AWP shown in industry standard references. These references included the October 1, 1988 through February 28, 1989 *Medispan*, *Blue Book*, or *Red Book*.
 - 1.3 **Consultant Team**-- The team used to conduct the survey consisted of two staff. Richard L. Verme was the Principal and lead surveyor. Thomas Zuchlewski, the firm's Chief Technical Associate, accompanied Mr. Verme.
 - 1.4 **Scope**-- The engagement addressed the following in the conduct of the survey.
 - 1.4.1 The survey sampled twelve (12) Alaskan Medicaid prescription providers. These included:
 - a. Six (6) of the higher volume Medicaid providers,
 - b. Six (6) urban and six (6) rural pharmacies,
 - c. Eight (8) independent and four (4) chain stores, and
 - d. Twenty-two (22) prescription drugs.
 - 1.4.2 According to the Division of Medical Assistance (DMA) records, the sample pharmacies number nearly fifteen percent (15%) of all Alaskan Medicaid drug providers. This is twelve percent (12%) of all enrolled providers. In dollar volume, the sampled pharmacies received twenty-one percent (21%) of all state Medicaid drug payments. One half or forty-one (41) of the Alaskan providers are in Anchorage. This correlates with the urban element of the sample.
 - 1.4.3 The twenty-two (22) sample drugs comprise nearly fourteen percent (14%) of all prescriptions billed during the year 1988. The actual figure is somewhat higher. This percentage does not include all possible generic substitutes.

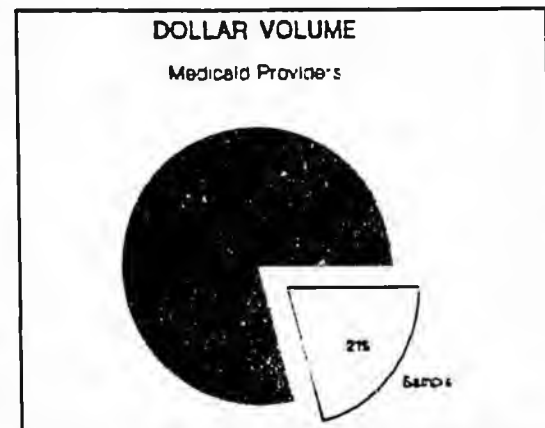


Figure 1 PROVIDERS VOLUME COMPARISON

1.4.4 The consultant team conducted the drug survey during the period February 14 through 21, 1989. They collected prices for the sample drugs on-site at each of the twelve (12) pharmacies. They obtained the prices from invoices for 1988 and later on file at the sites. They further confirmed the data by a check of products on the provider's shelf.

1.5 Analysis Techniques-- The method of analysis consisted of comparing the price data collected with the AWP for each drug as shown in the *Blue Book* or *Red Book*. From this comparison the consultant team calculated the percent AWP for each price at each provider site. From these percentages, they compiled averages for groups of drugs and providers. These groups include:

1.5.1 Urban and rural providers,

1.5.2 Federal Maximum Allowable Cost (MAC) drugs and Non-MAC drugs,

1.5.3 Drugs only available from a single manufacturer (Single Source),

1.5.4 Drugs available from two or more manufacturers (Multi-source) and not subject to MAC,

1.5.5 Averages for individual providers and drugs, and over-all total drug and provider averages.

2. DESCRIPTION OF APPROACH AND METHODS-- The survey consisted of six (6) phases. RVA completed the first four (4) phases in Alaska. The final two phases took place at the firm's location in Olympia, Washington.

2.1 Phase One-- was the selection of sample Alaskan Medicaid prescription providers and a "market basket" of drugs billed to the program. This combined an analysis of Alaskan Medicaid Management Information System (MMIS) reports and consultation with the Alaska, Division of Medical Assistance (DMA).

2.1.1 RVA and DMA agreed on twenty (20) drug products representing the top drugs in the top therapeutic classifications among all state Medicaid prescription billings. This consists of a mix of prescription medications.

a. It includes nine (9) Single Source drugs, seven (7) Multi-source federal MAC products, and a total of eleven (11) Multi-source medications.

b. The Regional federal Health Care and Financing Administration (HCFA) requested the sample include an emphasis on federal MAC drugs. Therefore, the surveyors agreed to add two (2) more federal MAC Multi-source drugs. This increased the sample to twenty-two (22).

c. Not all sampled pharmacies carried all the surveyed drugs. All drugs were available from either national wholesalers or a local wholesaler. APPENDIX A shows detailed information on all of the drugs in the sample.

2.1.2 RVA and DMA agreed to a final selection of twelve (12) Medicaid prescription providers. This included six (6) urban providers from the City of Anchorage and six (6) rural pharmacies from other communities across the state. From the original selection of providers, three pharmacies contacted in advance, chose not to take part. DMA recommended and RVA accepted replacements with similar characteristics, locations, and volumes. APPENDIX B, provided under separate cover, describes each provider that took part.

2.2 Phases Two Through Four-- RVA completed these phases at the sampled provider sites. This consisted of interviews with pharmacy management, checking prices of the sample drugs on the provider's shelf, and copying drug invoices and related documents for the sampled products.

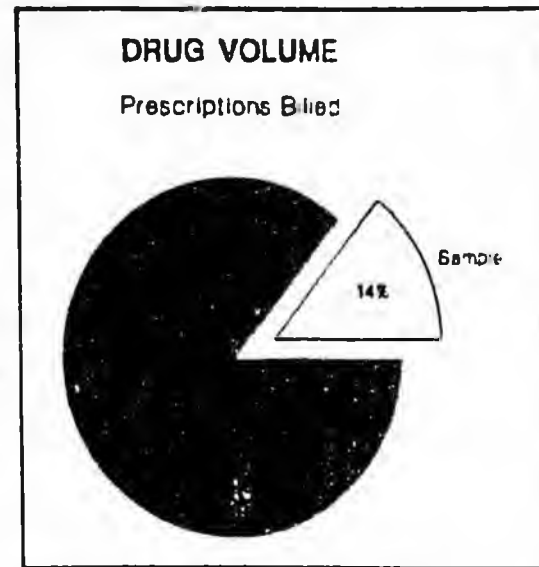


Figure 2 DRUGS VOLUME COMPARISON

- 2.2.1 The interview with the pharmacist, owner, or manager determined the provider's prescription volume, Medicaid business percentage, and their sources of supply. This included asking which three (3) prescriptions they filled most often. The consultant team asked for a release of wholesaler information. This enabled the surveyors to determine applicable fees, up-charges, and other product related costs.
- 2.2.2 The shelf inventory provided a record of the quantity, container size, date of purchase, cost, and supplier for the sampled drugs. Also, it furnished similar information on any generic equivalents in stock for use in substitutions.
- 2.2.3 The RVA survey team made copies of the provider's original drug invoices to confirm the shelf inventory and support later analysis. Where available they copied related wholesaler reports. These reports summarize provider purchases by actual cost and percent of AWP for all drugs purchase in the report periods. APPENDIX C contains examples of these summaries.
- 2.3 Phase Five-- This phase included compiling and arraying all the information collected. This involved calculation of AWP percentages for drug prices. As a last step, RVA performed the drug and provider drug cost analysis.
 - 2.3.1 To compile and array the information the RVA team used both data base and spread-sheet tools. This displayed the associations and relationships of individual drug and provider data. With the calculation of AWP percentages for the drug price data, this permitted analysis from several different perspectives.
 - 2.3.2 SECTION 3 of this report describes in detail the drug and provider cost analysis. It recognizes common provider characteristics, purchasing customs and related costs, sources of supply, and associated pharmacy business practices.
- 2.4 Phase Six-- This phase consisted of developing the survey's findings from the analysis and incorporating them into the engagement report. SECTION 4 of the following lists the findings of fact identified by the surveyors.
- 3. DRUG COST ANALYSIS-- The drugs cost analysis addressed provider demographics and drug purchasing characteristics related to cost, actual drug costs compared to AWP, and the relationship among these elements.
 - 3.1 Provider Characteristics--
 - 3.1.1 RVA and DMA agreed to divide Alaskan pharmacies into two (2) discrete categories based on demographics and location. Of the eighty-two (82) Alaskan drug providers in the Medicaid program, forty-one (41) were in the City of Anchorage. This placed them in the Urban category based on location and the size population served. The Rural category contains the remainder of providers located across the state serving much smaller communities. The sample of providers contains six (6) from each of these categories.
 - 3.1.2 The survey team classified the pharmacies that took part by the form of their business organization as well. Providers were either part of a store Chain or Independent businesses. The sample of providers contained four (4) Chain and eight (8) Independent stores.
 - 3.1.3 From the DMA MMIS reports, RVA noted the percent of the total Medicaid prescription volume done by each of the sampled providers. Where available, the pharmacies provided estimates of what this represented as a share of their entire business.
 - 3.2 Provider Drug Purchasing Practices-- The surveyors examined the provider's drug purchasing practices and arrangements.
 - 3.2.1 This placed the sampled providers in two (2) distinct groups based on their primary suppliers.

