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Tennessee Regulatory Pricing Requirements

Introduction

In Tennessee, DST will follow the requirements set forth in the Pharmacy Network Operations Drug Maximum Allowable Cost (“MAC P&P”) document unless noted herein and will apply for all drug pricing in Tennessee.

Creation (Section 3.1 in MAC P&P)

1. “Maximum allowable cost” or “MAC” means the maximum amount that the Company will reimburse a pharmacy for the cost of a drug or a medical product or device.
 - a. The Company will not include within the amount calculated to reimburse a pharmacy for actual cost the amount of any professional dispensing fee that is payable to the pharmacy.
2. Before the Company may place a drug on a MAC list, the Company must find that the drug is generally available for purchase by pharmacies in Tennessee from a national or regional wholesaler.
3. Nothing herein will be construed as preventing the Company from reimbursing claims for a generic drug at the previously determined MAC even if the Company reimburses for the equivalent brand name drug at the contracted brand rate after confirmation by a national or regional wholesaler and by the manufacturer that the generic drug is generally unavailable for purchase from a national or regional wholesaler.

Maintenance (Section 3.2 in MAC P&P)

1. The Company will update each MAC list no less than every three (3) business days.
2. The Company will update the nationally recognized reference prices or amounts used for calculation of reimbursement for prescription drugs and other products and supplies no less than every three (3) business days.
3. If a drug that has been placed on the MAC list no longer meets the drug eligibility requirements, the Company will remove the drug from the MAC list within five (5) business days after the date that the Company becomes aware that the drug no longer meets the requirements. The Company will then use the updated MAC list to calculate the payments made to the pharmacies within five (5) business days.

Reimbursement by the Company under a contract to a pharmacy for prescription drugs and other products and supplies that is calculated according to a formula that uses a nationally recognized

reference in the pricing calculation will use the most current nationally recognized reference price or amount in the actual or constructive possession of the Company or its agent.

Access (Section 3.3 in MAC P&P)

1. The Company will make available to each pharmacy with which the Company has a contract and to each pharmacy included in a network of pharmacies served by a pharmacy services administrative organization (PSAO) with which the Company has a contract, at the beginning of the term of a contract and upon renewal of a contract:
 - a. The sources used to determine the MACs for the drugs and medical products and devices on each MAC list;
 - b. Every MAC for individual drugs used by the Company for patients served by that contracted pharmacy. Upon request, every MAC list used by the Company for patients served by that contracted pharmacy will also be made available.
2. The Company will make updated lists available to every pharmacy with which the Company has a contract and to every pharmacy included in a network of pharmacies served by a PSAO with which the Company has a contract in a readily accessible, secure and usable web-based format or other comparable format or process.

Appeals for Contracted Pharmacies (Section 3.4 in MAC P&P)

1. Basis of Appeal

- a. A pharmacy may base its appeal on one or more of the following:
 - i. The MAC established for a particular drug or medical product, or device is below the cost at which the drug or medical product or device is generally available for purchase by pharmacies in Tennessee from national or regional wholesalers; or
 - ii. The Company has placed a drug on the list without properly determining that the drug eligibility requirements have been met.
- b. If a pharmacy chooses to contest the listed MAC for a particular drug or medical product or device, the pharmacy will have the right to designate a PSAO or other agent to file and handle its appeal of the MAC of the drug or medical product or device.

2. Submission of Appeals

- a. The Company uses only one appeal process for all initial appeals.
- b. A pharmacy must submit to the Company the following upon submission of an appeal:
 - (1) a copy of the invoice(s) demonstrating the pharmacy's actual cost as of the date of the filing of the appeal; (2) to the extent applicable, evidence of any additional discounts, price concessions, rebates or other reductions, excluding cash discounts; and (3) the name and contact information of the wholesaler or manufacturer from which it purchased the prescription drug or device at issue.
 - i. If the pharmacy receives any additional discounts, price concessions, rebates or other reductions, excluding cash discounts during the pendency of the appeal, the pharmacy must provide to the Company.
 - ii. The Company will consider the additional discount, price concessions, rebates or other reductions, excluding cash discounts when calculating the pharmacy's actual cost.
 - iii. Any additional discounts, price concessions, rebates or other reductions received after the resolution of the initial appeal are not grounds for reconsideration.
 - iv. It is not grounds for denial of an appeal if a pharmacy fails to provide the name and contact information of the wholesaler or manufacturer from which it purchased the prescription drug or device at issue, provided that, if the Company denies an appeal on other grounds and does not otherwise have the information on file, the Company will presume the prescription drug or device at issue is available at a lower cost from

wholesaler or manufacturer from which it purchased the prescription drug or device at issue.

