Nirav R. Shah, Commissioner  
New York State Department of Health  
Empire State Plaza  
Albany, NY 12237

Submitted Via Email: dohweb@health.state.ny.us & Jah23@health.state.ny.us

RE: NCPA Concerns Regarding Proposed Cost of Dispensing and AAC Analysis

Dear Commissioner Shah:

I write to you on behalf of the National Community Pharmacists Association’s (NCPA) to voice community pharmacy’s serious concerns regarding New York State Department of Health’s (NYS DOH) Medicaid Fee for Service (FFS) Actual Acquisition Cost (AAC) and Cost of Dispensing (COD) program developed by NYS DOH and consultants First Data Bank and Ernst & Young. NCPA fully supports New York’s attempt to modernize their reimbursement model to appropriately reflect an accurate pharmacy reimbursement cost and COD. However, we feel there are serious deficiencies in the proposed data and methodology that New York has chosen to utilize. To provide an accurate reimbursement and dispensing fee such concerns must be addressed. Furthermore, NCPA has serious concerns regarding NYS DOH’s plan to utilize the currently flawed data for the purposes of submitting a State Plan Amendment (SPA) to CMS by the end of December. We respectfully request that any such plans be delayed until corrective action is taken.

NCPA believes that when properly determined, with all factors being appropriately considered, an AAC/COD model can be an effective benchmark. However, an AAC benchmark and dispensing fee must be considered together. Moreover, all relevant criteria must be considered to determine an appropriate dispensing fee. Such criteria would include costs of ordering, stocking, packaging, uncollected co-pays, labeling and dispensing medication. Such costs should also include drug utilization review (DUR) and appropriately allocated indirect and overhead operations costs. NCPA noted during our analysis that NYS DOH excluded multiple criteria from their analysis. NCPA is concerned that the current AAC/COD methodology is notably flawed and implementing this benchmark in its current form could impact many community pharmacies to a degree of placing many Medicaid beneficiary’s access to pharmacy services in question.

NCPA represents the owners and operators of approximately 23,000 privately-held small business independent community pharmacies across the United States and our members provide approximately 41 percent of all outpatient prescriptions in the United States. More than 2,200 NCPA independent pharmacies operate in the state of New York and more than 90 percent of independent pharmacies’ business is derived from prescription revenues as opposed to other, “front-end” retail items. Nationwide, Medicaid represents an average 18 percent of all prescriptions filled by community pharmacy which is roughly double that of chain pharmacy. NCPA has been involved with the implementation of similar AAC/COD models in other states as well as at the national level with the implementation of the National Average Drug Acquisition Cost (NADAC) survey which was recently finalized by CMS. Please note that NCPA continues to have concerns with NADAC. Any reference to NADAC in this letter is done so only to provide a comparison and does not reflect NCPA overall support for the NADAC model.

At this time, we offer the following observations and concerns regarding NYS DOH’s AAC/COD implementation and are hopeful that you will take them under serious consideration. NCPA supports and echoes the message made by many state and national pharmacy organizations voicing concern over the implementation of AAC/COD in New York. We are also hopeful that our comments will be used in a manner to vastly improve the current AAC/COD proposal before such information is submitted to CMS for review. NCPA has reached these conclusions after comparing NYS DOH’s proposed AAC/COD figures to NADAC data,
reviewing similar benchmark programs implemented previously by other states, having direct conversations with New York pharmacy organizations and pharmacy owners and analyzing data provided for NYS DOH AAC/COD process.

Concerns & Observations

Cost of Dispensing (COD) Survey:

- The 2013 NCPA Digest found that an appropriate pharmacy COD is approximately $12.00. NYS DOH’s proposed COD falls well short of this figure and also of those COD figures from states previously implementing an AAC/COD model. The average COD of $9.33 in New York is $3.64 lower than the average COD of $12.97 in Alabama, $3.89 lower than the average COD in Idaho and $1.82 lower than average COD in Oregon. All of the aforementioned states determined their figures through a survey process. It should also be noted that the northeast region of the United States has historically demonstrated to be one of the highest COD regions.

- Comparing results from NYS DOH’s COD tiered dispensing fee system by prescription volume; New York estimates lag well behind other state level tiered COD estimates. Average COD for pharmacies in New York dispensing fewer than 30,000 prescriptions annually was $14.11. In Alabama, the average COD for pharmacies dispensing fewer than 43,000 prescriptions annually was $19.39, and the comparable figure for pharmacies dispensing fewer than 40,000 annual prescriptions in Idaho was $15.11. A clear pattern emerges, across all states and all tiered prescription volume ranges, COD in New York lags well behind other states, despite the fact that New York has one of the highest costs of living in the United States.

- NYS DOH chose to exclude outliers that would be vital to reflect an appropriate COD. Based on NCPA calculations it appears that only those outliers that would lower the proposed COD were utilized while outliers that would raise the proposed COD were excluded. Such action raises serious concerns as to the accuracy of resulting data.

- NCPA noted that NY DOH excluded from COD analysis important expense categories. These include but are not limited to; account receivable expenses, bad debts, write offs, delivery cost and equipment depreciation, corporate overhead expenses and cost of carry inventory. Furthermore, Medicaid beneficiaries are not required to pay co-pays. Pharmacists should be able to account for such losses when completing a COD survey.