- a. The first group of eight (8) purchased, in a large measure, from national wholesaler firms with distribution centers in Washington State. The remaining four (4) in the sample purchase from a local Alaskan wholesaler located in Anchorage. The team found two (2) of the six (6) Urban (Anchorage) providers and five (5) of the Rural providers purchased from the national wholesalers.
- b. The team also noted all pharmacies took advantage of some manufacturer Direct purchasing. This practice took the form of "free goods specials," "dating deals," or annual purchases of antibiotics. This explains the low prices found for generic or MAC drugs.

3.2.2 Some providers paid additional charges directly related to drug product purchasing. For this survey these payments are a costs covered by the dispensing fee. These charges include:

- a. Freight, postage, parcel delivery, or other shipping charges; and late fees or penalties for past due bills.
- b. Likewise, there were no reductions for prompt payment discounts, drug purchase related non-drug, free merchandise, discounts, or other incentives.

3.3 Drug Cost Characteristics-- This survey compares the actual price of the sampled drug product with the published AWP for the product. The basis for comparison is the product National Drug Code (NDC) and the AWP effective on the date of purchase. Similarly, MAC prices are another bench-mark for drugs with a federal reimbursement ceiling. The AWP percentages come from "per unit costs" as a function of the AWP unit price. This method uses a weighted average to allow for different container sizes. All calculations show percentages rounded to the nearest whole percent.

3.4 Provider, Drug, and Cost Relationships--

3.4.1 To examine these relationships, the surveyors used Drug-Provider Matrices or Tables. Table I shows the percent of AWP for each drug for each provider. It displays averages for both individual drugs and individual providers. Also, it contains an over-all average for the total of both drugs and providers.

Table I DRUG AND PROVIDER AWP PERCENTS

NAME	STRENGTH	VENDOR CODE NUMBER												DRUG AVG
		# 1	# 2	# 3	# 4	# 5	# 6	# 7	# 8	# 9	# 10	# 11	# 12	
Prozac	20 mg	88	88	88	88	87	89	87	87	89	92	95	87	89
Micristat 7	2%	88	88	88	88	88	89	87	83	89	92	95	87	89
Tegretol	200 mg	87	88	88	88	77	93	87	87	93	97	95	87	89
Diazide		89	90	89	90	89	90	89	89	90	90	95	87	90
Feldene	20 mg	84	84	84	84	84	85	83	84	86	84	95	84	85
Desyrel	150 mg		88		88	87	87	86	87	87	87	95	87	88
Zantac	150 mg	87	88	88	88	87	89	87	87	90	86	95	87	88
Tagamet	300 mg	89	90	89	90	89	90	89	90	89	90	89	95	90
Proventil	90mcg 17gr		88	88	88	87	88	87	82	89	88	95	87	88
Tenormin	50 mg	88	88	88	88	88	89	87	87	87	88	95	87	88
Dilantin	100 mg	83	89	89	89	89	86	87	87	87	85	95	83	87
Darvocet N	100	88	88	88	88	79	89	79	88	89	90	95	78	87
Triphasil - 28		80	80	84	85	80	85	80	84	80	84	80	80	82
Xanax	0.5mg	80	80	84	85	80	85	80	84	80	84	80	80	82
Ampicillin	250mg/5ml	41	28	29	32	32	41	29	20	20	26	41	29	31
Tylos	5/50C	93	87	87	87	95	98	95	95	90	88	95	87	91
Premarin	0.625mg		88	88	83	88	89	85	87	90	88	95	88	88
Mepergal Fortis		89	83	83		85	85	95	95	85	84	92	80	87
Tylenol w/Codeine	#3	53	88	88	88	83	89	80	83	90	88	95	80	84
Acetaminophen Codeine Phosphate	300mg/30mg	80	44	71	37	30		43	84	84	88	95	60	65
Meprobamate	400 mg	84		66	80	84		51	65	61	63	95	80	73
Furosemide	40 mg	87	52	52	98		19	47				74		61
	VENDOR AVERAGE	82	80	81	82	81	83	78	83	83	84	90	81	82
		82 DRUG AVERAGE												
		82 VENDOR AVERAGE												

3.4.2 Table II consists of just the Non-MAC drugs contained in Table One. In the same fashion it shows each drug, provider, and their averages.

Table II PROVIDER AND NON-MAC DRUG AWP PERCENTS

NAME	STRENGTH	VENDOR CODE NUMBER												DRUG AVG
		# 1	# 2	# 3	# 4	# 5	# 6	# 7	# 8	# 9	# 10	# 11	# 12	
Prozac	20 mg	88	88	88	88	87	89	87	87	89	92	95	87	89
Moristat 7	2%	88	88	88	88	88	89	87	83	89	92	95	87	89
Feldene	20 mg	84	84	84	84	84	85	83	84	86	84	95	84	85
Desyrel	150 mg		88		88	87	87	86	87	87	87	95	87	87
Zantac	150 mg	87	88	88	88	87	89	87	87	90	88	95	87	88
Tagamet	300 mg	89	90	89	90	89	90	89	89	90	89	95	87	90
Proventil	90mcg 17gr		88	88	86	87	88	87	82	89	88	95	87	88
Tencormin	50 mg	88	88	88	88	88	89	87	87	87	88	95	87	88
Triphasil - 28		80	80	84	85	80	85	80	84	80	84	80	80	82
Xanax	0.5mg	80	80	84	85	80	85	80	84	80	84	80	80	82
Tylox	5/500	93	87	87	87	95	98	95	95	90	88	95	87	91
Premarin	0.625mg		88	88	83	88	89	85	87	90	88	95	88	88
Mepergar Fortis		89	83	83		89	85	95	95	85	84	92	80	87
	VENDOR AVERAGE	87	86	87	87	87	88	87	87	87	92	85		
														87 DRUG AVERAGE
														87 VENDOR AVERAGE

3.4.3 Tables III through VII contained in APPENDIX D show the provider and drug relationships including averages for:

- a. Urban providers and Non-MAC Drugs,
- b. Rural providers and Non-MAC Drugs;
- c. MAC drugs for
 - 1) All providers,
 - 2) Urban providers, and Rural providers;
- d. Single Source drugs for all providers, and
- e. Non-MAC Multi-source drugs for all providers.

3.4.4 The analysis examined further the sensitivity of the averages to possible anomalies in the data collected. This included elimination of:

- a. The high and low percentages for the drug products purchase by each provider;
- b. The high and low drug percentages based on wholesaler supplier;
- c. The high and low provider averages; and
- d. The calculation of averages weighted by the sampled drug and provider shares of the Alaskan Medicaid program.