3. Designated Contact for MAC Appeals

- a. An appealing pharmacy may contact the Company about the appeals process by contacting:
 - i. Lisa Versch
 - ii. By Telephone, at 1-500-522-7487;
 - iii. Email, at M5@dsthealth.com; and
 - iv. Website, as set forth in Section 7(f) below.

4. Appeals Resolved in Favor of the Appealing Pharmacy:

- a. Appealing Pharmacy:
 - i. If a pharmacy's initial appeal is resolved in favor of the appealing pharmacy, the Company shall provide the pharmacy the following:
 1. National drug code number or the unique identifier at issue ("NDC");
 2. A statement the initial appeal is granted as of the date of filing of the appeal, and a summary outlining the basis for its decision;
 3. Notification that the Company has adjusted the challenged rate of reimbursement;
 4. Detailed instructions for how to reverse and rebill the claim on which the initial appeal is based; and
 5. Written notification the Company has issued payment to the pharmacy showing the exact amount of the payment.
 - ii. To the extent a transaction fee is applicable, the Company will waive such cost.
 - iii. To the extent applicable, the pharmacy shall be reimbursed, at least the pharmacy's actual cost for the prescription drug or device, to the extent the appropriate documentation in Section 2 is provided.
- b. Similarly Situated Pharmacies:
 - i. When applying the findings from an initial appeal resolved in favor of a pharmacy to other similarly situated pharmacies regarding the rate of reimbursement and actual cost for the particular drug or medical device that was at issue in the initial appeal, within seven (7) business days, the Company will apply the findings retroactively as set out in subsection 4(b)(ii) below to all similarly situated pharmacies that received the challenged rate of reimbursement for the particular drug or medical device that was at issue in the initial appeal, including any pending appeals with the Company where the challenged rate of reimbursement is the subject of the pending appeal by:
 1. Notifying all similarly situated pharmacies of the adjusted rate of reimbursement in writing. The notice will contain: (1) NDC, and (2) the rate of reimbursement to which the similarly situated pharmacy is now entitled for the drug or medical device; and
 2. Paying all similarly situated pharmacies the difference in the original rate of reimbursement the similarly situated pharmacy received and the adjusted rate of reimbursement that resulted from the initial appeal resolved in favor of a pharmacy. The Company will not charge any fees or require additional documentation from similarly situated pharmacies to pay the difference required.
 - ii. The findings from an initial appeal resolved in favor of a pharmacy shall be applied retroactively under Section 4(b)(i) (Similarly Situated Pharmacies) by applying the adjusted rate to all similarly situated pharmacies beginning on the date of service of the claim that was the subject of the initial appeal and continuing to apply that rate going forward until the appealing pharmacy and the similarly situated

pharmacy or pharmacies were no longer entitled to the same rate of reimbursement for the drug or medical device at issue.

- c. The Company shall track initial appeals such that it can reasonably determine if an adjusted rate of reimbursement applies.

5. Appeals Resolved Against the Appealing Pharmacy:

a. Obligations of Company and Appealing Pharmacy:

i. *Company Obligations.*

1. The Company will determine whether the product associated with the NDC is available at a cost that is less than the challenged rate of reimbursement from a pharmaceutical wholesaler in Tennessee as of the date the initial appeal was received from the appealing pharmacy. If the wholesaler information is not provided by the pharmacy, the Company shall make a reasonable effort to identify the information and use that information in its analysis. Because DST does not purchase drugs, it does not have a relationship with a wholesaler or manufacturer and would not have access to direct pricing. The Company does utilize a third-party that collects pricing information and DST subscribes to that service for which it will utilize for this requirement. The product associated with the NDC at issue shall be deemed available if, at the time the initial appeal was received by the Company, the product was in stock with a wholesaler operating in Tennessee. Note: The Company does not have a relationship with the wholesaler utilized by the pharmacy, but the Company will make its best effort through its third-party to verify that the product was in stock.
2. If the product associated with the NDC is available at a cost that is less than the challenged rate of reimbursement from a pharmaceutical wholesaler in Tennessee, the Company shall provide the appealing pharmacy the following within seven (7) business days after notice of the appeal:
 - a. The name of the national or regional pharmaceutical wholesalers operating in Tennessee (and/or the third-party service) that have the particular drug or medical device currently in stock at a price that is less than the amount of the challenged rate of reimbursement; and
 - b. If the product involved is a drug, then the NDC number for the drug, or
 - c. If the product is a medical device, then the unique device identifier for the device.
3. If the product associated with the NDC is not available at a cost that is less than the challenged rate of reimbursement from the pharmaceutical wholesaler in Tennessee, then the Company shall adjust the challenged rate of reimbursement to an amount equal to or greater than the appealing pharmacy's actual cost and permit the pharmacy to reverse and rebill each claim affected by the inability to procure the pharmaceutical product at a cost that is equal to or less than the previously challenged rate of reimbursement. The Company will pay or waive the cost of any transaction fee required to reverse and rebill the claim.
4. If the Company is unable to locate the necessary information required in 5(a)(i)1 because the third-party contacted by the Company failed to provide the information needed by the

Company within the timeframe for resolving appeals, the Company will presume that the product associated with the NDC at issue was not available at a cost that is less than the challenged rate of reimbursement from a pharmaceutical wholesaler in Tennessee as of the date the initial appeal was received from the appealing pharmacy. Note: Because DST does not purchase drugs, it does not have a relationship with a wholesaler or manufacturer and would not have access to direct pricing. The Company subscribes to a third-party service that collects pricing information and DST will utilize that service for this requirement.

5. If the Company is unable to locate the necessary information required in 5(a)(i)1, the Company will assume that the drug is not available at a lower cost.

ii. *Appealing Pharmacy Obligations.*

1. The pharmacy will provide the Company with the name of its majority wholesaler for the purpose of allowing the Company to fulfill its obligations. Upon receiving the information, the Company will then determine whether the prescription drug or medical device at issue is available from the pharmaceutical wholesaler at a cost that is less than the challenged rate of reimbursement as of the date the initial appeal was received from the appealing pharmacy. If the pharmacy fails to provide the name of the majority wholesaler within two (2) business days of the Company's request to provide that name, the Company may presume the prescription drug or device at issue is available at a cost that is less than the challenged rate of reimbursement from the pharmacy's majority wholesaler and take no further action. Note: Because DST does not purchase drugs, it does not have a relationship with a wholesaler or manufacturer and would not have access to direct pricing. The Company subscribes to a third-party service that collects pricing information and DST will utilize that service for this requirement.
 2. The pharmacy will cooperate with the Company to assist in its search for the wholesaler. Provided, however, that except as provided in the foregoing paragraph, neither the pharmacies nor a wholesaler's failure to cooperate or provide the Company with information shall be grounds for the Company to fail to meet its obligations under applicable Tennessee law.
- b. Even if the Company determines it has a basis to deny an initial appeal for a reason other than that the pharmacy was reimbursed actual cost, the Company will follow the requirements provided herein.
- c. If a pharmacy's initial appeal is resolved against the appealing pharmacy and the Company is required to adjust the challenged rate of reimbursement, the Company will, to effectuate adjustment of the challenged rate, apply the findings from the appeal as to the rate of reimbursement for the drug or medical product or device at issue to other similarly situated pharmacies in the same manner set forth above.
- d. Notification to Pharmacies
- i. If a pharmacy's initial appeal is resolved against the appealing pharmacy, the Company shall provide the pharmacy the following in writing:
 1. A statement the initial appeal is denied, with a summary outlining the basis for its decision including the NDC;
 2. Evidence the Company has adjusted the challenged rate of reimbursement, if applicable
 3. Detailed instructions for how to reverse and rebill the claim upon which