- New York estimated a median COD for long term care (LTC) pharmacies of $5.59, well below COD estimates from other studies. A study conducted by Virginia Commonwealth University found that for closed door LTC facilities, median COD was $13.54. Compared to retail pharmacies, LTC pharmacies incur additional dispensing-related costs to serve residents’ needs. These include services such as specialized packaging, 24-hour on-call pharmacy services and providing deliveries to pharmacies several times a day. Given these additional costs, it is hard to imagine that the NYS DOH estimate is accurate. This brings into question the methodology used to derive these estimates.

- NYS DOH reports an unweighted standard deviation of $25.27 for the COD distribution, well above what other states report. Even after adjusting for outliers, the standard deviation is above what is reported by other states. For example, Alabama reports an unweighted standard deviation of $7.24 and a weighted standard deviation of $3.58. NYS DOH must provide a rationale justifying such discrepancies.

- To control for outliers, NYS DOH removes any COD value more than two standard deviations away from the median COD. For a normal distribution, the standard deviation is a very appropriate measure of variability (or spread) of the distribution. But for skewed distributions, the standard deviation gives no information on the asymmetry. It is better to use the first and third quartiles, since these will give some sense of the asymmetry of the distribution.
• NYS DOH develops a regression model to identify the attributes that had significant and consistent impact on COD. The model has an R-squared of 18.27, suggesting that model predicts only 18.27 percent of the variation in COD around its mean value. NYS DOH needs to document what additional testing that was conducted to assure a robust model.

• Community pharmacists have historically served a higher percentage of Medicaid beneficiaries in comparison to other pharmacy options. There are discrete yet impactful differences between providing pharmacist care services to those that are commercially insured and the Medicaid population. The Medicaid population typically faces multiple chronic conditions that warrant increased pharmacist oversight and patient counseling, increasing the operational costs to serve these patients. NYS DOH should consider such additional costs when determining an accurate COD.

• NYS DOH’s proposed tiered dispensing fee structure is based solely on total prescription volume. NYS DOH may also wish to take into consideration the total number of Medicaid prescriptions a particular pharmacy fills annually or the percentage of their total prescription volume that is made up of Medicaid prescriptions. For example, pharmacies that serve a significant number of Medicaid beneficiaries or where Medicaid claims make up at least a certain percentage of their total prescription volume might receive an additional amount (perhaps $0.50) added to their base dispensing fee. NYS DOH could also provide this “incentive” payment to pharmacies that dispense a significant number of generics—or for those pharmacies for whom generics make up at least a certain percentage of their total prescription volume.

Actual Acquisition Cost (AAC) Survey:

• NCPA feels that rebates should NOT be considered in the calculation of AAC because of the inconsistencies inherent in this data. The drug pricing and pharmacy purchasing marketplace is extremely complex and must be considered on a case-by-case basis. There is not a consistent way for pharmacies – be they chain, independent, specialty, etc. to report this data. NCPA feels that NYS DOH’s insistence on including such rebates may be significantly skewing data results.

• When reviewing the top 100 dispensed brand drugs, 93 out of 100 times, NYS DOH average acquisition cost (NYAAC) is determined to be lower than NADAC. On Average, NYAAC is $8.72 per unit lower when compared to NADAC. NCPA feels that before either of these benchmarks is finalized the notable discrepancies in both of the models must be reconciled.

• When reviewing the top 102 dispensed generic drugs, 100 out of 102 times, NYS DOH average acquisition cost (NYAAC) is determined to be lower than NADAC. On Average, NYAAC is $6.67 per unit lower when compared to NADAC. Again, NCPA feels that before either of these benchmarks is finalized the notable discrepancies in both of the models must be reconciled.

• NYS DOH should justify what constitutes a minimum number of pricing data for a particular drug before reporting an updated AAC. Currently NYS DOH simply states “that if no pricing data for a particular drug is reported in a monthly survey, ACC will be developed using an average of the previous two months.” Does this suggest that if NYS DOH receives one pricing data point for a particular drug, NYS DOH will update AAC based on that single pricing data point? NYS DOH must clarify what type of geographic distribution and pharmacy type distribution will be required to result in a statistically significant response. The number of observations for each entry should be included in the file.
We offer these comments for your consideration and hope they will result in a more extensive conversation into the details of this matter. At this time NCPA believes that due to the significant flaws and omissions in the methodology used to determine COD and NYAAC, New York should not move forward with proposing to utilize the data in question. Also, NCPA believes that due to the notable discrepancies listed above any existing appeals processes that are currently or made available to New York pharmacy would not provide adequate protections. If the current data is utilized both pharmacists and NY DOH would be burdened with countless hours dealing with and processing appeals.

NCPA continues to commend New York on their efforts to develop a reimbursement method that reflects true costs of providing pharmacy services. We understand that developing such a model is no easy task and is a process that must be refined before an appropriate and effective system is considered fully operational. NCPA hopes to work closely with your office to develop such a system and feels our experience and expertise will be beneficial. Please do not hesitate to contact me at matt.diloreto@ncpanet.org or at (703) 600-1223 to further discuss this matter.

Sincerely,

Matthew J. DiLoreto
Senior Director, State Government Affairs

Cc:
Jason Helgerson
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Senator John DeFrancisco
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Senator Dean Skelos
Senator Jeffrey Klein
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Assemblyman Herman Farrell
Assemblyman Richard Gottfried