4. FINDINGS-- The Surveyors found two (2) primary areas where the facts clearly offer conclusions. The first pertains to drug purchasing and pharmacy business practices. The second applies to the percent of AWP represented by the actual cost for the sampled drugs.

4.1 Business and Drug Purchasing Practices--

- 4.1.1 The sampled Alaskan Medicaid providers can and do purchase the surveyed drugs from several suppliers.
- The survey shows providers in similar circumstances using different principal wholesalers. This had no positive relation to cost. The providers did indicate this related to personal preference, proximity, shipping times and delivery periods.
 - The surveyed providers purchased nearly thirteen percent of (13%) of the sampled products from sources other than wholesalers. This practice resulted in drugs costs well below those charged by the wholesalers noted in the survey.
- 4.1.2 There were a possible thirty-six (36) respondents to the request to identify the three most common prescriptions. Twenty-three (23) answered the question. They reported the surveyed drugs in sixty-three percent (63%) of the cases.
- 4.1.3 The survey team found equivalent drug products on pharmacy shelves for which there is no apparent FDA approval.
- 4.1.4 Eight (8) of the twelve (12) surveyed providers paid certain fees to drug wholesalers. These include charges for such items as enrollment, microfiche and order entry equipment.
- These fees varied with the volume, quantity, frequency and type of purchases. From available information, the team estimated the additional associated drug cost.
 - The estimates showed only one (1) of the eight (8) providers had fees approaching two percent (2%) of drug costs. The others paid only small fractions of a percent.

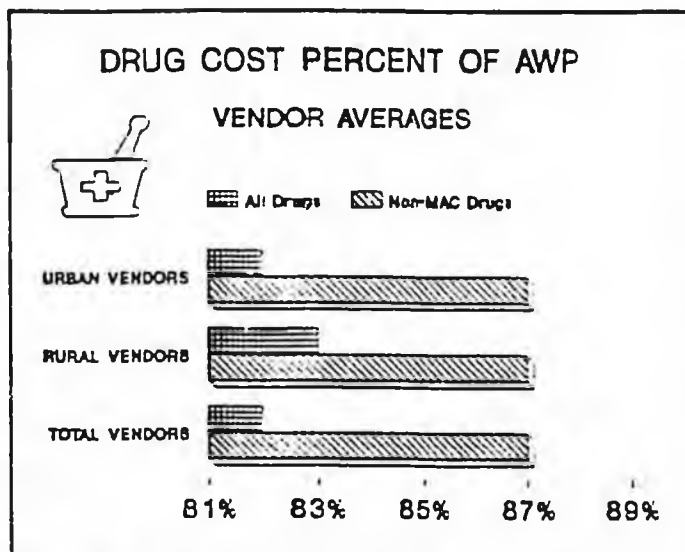


Figure 3 Provider Averages Percent of AWP

4.2 Drug Cost Percentages of AWP--

- 4.2.1 The survey team found no material difference between the total drug price averages and the averages for all providers. This includes:
- All drugs and all providers at eighty-two percent (82%) of AWP for Urban and Rural providers; and
 - Non-MAC drugs at eighty-seven percent (87%) of AWP for both Urban and Rural providers.

4.1.5 Wholesaler summary reports for the surveyed providers document purchasing of all drug products on the average of between eighty and eighty-five percent (80% - 85%) of AWP. APPENDIX C contains examples of these reports. This is consistent with the averages shown in Table 1.

4.1.6 Wholesaler and direct supplier price date and invoices show federal MAC drugs routinely available and purchased by the prudent buyer at prices below the MAC.

4.1.7 The presence on provider shelves of generic, Multi-source, substitutes for the surveyed brand name drug products indicates authorized substitution may be a relatively common practice.

c. Figure 3 illustrates these comparisons for the surveyed providers.

4.3 Figure 4 shows the same relationships for the sampled drugs. Tables I and II of Section 3 and Tables III and IV of APPENDIX D show both sets of relationships.

4.3.1 The surveyors found MAC drugs widely and consistently available below the MAC price.

4.3.2 The high was Urban providers with a high of sixty-nine percent (69%) of MAC.

a. The low was Rural provider's MAC drug price average of sixty-five percent (65%).

b. Table V of APPENDIX D displays the MAC averages.

4.3.3 There is a modest difference between average percent of AWP for Single Source drugs and that for Non-MAC Multi-source drug.

a. The average for the surveyed providers for Single Source is eighty-seven percent (87%).

b. The average for Multi-source Non-MAC products is eighty-nine percent (89%).

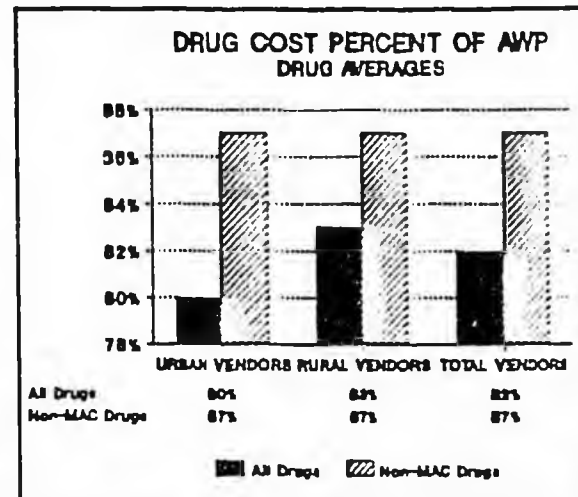


Figure 4 DRUG PERCENTAGES OF AWP

c. Tables VI and VII of APPENDIX D display this relationship. Figure 5. shows the difference graphically.

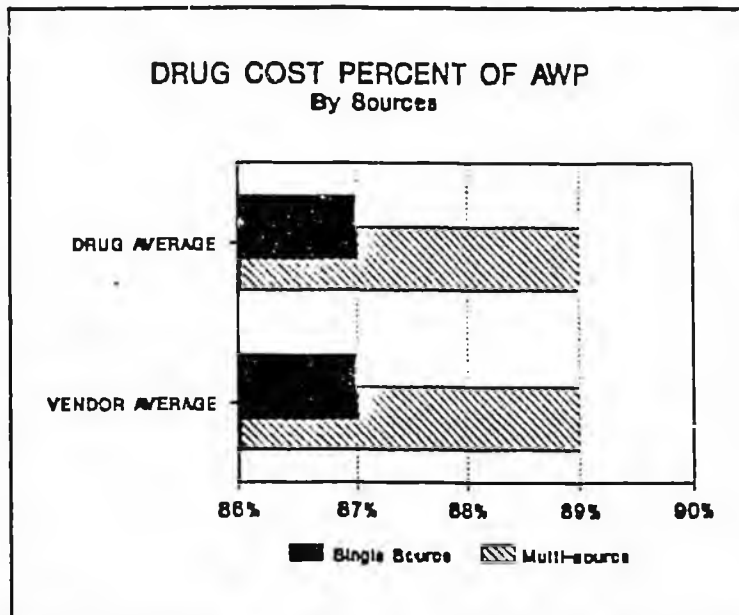


Figure 5 COMPARISON SINGLE AND MULTI-SOURCE DRUG AVERAGES

4.3.4 The sensitivity and weighted average analyses proved there was no material differences resulting from anomalies in the data collected.

a. Eliminating high and low, drug prices, drug AWP percent averages, providers, or suppliers made no material change in final averages.

b. Neither did weighting the average drug and provider AWP percentages by Medicaid provider and prescription volume make any material change.