- the initial appeal is based, if applicable;
4. Written notification the Company has issued payment to the pharmacy showing the exact amount of the payment, if applicable; and
 5. Instructions on how to make an external appeal of the Company's decision to the Commissioner by:
 - a. Explaining how to submit an appeal, including the phone number or website address for the Department where appeals are accepted. The Company will be responsible for ensuring the information provided to pharmacies is accurate; and
 - b. The following statement shall be included: Pursuant to *T.C.A. § 56-7-3206(g)(2)*, you have the right to appeal this decision to the Commissioner of the Tennessee Department of Commerce and Insurance.
- e. Payment Requirements:
- i. If the Company is required to pay a pharmacy any additional money upon resolving an initial appeal, including a payment to a similarly situated pharmacy, the Company will adjust the rate of reimbursement and make the payment within seven (7) business days after notice of the initial appeal is received by the Company. However, subject to subsection 5(e)(ii.), the timeline for making the payment(s) will not begin until the appealing pharmacy has reversed and rebilled its claim showing the adjusted rate of reimbursement.
- f. Record Retention:
- i. The Company will retain all records related to an initial appeal for a period of at least five (5) years or as directed otherwise in writing by the Commissioner. The Company will provide the Department access to all records upon request and comply with requests for information regardless of whether the request is part of a departmental audit.
- g. Assessment of Costs
- i. The Company will not assess any costs to a pharmacy for any services provided by the Company in connection with an initial appeal.
- h. Company Reimbursement Prohibition
- i. The Company, whether adjusting the pricing for the appealing pharmacy or a similarly situated pharmacy, will not require the pharmacy to reimburse the Company for any portion of a payment previously received by the pharmacy.

6. Timing and Notice Requirements for Appeals.

- a. Initial Appeal Process Timing.
- i. The pharmacy must file its initial appeal within seven (7) business days of its submission of the initial claim for reimbursement for the drug or medical device.
 - ii. The Company will make a final determination regarding pharmacy's initial appeal within seven (7) business days of the Company's receipt of an initial appeal that includes all information required herein.
- b. Final Determination Timeline.
- i. The timeline for making a final determination resolving an initial appeal will not begin until the Company has received all required information for the Company to conduct a complete analysis of the initial appeal. The Company will be deemed to have received all required information upon receipt of:
 1. A complete version of either an initial appeal form provided by the Commissioner to be used by a pharmacy to file an initial appeal or the Company's appeal form submitted and approved pursuant to; and
 2. Certification from the pharmacy it has provided the Company with all invoices or other records demonstrating the pharmacy's actual cost for

the drug or medical device at issue, which will take into account all discounts, price concessions, rebates, or other reductions received as of the date the pharmacy filed its initial appeal.

c. Incomplete Initial Appeal.

- i. If the Company receives an initial appeal from a pharmacy that does not contain all information required under this policy, the Company will accept the incomplete initial appeal and hold it open pending receipt of additional information from the pharmacy.

1. Within five (5) business days of receipt of an incomplete initial appeal, the Company will notify the pharmacy of the information needed to complete the initial appeal.
2. The pharmacy will have five (5) business days after receipt of the Company's notice to respond with the requested information.
3. If the pharmacy provides the requested information, the timeline for making a final determination will begin.
4. If the pharmacy fails to provide the requested information within five (5) business days of receipt of the Company's notice, the Company may deny the initial appeal.

d. Company Prohibitions.

- i. The Company may not delay the start of its review of an initial appeal by:
 1. Requiring additional or different information from a pharmacy beyond what is required to be submitted to the Company under its initial appeal process approved by the Commissioner pursuant to Rule; or
 2. Basing the delay on administrative or non-substantive errors or omissions in any of the filings that do not affect the overall validity of the initial appeal.

e. Failure to Comply with Timing/Notice Requirements.