5. CONCLUSIONS-- The data collected from this survey justifies the State of Alaska considering the use of EIGHTY-SEVEN (87%) of AWP as the basis for an Estimated Acquisition Cost (EAC) for reimbursement of Non-MAC Medicaid prescriptions. Factors to consider in any adjustment to this percentage could include:

5.1 Increases based on a fully documented statewide assessment of wholesaler monthly fees;

5.2 Decreases based on clear evidence showing the impact of supplier prompt payment discounts; and

5.3 Increases based on re-examination of the dispensing fee base that demonstrates such items as postage, freight, or shipping costs are part of the ingredient costs and not otherwise reimbursed; and

5.4 The use of a separate and higher tier to address the Non-MAC Multi-source drug differences.

STATE OF ALASKA

MEDICAID ESTIMATED ACQUISITION COST (EAC) DRUG SURVEY

APPENDIX A

DRUGS SURVEYED

CODE: A Prozac 20 mg, Lilly MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: B Monistat 7 2%, Ortho MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: C Tegretol 200 mg, Geigy MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: D Dyazide , SKF MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: E Feldene 20 mg, Pfizer MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: F Desyrel 150 mg, Mead Johnson MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: G Zantac 150 mg, Glaxo MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: H Tagamet 300 mg, SKF MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: I Proventil 90mcg 17gm, Schering MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: J Tenormin 50 mg, Stuart-ICI MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: K Dilantin 100 mg, Parke Davis MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: L Darvocet N 100, Lilly MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: M Triphasil - 28 , Wyeth MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: N Xanax 0.5mg, Upjohn MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): N

CODE: O Amoxicillin 250mg/5ml, Squibb MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: P Tylox 5/500, McNeil MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: O Premarin 0.625mg, Ayerst MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: R Mepergan Fortis, Wyeth MAC (Yes/No): N
SOURCE (MS- Multi-source, SS- Single Source): SS SCHEDULE II (Yes/No): Y
NOTE: This drug now on FDA less than effective list

CODE: S Tylenol w/Codeine #3, McNeil MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: T Acetaminophen; Codeine Phosphate 300mg/30mg, Generic MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: U Meprobamate 400 mg, Generic MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

CODE: V Furosemide 40 mg, Generic MAC (Yes/No): Y
SOURCE (MS- Multi-source, SS- Single Source): MS SCHEDULE II (Yes/No): N

STATE OF ALASKA
MEDICAID ESTIMATED ACQUISITION COST (EAC)
DRUG SURVEY

APPENDIX C

WHOLESALE REPORT EXAMPLES

0442100 V12 035
 REPORT DATE 12/06/80 TIME 04 26 02
 REPORT PERIOD: MONTHLY

025523

██████████ 22503

MCKESSON DRUG COMPANY
 MONTHLY PURCHASE REPORT IMPRO I
 MCKESSON PURCHASES
 SORT SEQUENCE BY PHCA DEPT. ITEM DESC

DC:12A EVERETT

PAGE 6A
 REPORT IN DANCROSA
 563 FEB 81

BILLING C BX 4.20% MARK DOLAI N/A
 OTC 2.70% DEPT 027 N/A
 PRICE WCHY BX 01 OTC 02 AMIV MO 12

GROUP TOTALS
 PHARMACEUTICALS

ITEM NUMBER	DESCRIPTION	AMPRX1/ SUGG RETL	STORE PRICE RETAIL CHANGED	STORE P GROSS COST C PROFIT%	---SEP---	---OCT---	---NOV---	---YTD---	CURRENT	
					PIR/ORD	PIR/ORD	PIR/ORD	PIR/ORD	ROP	ROQ
	NOVEMBER TOTALS									
	OTC AT STORE RETAIL PRICES	1,420.70								
	SAME OTC ITEMS AT COST	1,191.51	229.19	16.13%						
	RX AT STORE RETAIL	1,805.15								
	RX AT AVERAGE WHOLESALE	56,691.67								
	RX AT COST	46,595.89	11,900.73	20.36%						
	TOTAL OTC AT RETAIL PRICES	1,420.70								
	TOTAL OTC AT COST	1,191.51	229.19	16.13%						
	TOTAL PURCHASES AT STORE COST	47,787.40			TOTAL ITEMS PURCHASED	628				
	YTD PURCHASES AT STORE COST	598,192.58			TOTAL ITEMS PURCHASED	1,721				

D462L100 R 035
 REPORT DATE 01/02/97 TIME:00 24 26
 REPORT PERIOD: UNLIMITED

MCKESSON DRUG COMPANY
 MONTHLY PURCHASE REPORT (MCR)
 MOVES ON PURCHASES
 SORT SEQUENCE 01 PHILS DEPT, ITEM DESC
 CUSTOMER TOTALS

OC 120 EVERETT
 REPORT ID: D462033
 SLS TERM: 06
 PAGE 252
 BILLING C BY 5.25% MARK OFF 11A
 OTC 5.25% DEPT OFF 11A
 PRICE M CHY 01 OTC 02 ANLN PD 06

ITEM NUMBER	DESCRIPTION	AM(PX)/ SUBS RTL	STORE RETAIL	PRICE CHANGED	STORE P COST	GROSS C PROFIT%	---OCT--- PUR/ORD	---NOV--- PUR/ORD	---DEC--- PUR/ORD	---YTD--- PUR/ORD	CURRENT FOR	FOR
	DECEMBER TOTALS											
		PURCHASES		PROFIT		PROFIT						
		41,066.35										
	OTC AT STORE RETAIL PRICES	41,066.35										
	SAME OTC ITEMS AT COST	22,892.53		18,173.82		44.25%						
	RX AT AVERAGE WHOLESALE	37,965.73										
	RX AT COST	29,897.05		8,068.68		21.25%						
	TOTAL OTC AT RETAIL PRICES	41,066.35										
	TOTAL OTC AT COST	22,892.53		18,173.82		44.25%						
	TOTAL PURCHASES AT STORE COST	52,789.58										
							TOTAL ITEMS PURCHASED		1,640			
	YTD PURCHASES AT STORE COST	659,000.18					TOTAL ITEMS PURCHASED		5,748			

W. Kesson

W. Kesson DRUG CO
P.O. BOX 5063
EVERETT

WA 98206

#126

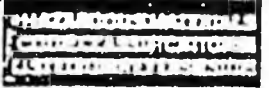
PHONE: (206) 743-3100
DEA: PM0150530

ACCT MGR 19
BILLING DATE 006 1/12/89
OIUWUOIUWU
LZLZ

025601 653604 002 118

CUSTOMER TCN RCUTE STC>

INVOICE DATE 1/12/89 INVOICE NO: 000015012 PAGE 4



DEPT	ITEM NUMBER	QTY ORD UN	ITEM DESCRIPTION	STORE RETAIL	UNIT PRICE	GP %	I D CODE	EXTENSION
------	-------------	------------	------------------	--------------	------------	------	----------	-----------

ITEMS PURCHASED AT LIST ONLY - TOTAL 473.90*

CATEGORY			SUMMARY		
			RETAIL \$	COST \$	G.P. %
PHARMACY, RX ONLY	-	1	4730.09	4029.09	14.9%

NET PAYABLE BY STMT DUE DATE 4029.09
 GROSS PAYABLE AFTER STMT DUE DATE 4111.32

THIS INVOICE IS PAYABLE TO
AT ABOVE ADDRESS CLAIMS MUST BE MADE WITHIN
FIVE DAYS AND SPEC/ DATE OF INVOICE

RECEIVED BY PROPERLY CLASSIFIED DETRIBED PACKAGED



Bergen Brunswold Drug Company

P.O. BOX 31721

KENT

700 570-3347

MA 98055

DEAR PHARMACIST

PLEASE REPLY TO

BERGEN BRUNSWOLD CORP.

P.O. BOX 37021

KENT

MA 98056 9121

AK 99509



303912 11/30/89
 320 058
 32-058
 ROUTE 2100 - CHEM HOUSE II
 6 00

DUPLICATE 04-24-1238

ITEM NUMBER	QUANTITY	DESCRIPTION	UNIT PRICE	EXTENSION	CLASS	COGS	NET ITEM PURCHASES	PURCHASES AT COST	EFFECTIVE COST-PLUS RATE	INVOICE COST-PLUS RATE	RATE ADJUSTMENT	COST-PLUS ADJUSTMENT	INVOICE CASH DISCOUNT	NET INVOICE ALLOWANCES	PHASE ALLOWANCE	TOTAL DISCOUNTS ALLOWED	TOTAL DISCOUNT RATE	
				18,288.84			489.07	17,800.77	5.00%	5.00%	0.00%	0.00%	0.00%	3,919.55	0.00	3,919.55	17.55%	
				14,371.70			2,710.49	15,097.25	5.00%	5.00%	0.00%	0.00%	0.00%	3,919.55	0.00	3,919.55	17.55%	
				17,800.77			17,800.77	17,800.77										
				18,288.84			18,288.84	18,288.84										

TERMS OF SALE AND CLAIMS ON REVERSE
 TOTAL AMOUNT
 * 0

STATE OF ALASKA

MEDICAID ESTIMATED ACQUISITION COST (EAC) DRUG SURVEY

APPENDIX D PROVIDER - DRUG RELATIONSHIP TABLES

Table III DRUG COST PERCENT OF AWP NON-MAC URBAN

NAME	STRENGTH	VENDOR CODE										DRUG AVG			
		# 5	# 6	# 7	# 8	# 9	# 10	# 11	# 12	# 13	# 14				
Prozac	20 mg	87	89	87	87	89	92								89
Monistat 7	2%	88	89	87	83	89	92								88
Faldene	20 mg	84	85	83	84	86	84								84
Desyrel	150 mg	87	87	86	87	87	87								87
Zantac	150 mg	87	89	87	87	90	88								88
Tagamet	300 mg	89	90	89	89	90	89								89
Proventil	90mcg 17gr	87	88	87	82	89	88								87
Tenormin	50 mg	88	89	87	87	87	88								88
Triphasil - 28		80	85	80	84	80	84								82
Xanax	0.5mg	80	85	80	84	80	84								82
Tylox	5/500	95	98	95	95	90	88								94
Premarin	0.625mg	88	89	85	87	90	88								88
Heparogen Fortis		89	85	95	95	85	84								89
VENDOR AVERAGE		87	88	87	87	87	87								87 DRUG AVERAGE 87 VENDOR AVERAGE

Table IV DRUG COST PERCENT OF AWP NON-MAC RURAL

NAME	STRENGTH	VENDOR CODE										DRUG AVG			
		# 1	# 2	# 3	# 4	# 11	# 12	# 13	# 14	# 15	# 16				
Prozac	20 mg	88	88	88	88	95	87								89
Monistat 7	2%	88	88	88	88	95	87								89
Faldene	20 mg	84	84	84	84	95	84								86
Desyrel	150 mg		88		88	95	87								90
Zantac	150 mg	87	88	88	88	95	87								89
Tagamet	300 mg	89	90	89	90	95	87								90
Proventil	90mcg 17gr		88	88	88	95	87								89
Tenormin	50 mg	88	88	88	88	95	87								89
Triphasil - 28		80	80	84	85	60	80								82
Xanax	0.5mg	80	80	84	85	80	80								82
Tylox	5/500	93	87	87	87	95	87								89
Premarin	0.625mg		88	88	83	95	88								88
Heparogen Fortis		89	83	83		92	80								85
VENDOR AVERAGE		87	86	87	87	92	85								87 DRUG AVERAGE 87 VENDOR AVERAGE

Table V GENERIC DRUG COST PERCENT OF MAC FOR FEDERAL MAC DRUGS

NAME	STRENGTH	VENDOR CODE NUMBER												DRUG AVG	
		# 1	# 2	# 3	# 4	# 5	# 6	# 7	# 8	# 9	# 10	# 11	# 12		
Carbamazepine	200 mg		47			98	75	23	69	43	35				56
Triamterene/Hydrochlorothiazide	50/25mg	57	71	57	57	60		64	64	62	54	51			60
Phenytoin Sodium	100 mg	67		37				39		62	68				55
Propoxyphene Napsylate/Acetaminophen	100	57	66	47	62	83	92					41	77	72	66
Ampicillin 80ml	250mg/5ml	71			65	65		50		41	44	71	68		59
Acetaminophen Codeine Phosphate	300mg/30mg	86	70	87	60	61		56	70	60	64	85	85		71
Meprobamate	400 mg	127		74	122	127		142	126	79	122	66	79		106
Furosemide	40 mg	55	45	45	73	77	54	56		44		45	64		56
VENDOR AVERAGE		74	60	57	73	82	74	61	82	56	61	66	74		66 DRUG AVERAGE 68 VENDOR AVERAGE

NAME	STRENGTH	URBAN VENDOR CODE NUMBER							DRUG AVG
		# 5	# 6	# 7	# 8	# 9	# 10		
Carbamazepine	200 mg	98	75	23	69	43	35	57	
Triamterene/Hydrochlorothiazide	50/25mg	60		64	64	62	54	61	
Phenytoin Sodium	100 mg			39		62	68	56	
Propoxyphene Napsylate/Acetaminophen	100	83	92				41	72	
Ampicillin 80ml	250mg/5ml	65		50		41	44	50	
Acetaminophen Codeine Phosphate	300mg/30mg	61		56	70	60	64	62	
Meprobamate	400 mg	127		142	126	79	122	119	
Furosemide	40 mg	77	54	56		44		58	
VENDOR AVERAGE		82	74	61	82	56	61	67 DRUG AVERAGE 69 VENDOR AVERAGE	

NAME	STRENGTH	RURAL VENDOR CODE NUMBER							DRUG AVG
		# 1	# 2	# 3	# 4	# 11	# 12		
Carbamazepine	200 mg		47					47	
Triamterene/Hydrochlorothiazide	50/25mg	57	71	57	57	51		59	
Phenytoin Sodium	100 mg	67		37				52	
Propoxyphene Napsylate/Acetaminophen	100	57	66	47	62	77	72	64	
Ampicillin 80ml	250mg/5ml	71			65	71	68	69	
Acetaminophen Codeine Phosphate	300mg/30mg	86	70	82	60	85	85	78	
Meprobamate	400 mg	127		74	122	66	79	94	
Furosemide	40 mg	55	45	45	73	45	64	55	
VENDOR AVERAGE		74	60	57	73	66	74	65 DRUG AVERAGE 67 VENDOR AVERAGE	

Table VI DRUG COST PERCENT OF AWP SINGLE SOURCE DRUGS

NAME	STRENGTH	VENDOR CODE NUMBER												DRUG
		# 1	# 2	# 3	# 4	# 5	# 6	# 7	# 8	# 9	# 10	# 11	# 12	AVG
Prozac	20 mg	88	88	88	88	87	89	87	87	89	92	95	87	89
Monistat 7	2%	88	88	88	88	88	89	87	83	89	92	95	87	89
Feldene	20 mg	84	84	84	84	84	85	83	84	86	84	95	84	85
Zantac	150 mg	87	88	88	88	87	89	87	87	90	88	95	87	88
Tagamet	300 mg	89	90	89	90	89	90	89	89	90	89	95	87	90
Tenormin	50 mg	88	88	88	88	88	89	87	87	87	88	95	87	88
Triphasil - 28		80	80	84	85	80	85	80	84	80	84	80	80	82
Xanax	0.5mg	80	80	84	85	80	85	80	84	80	84	80	80	82
Mepergan Forlis		89	83	83		89	85	95	95	85	84	92	80	87
VENDOR AVERAGE		86	85	86	87	86	87	86	87	86	87	91	84	87 DRUG AVERAGE 87 VENDOR AVERAGE

Table VII DRUG COST PERCENT OF AWP NON-MAC MULTI-SOURCE DRUGS

NAME	STRENGTH	VENDOR CODE NUMBER												DRUG
		# 1	# 2	# 3	# 4	# 5	# 6	# 7	# 8	# 9	# 10	# 11	# 12	AVG
Desyrel	150 mg		88		88	87	87	86	87	87	87	95	87	88
Proventil	90mcg 17gm		88	88	88	87	88	87	82	89	88	95	87	88
Tylox	5/500	93	87	87	87	95	98	95	95	90	88	95	87	91
Premarin	0.625mg		88	88	83	88	89	85	87	90	88	95	88	88
VENDOR AVERAGE		93	88	88	87	89	91	88	88	89	88	95	87	89 DRUG AVERAGE 89 VENDOR AVERAGE

Re: Pharmacy Medicaid Program (HB70)

Texas document refuting the federal HCFA arguments against a reimbursement methodology that links the fee paid to the cost of ingredients.