- i. If the **Company** fails to comply with the timing and notice requirements, the pharmacy's initial appeal shall be resolved by the Company in favor of the pharmacy.
- ii. If an **appealing pharmacy** fails to comply with the timing requirements, the Company may deny the initial appeal.

f. Company Website.

The Company will make its initial appeal process available on its website at <https://www.argushealth.com/myargus/MyArgus>, which will include all deadlines applicable to its initial appeals process, a description of steps necessary to complete its initial appeal process, and a telephone number, email address, web portal, or any other process that a pharmacy may use to submit initial appeals. The website will clearly state that its initial appeal process is available for all drugs or devices in Tennessee for which a pharmacy alleges it did not receive its actual cost.

7. **External Appeal Process**

a. Application of Appeals Process.

- i. These requirements apply only to appeals of the Company's decision rendered pursuant to its initial appeal process established and approved.

b. Pharmacy's Right to Appeal.

- i. A pharmacy that alleges it did not receive at least its actual cost for a prescription drug or device after an initial appeal was filed and resolved with the Company will have the right to appeal the Company's decision to the Commissioner.

c. The Company's Right to Respond.

- i. Within ten (10) business days of receipt of notice from the Commissioner of an

external appeal, the Company may file a response to the pharmacy's appeal by providing information supporting its decision during the initial appeal process.

d. Commissioner's Decision.

- i. Upon granting or denying an appeal, the Commissioner will send the parties a copy of the decision that contains a written justification. The Commissioner's decision of the appeal is final and is not eligible for additional administrative review.

e. Payment Upon the Granting of an Appeal.

- i. If the Commissioner grants a pharmacy's appeal, the Company is required to pay the pharmacy any money it owes to the pharmacy within seven (7) business days of receipt of the Commissioner's written notice.
- ii. The Company will also provide proof to the Department that the Company has reimbursed the pharmacy at least its actual cost for the prescription drug or medical device at issue, including a statement of the additional amount paid to the pharmacy, within seven (7) business days of issuing the payment to the pharmacy.

f. Pricing Adjustments to Similarly Situated Pharmacies.

- i. If the Company is required to adjust a challenged rate of reimbursement after an appeal is resolved against the Company, the Company will apply the findings from the appeal as to the rate of reimbursement for the drug or medical device at issue to other similarly situated pharmacies in the same manner.

g. Cost of Appeal Process.

- i. All costs associated with conducting an appeal, including the expenses of the Department will be paid by the Company within thirty (30) days of receipt. Failure to pay a bill in full within the thirty (30) days will be grounds for Commissioner to:
 1. Suspend, revoke, or refuse to renew the Company's license issued by the Department; and
 2. Order the Company to pay additional monetary penalties.
- ii. If the Company fails to timely pay a bill pursuant to this section and the Department incurs any costs associated with conducting an appeal under these requirements, including but not limited to reimbursement to a third-party contractor, the Company will reimburse the Department for those costs, which will include any fees or interest paid by the Department due to the Company's failure to pay. The Commissioner will bill the Company upon incurring those costs and the Company will pay the bill in full within thirty (30) days of receipt. Failure to pay a bill in full within thirty (30) days of receipt will be grounds for the Commissioner to take any action outlined in this subsection.

Reimbursement Requirements

1. Notwithstanding any law to the contrary, the Company will not reimburse a contracted pharmacy for a prescription drug or device an amount that is less than the actual cost to that pharmacy for the prescription drug or device.
2. The Company will not engage in a pattern or practice of reimbursing pharmacies in Tennessee less than the amount that the Company reimburses an affiliate for providing the same drug or dispensed product or service.

Change History

Version	Date	Author	Reason for Change
Prior version history has been maintained prior to adding the Change History Table			
2023 v1.0	04/01/2023	Alison Wells / PLG	Original document
2024 v1.0	01/29/2024	Mark Cone / PLG	Updated Header: Business Unit: DST Pharmacy Solutions, Inc. and DomaniRx, LLC. Changed the Approver from Sr. Director of Compliance to Director of Pharmacy Network
2025 v1.0	03/26/2025	Lisa Versch / PLG	Annual Review – Multiple updates to reflect new requirements under Tenn. Comp. R. & Regs. 0780-01-95-.04