From: Ron Sedgwick, Leg. chairman, Alaska Pharmaceutical Association
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It should be noted when considering the attached information from Texas that the period in contention 3-1-86 through 3-31-87 is PRIOR to the publication of the "Final Rule" regulations that we operate under today. The basic thrust of the "Final Rule" regulations was to give states even more leeway than before. (see pages 4 & 5 of Texas document) Texas Medicaid officials have stated that the period after the publication of the "Final Rule" has not been challenged by federal HCFA officials. (October 1987 to date) Thus, the HCFA arguments against such a reimbursement methodology as the "Texas Model" are even weaker today than they were prior to October 1987.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
DEPARTMENTAL GRANT APPEALS BOARD

IN THE MATTER OF THE
TEXAS DEPARTMENT OF
HUMAN SERVICES,
MEDICAID DISALLOWANCE
FOR DRUG DISPENSING FEES

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BOARD DOCKET NO. 87-137

APPELLANT'S BRIEF IN SUPPORT OF A
REVERSAL OF THE DISALLOWANCE DECISION

I. BACKGROUND

This is an appeal of a decision by J. D. Sconce, Regional Administrator, Health Care Financing Administration (HCFA), United States Department of Health and Human Services (HHS). By letter dated July 2, 1987, Mr. Sconce notified the Appellant, Texas Department of Human Services (TDHS), of his decision to disallow \$1,225,108 in federal financial participation claimed by TDHS for drug dispensing fees under the Medicaid program from March 1, 1986 through March 31, 1987. As is reflected in the disallowance letter, this action followed a series of deferrals over a period of four consecutive fiscal quarters during which TDHS was actively seeking an opportunity to appeal. Thus, by its actions in this matter, HCFA has already deprived the State of the possibility of obtaining an earlier review which would have involved a substantially smaller disallowance amount.

Moreover, despite the requirements of 42 U.S.C.A. 1396b(d)(5) and the State's exercise of its option to keep the funds in dispute pending a final decision in this matter, HCFA has retained a significant amount of the funds at issue here.

These funds have been claimed by the State as part of its costs in providing prescribed drugs to Medicaid recipients. Payment for these services is clearly authorized by the Medicaid statute and regulations. 42 U.S.C.A. § 1396d(a)(12); 42 CFR 440.120. The regulations allow payment for these services in an amount equal to the ingredient cost plus a reasonable dispensing fee or the provider's usual and customary charge to the public, whichever is lower. 42 CFR 447.331. Further, the regulations contemplate that the dispensing fee will include a profit factor. 42 CFR 447.333(a)(4). The question raised herein is whether the law and regulations specifically prohibit a state from determining the profit factor on a transaction-by-transaction basis or whether they require that the profit be estimated and applied on an across-the-board basis.

From an economist's point of view, a normal profit is a cost of doing business. Normal profits are "the return to the businessman for his own services [as a manager], and the interest on the money he himself has invested in the business in the form of capital or land." (John A. Guthrie, Economics, Richard D. Irwin, Inc. (Homewood, Ill) 1961, p. 531.) From an accounting point of view, profits are the funds the businessman

acquires from sales after paying all costs of doing business and are not considered as a cost of doing business. In accounting, it is appropriate to refer to profits as a percent of sales.

In determining the dispensing fee, the State of Texas allocates the return for the pharmacy owner's services or manager's services as a salary expense which is appropriate in both the economic or accounting definitions. What is left, then, is some compensation for the amount of capital invested. Again, in both economics and accounting, this compensation (or interest) can be calculated in either terms of dollars or terms of percents. The more common way is as a percent. Interest is almost always discussed as a percent of capital, although in business accounting, it can be either a percent of capital or a percent of sales. If a percent of sales, it must be adequate to provide the appropriate interest on capital. Applying a profit percent to each transaction, as the State of Texas has done, conforms to generally accepted accounting, economic and pricing practices. The method gives a higher dollar return on higher cost products, but higher cost products require greater capital investments, and with higher investments, payments should be higher.

In its disallowance HCFA has referred to various studies, pre-regulation guidelines and preamble comments expressing the view that including the profit in a flat dispensing fee was preferable to a methodology which takes into account a

pharmacist's cost of stocking various drug products. However, a staff member of HHS's (then HEW's) 1969 Task Force on Prescription Drugs has indicated that the current circumstances are considerably different from those that existed at the time those recommendations were made. For example, at the time of the Task Force, few pharmacies used lower cost generic drug products in place of higher cost brand name products. The flat fee was seen as a method for "not encouraging" pharmacists to use higher cost products. Since then, however, the federal payment limits on multiple source products plus the state's limits on drug product costs now generally prevent pharmacists from using higher cost brand products. Competition has forced pharmacists to use lower cost generic products for the private sector. The need for a neutral policy no longer exists.

Pharmacists simply cannot use higher priced brand name products in government programs because of regulatory restrictions.

At the same time, prices for many single source drug products which do not have lower priced generics have risen dramatically. Since the pharmacist has no part in determining whether these products will be used, a reimbursement policy that encourages the use of low cost products is not effective and may adversely affect the pharmacist's willingness to stock high cost products. Since these products require greater capital investment, the use of a percentage profit method makes good sense. Higher dollar investments should bring higher dollar

returns, and in the absence of such a payment policy the availability of needed high cost drug products for Medicaid recipients is obviously going to be diminished.

Belatedly, these new circumstances have now been recognized by HCFA in recent regulations which specifically give states greater flexibility in this regard. July 31, 1987 Federal Register (Vol. 52 No. 147) pp. 28648 et seq.; Also see Exhibit H.

II. ISSUE

At issue in this appeal is the Texas drug reimbursement methodology. The HCFA disallowance was taken because that agency questioned whether or not Texas' sliding scale dispensing fee is allowable in accordance with Federal statutes and regulations.

Since March 1, 1986, when the current methodology was implemented, Texas' total provider payment for a pharmaceutical transaction has been calculated by adding the estimated acquisition cost (EAC) of the drug dispensed, and a dispensing fee, which on average included the statewide base dispensing expense (\$3.26) and a 5.5% profit on the selling price. The profit on the selling price is derived by dividing the total transaction cost by .945.

For example:

$$\begin{array}{r r r r r} \text{Drug Cost} & & \text{Dispensing Expense} & & \\ \$10.00 & + & \$3.26 & = & \$14.03 \\ \hline & & & & \\ & & .945 & & \end{array}$$

Thus, for this transaction profit equals \$.77:

$$\begin{array}{r r} \$14.03 & \\ - 13.26 & \text{transaction cost} \\ \hline .77 & \text{(or 5.5\% of \$14.03) Profit} \end{array}$$

While the dispensing fee equals \$4.03:

$$\begin{array}{r r} \$3.26 & \text{dispensing expense} \\ + .77 & \text{profit} \\ \hline 4.03 & \text{dispensing fee} \end{array}$$

As may be seen in Appellant's Exhibit A, HCFA's July 2, 1987 disallowance letter, HCFA argues that this methodology is impermissible. The basis for this claim is that the Texas system violates the drug reimbursement regulations, specifically 42 CFR 447.331; the preamble to these regulations as found in the August 15, 1975 Federal Register (Vol. 40 No. 159); and HCFA's June 1, 1977 "Prepublication Draft Guidelines" on the payment of reasonable charges for prescribed drugs to State agencies.

The State will show that its sliding scale dispensing fee methodology is not prohibited by the 42 CFR 447.331; that the preamble to this regulation when it was published, and the "Prepublication Draft Guidelines," while recommending against a markup system, do not address the Texas' system; and that the preamble and guidelines may not, in any event, legally prohibit

a markup system or any other methodology not otherwise prohibited in the regulation itself. Finally, the State argues that HCFA's computation of its disallowance is incorrect.

III. ARGUMENT

A. The 1975 Preamble to the Dispensing Fee Regulations May Not Prohibit Texas' Sliding Scale Dispensing or a Markup System

As is argued in section C, below, the State does not have a markup system of the nature prohibited by the preamble. However, it is the State's position that even if the markup system referred to in preamble was the same as the system used by Texas, the preamble is not a legally permissible vehicle to prohibit such a methodology.

In the August 15, 1975 Federal Register (Vol. 40 No. 159) HHS promulgated rules regarding the reimbursement for Medicaid drugs. In the discussion regarding dispensing fees at page 34516 there is the following reference:

Comment: The method of determining a dispensing fee should be based on percentage markup rather than on a fixed fee basis. (1 State Medicaid agency).
Response: This is not acceptable since a percentage markup would be an incentive to use higher cost drug items and thus it would run counter to the objectives of the regulations. A GAO study in 1966 strongly recommended against this method.

Again, as is argued in section C, the current Texas system is not a markup system in the sense that is referred to in this comment. Further, the Texas system is not an incentive for the use of higher priced drugs. But of most immediate concern is that it is well understood that the preamble to a regulation may not substitute for the regulation itself. This is precisely what HCFA is attempting to do in this case because there is no arguable proposition against a markup system in the relevant regulation

In its letter of disallowance (Exhibit A at page 2) HCFA cites 42 CFR 44.331(c) in support of its prohibition: "The dispensing fee must be set by the agency under 447.333." This section is then also quoted to the effect that the dispensing fee may vary according to three cited factors. It appears that HCFA is arguing that the fee may only vary according to these three factors. In fact, there is no basis for such an interpretation of the full section:

§ 447.333 Dispensing fee

(a) The agency may set the dispensing fee by taking into account the results of surveys of the costs of pharmacy operation. The agency must periodically survey pharmacy operations including--

- (1) Operational data;
- (2) Professional services data;

(3) Overhead data; and

(4) Profit data.

(b) The dispensing fee may vary according to--

(1) Size and location of pharmacy;

(2) Whether the drug is a legend item (for which Federal law requires a prescription) or nonlegend item; and

(3) Whether the drug is dispensed by a physician or an outpatient department of an institution.

(c) The dispensing fee may also vary for drugs furnished recipients in institutions by a pharmacy using a unit dose system. In those cases--

(1) The dispensing fee is added to the ingredient cost of the drug actually used; and

(2) The fee is either--

(i) An amount added to the cost of each unit dose; or

(ii) A daily or monthly capitation rate per recipient being furnished drugs.

The list of factors by which the dispensing fee may vary is obviously stated permissively rather than exclusively. To have done otherwise would have required little change in language by the drafters, but they clearly chose not to avail themselves of this simple option. Nor, had they done so, would the section have been internally consistent. For if the three factors had been stated as exclusive of all other factors, there would have been no purpose in requiring states to collect data in their

periodical surveys of pharmacy operations on anything but these three factors when, in fact, states were required to survey for operational, professional services, overhead and profit data --and routinely take other factors into consideration in setting fees.

Previously, HCFA itself has consistently recognized the ability of states to include other factors in the dispensing fee. For example, the Agency has approved Texas' utilization of such variables as an incentive to the pharmacist to record billing data on tape, free delivery to patients (as reimbursement and as incentive), the cost of keeping patient profiles and continuing education expenses. Even HCFA's 1977 "Prepublication Draft Guidelines" recognize the States may employ any number of variables in determining the dispensing fee. And specifically on page 45 of the guidelines, Texas is even cited as an example of a state with a variable fee.

Thus, in the absence of regulatory language prohibiting any form of a markup system, HCFA instead turns to the above-quoted comment and response in the preamble to the regulations despite the fact that the Board has determined that "[a] preamble, unlike a regulation, does not appear in the Code of Federal Regulations ... the permanent library of active regulations, ... [but] only in the Federal Register." New York State Department of Social Services, GAB Decision No. 818 at 7 (December 12, 1986). The Board in New York clearly ruled that a preamble is

not binding on the State "... where it imposes a limitation not apparent on the fact of the regulation and not required by the statute." Id. See also Maryland Department of Health and Mental Hygiene, GAB Decision No. 85 at 7 (February 28, 1980) ("[t]he preamble is in principle an explanatory not a regulatory part of the instrument"). Thus, it is well settled that a preamble to a federal regulation may not impose limitations not found in the regulations it accompanies.

B. HCFA's 1977 "Prepublication Draft Guidelines" May Not Prohibit Texas' Sliding Scale Drug Dispensing Fee

Through Information Memorandum IM-77-27(MSA) June 2, 1977, HCFA forwarded what it described as "Prepublication Draft Guidelines on Payment of Reasonable Charges for Prescribed Drugs" to state agencies administering medical assistance programs. At page 9 of the draft guidelines "mark-up systems" are prohibited. As may have been seen in their disallowance letter (Exhibit A), HCFA greatly relies upon these guidelines as a rationale for finding Texas' drug dispensing methodology to be suspect.

As is true of its reliance upon the preamble, and for much the same reasons, this reliance is unjustified. Indeed, the draft guidelines have never been finalized -- despite the

passage of ten years since their release. By definition, they are "prepublication," and "draft" guidelines which have never been finalized.

Nor, as is also true of the preamble, do they have any legal effect. Except in its reliance upon the guidelines in this matter, HCFA itself has never treated them as having full force and affect. An excellent example of this is the testimony of the HCFA's Medicaid State Representative, Larry W. Seals, in a January 1985 Texas Department of Human Services administrative hearing. In this hearing, which also concerned drug dispensing fees, Mr. Seals was asked if the 1977 "Prepublication Draft Guidelines" at issue here were ever finalized. He answered:

They were never incorporated into the medical assistance manual as discussed in the cover letter. They were never adopted formally.

Exhibit B, Revco v. Texas Department of Human Resources, No. 84-28, page 94 at lines 13-16. The counsel for the state agency then asked Mr. Seals about the significance of a document never having been formally adopted into the Medicaid Assistance Manual. The following exchange ensued:

- A. It's there for guidance. If somebody chooses to use -- it's there for guidance to a state. If they wish to review these proposed guidelines and choose to adopt them, it's there; but it does not constitute the formal policy of our agency.
- Q. Must the state use such -- the guidelines elicited in Department's Exhibit No. 16 [the 1977 "Prepublication Draft Guidelines"] when formulating their policies on Medicaid prescription pricing for senior citizens discount areas?
- A. They may use them. They must not. They may. There's no requirement that they use them.

- Q. To clarify, if a state does not use the guidelines summarized in Department's Exhibit No. 16 before you, would that state in any way be considered out of compliance with federal requirements?
- A. No.
- Q. Has the process of interpreting questions under the federal regs changed with different presidential administrations?
- A. Yes. In other words, for example, Title XX of the program in 1977 was administered in one manner and now it's a block grant program. So with a stroke of the pen, the procedure can change.
- Q. Has the process of interpreting Medicaid regulations changed since the U.S. Presidency of Ronald Reagan, that administration, came into office?
- A. Yes.
- Q. If so, how?
- A. Considerably more latitude is given to the states.

Ibid, pages 95-96, lines 12-25 and 1-22.

HCFA's reliance upon the draft guidelines is also inconsistent with a 1978 internal draft memorandum from the agency's Acting Assistant Secretary for Planning and Evaluation to the Secretary of HHS regarding reimbursement for prescribed drugs. At page 12 of this memorandum, the author notes that the draft guidelines are "...advisory only and never published in final form." He goes on to say:

It is important to emphasize that only the regulations, not the guidelines, legally govern States' responsibilities in setting dispensing fee reimbursement levels. As noted earlier, the regulations grant States great discretion in this matter.

See Exhibit C.

This view is reiterated by HCFA's Hearing Officer, Mr. Albert G. Miller, In the Matter of the Disapproval of Arkansas State Plan Amendments 84-11 and 85-16, Docket Nos. 85-1 and 86-4. In this decision the Hearing Officer states at page 11:

One last comment is in order here. HCFA indicates that it requires the State to follow the provisions set out in "Information Memorandum, IM-77-27 (MSA). June 2, 1977," further identified as "Prepublication draft guidelines" (HCFA Exhibit A). While this instruction may indicate informal HCFA policy in draft status back in 1977, it certainly does not have the effect of the law or regulations, or even the effect of published final manual instructions.

Finally, the Board has interpreted § 16.14 of its regulations, "How Board Review is Limited," to cover "...only those formal rules published in the Code of Federal Regulations under the Administrative Procedure Act (not the myriad of manuals, guidelines, formal letters, and other issuances which HHS agencies often use)." "Ruling on Jurisdictional Issues," FY 1981 AFDC and Medicaid Quality Control Disallowances, Board Docket Nos. 85-108 et al, October 17, 1985 at 6.

C. Texas' Sliding Scale Dispensing Fee Formula is Not a Markup System

While the State has shown that the preamble and draft guidelines may not preclude the use of methodologies not prohibited in 42 CFR 447.331, it is also important to appreciate that Texas' sliding scale dispensing fee methodology is not a

markup system as described in the guidelines and, therefore, is not precluded by the preamble to the regulations or the 1977 "Prepublication Draft Guidelines."

This may best be seen in the explanation of the background of the dispensing fee regulations set forth in Professor Vincent Gardner's Deposition on Written Questions, which forms Exhibit D of this brief. Professor Gardner is currently a Clinical Associate Professor of Pharmacy at the University of Texas. When the federal Health Care Financing Administration was established, Professor Gardner was named Associate Administrator and Director of the Office of Pharmaceutical Reimbursements of the Medicaid Bureau. He was also the Chairman of HEW's Pharmaceutical Reimbursement Board. He was a member of a work group whose work resulted in the 1975 dispensing fee regulations. He or his staff did most of the policy and economic analyses that were used to develop the 1975 regulations.

While 42 CFR 447.333 does not address the use of a percentage markup, it mandates that a dispensing fee be used. There is also no prohibition of a percentage for profit. The recommendation against a markup is only found in the 1975 preamble to the regulations and in the 1977 "Prepublication Draft Guidelines." As Professor Gardner explains in his deposition, in its preamble to the regulations, and later in guidelines, HCFA intended to discourage the use of a percentage

markup system. Professor Gardner explains that Texas' sliding scale dispensing fee does not violate either the spirit or the letter of the regulations, or even the preamble and the guidelines, because the Texas methodology is not a percentage markup system, i.e., the application of a percent to the cost of the drug to determine price. See Exhibit D, pp. 2-3, nos. 5 and 6.

This definition of markup, wherein the drug vendor applies a percentage only to the acquisition cost is not only the definition intended by the drafters of the regulations and the guidelines but also the commonly accepted working definition employed in retail industries. See Exhibit D, pg. 4, no. 7. Percentage markup as a pricing norm has evolved from the basic idea that the cost of an item is the factor to which markup is added in order to obtain a certain gross margin in every instance. See Marion Laboratories, Effective Pharmacy Management, Second Edition, (1983), pp 246-269. Thus, markup, as it is traditionally defined, is not only the application of a percentage or ratio only to the acquisition cost, but also the intended result that a certain gross margin be obtained in every instance. Texas' sliding scale dispensing fee does neither.

This is further seen by the discussion of the profit factor in the "Prepublication Draft Guidelines." As Professor Gardner explains in his answers to the State's deposition, if the guidelines suggest that percentage profit is permissible for the

flat/average dispensing fee determination, it is clearly no less allowable for all fee determinations. Again, the regulations and the guidelines are only internally consistent if one assumes that markup is defined in the traditional manner outlined above. What is discouraged by the preamble and the guidelines is "...the use of a percentage markup which is an application of a percent to the cost of the drug to determine price." Exhibit D, pg. 4. no. 7. It was not intended to address, let alone prohibit, the use of a percentage to determine fee determinations. "Markup" is undefined in the preamble and the guidelines. The State argues that the definition applied (now 10 years) later should represent the intention of the drafters and common retail pharmaceutical usage. Thus, even if the guidelines and the preamble were legally appropriate vehicles to prohibit methodologies not prohibited by the regulations, Texas' sliding scale dispensing fee is clearly not a markup system.

D. The Texas Sliding Scale Fee Controls Costs and Ensures Availability

The 1966 GAO study referenced in the Preamble to the current regulations recommended against a percentage markup system on the assumption that such a system would be an incentive to use higher cost drug items. This argument is advanced by HCFA as its rationale for the stand it takes in the 1977 "Prepublication Draft Guidelines" and in this disallowance.

As may be seen in a summary analysis of the sliding scale dispensing fee in Section II, the Texas system is not an incentive to use higher priced drugs. The assumptions on which the preamble was based can also be demonstrated to be inapplicable to Texas' actual experience under its sliding scale dispensing fee methodology. As is clearly shown in Exhibit E the use of higher cost drugs (multi-source innovators) has continued to decline since the implementation of the sliding scale methodology, while the use of multi-source generics has increased. The fee structure can have no effect on the use of single source products, as neither the physician nor the pharmacist has a choice of drugs to select from. This data shows that the concern that higher cost drug usage would increase is without merit.

In addition, the 1983 HHS Departmental Task Force on drug reimbursement recognized that reductions in reimbursement for the ingredient portion of drugs must inevitably result in a reconsideration of the adequacy of dispensing fee levels. Texas has significantly reduced the amount it pays for drug products in the Medicaid program. Just as the HHS Task Force predicted, this has required us to revise the dispensing fee. Nevertheless, this revision still complies with the legal requirements of the regulations and at the same time it results in drug payment rates that are, in the aggregate, lower than any other state in this region. See Exhibit F.

Exhibit G shows that the average cost per prescription in FY 1989 will be \$3.32 less than it would have been under the old (HCFA-approved) Texas system. The average dispensing fee will be only 18 cents higher than it would have been under the flat fee system previously in use. However, this slight difference in fee allows us to ensure availability of prescriptions despite lowering the product cost reimbursement an average \$3.38. Thus, the "bottom line" conclusion is that Texas has ensured availability while reducing State and Federal costs.

E. HCFA's Computation of the Disallowance is Incorrect

For all of the above reasons, TDHS believes the entire amount of this disallowance is incorrect and that the disallowance should be reversed. However, in the event the Board upholds the disallowance, the State would argue that the amount of the disallowance is overstated. In calculating the disallowance, HCFA subtracted the average paid fee (\$3.86) from the period immediately prior to the implementation of the new sliding scale dispensing fee from the average fee paid under the new methodology. This yielded an incremental fee increase from which the disallowance was figured.

The State contends that while the formula may be reasonable, the data upon which it is based is not. The false assumption in these calculations is that, but for the new sliding scale dispensing fee methodology, Texas would, six