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Correspondence Memorandum

Date: July 16, 2024
To: Group Insurance Board
From: Tricia Sieg, Pharmacy Benefits Program Manager
Korbey White, Health Program Manager
Office of Strategic Health Policy
Subject: Federal Rules Compliance Update

This memo is for informational purposes only. No Board action is required.

Background

Staff would like to provide the Board with an update on federally mandated changes related to the Medicare Prescription Payment Plan (M3P) and Section 1557 of the Affordable Care Act (ACA).

Medicare Prescription Payment Plan

On Aug. 15, 2022, the Inflation Reduction Act (IRA) was signed into law, establishing the M3P, effective Jan. 1, 2025.

The M3P is a payment option open to all Medicare Part D participants that helps manage out-of-pocket (OOP) drug costs by spreading members' payments across the calendar year (January-December). Under the M3P, instead of paying copayments (copays)/coinsurances at pharmacies when picking up prescriptions, a participant will get a bill from their health or drug plan to pay for their prescriptions.

The Board is the Medicare Part D plan sponsor, and under the M3P, pays the members' out of pocket costs. The Board will later be reimbursed by the members' monthly payments. There is no cost, interest, fees, or charges for late payments assessed to members who enroll in the M3P.

For example, a member picking up a prescription with a copay of \$24 every month would pay \$0 at the pharmacy every time they picked up the prescription. The member would make monthly payments throughout the year so that the \$288 (12 months of prescriptions with a \$24 copay) was paid off by Dec. 31, 2025. Members can accumulate copays throughout the year, up to an annual out-of-pocket limit of \$2,000, for all Medicare Part D drugs regardless of the tier or cost of the drug. There is no

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Electronically Signed 07/26/2024

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mechanism in the M3P that would discourage a participant from using a higher cost non-preferred brand name drug rather than the generic equivalent before or after the member reaches the \$2,000 out-of-pocket limit.

A member's monthly payment would be calculated each month using this formula of the sum of the remaining OOP costs plus additional OOP costs incurred divided by the number of months remaining in the plan year.

Navitus Health Solutions (Navitus), the Board's Pharmacy Benefit Manager (PBM), has partnered with Echo Health to manage the M3P for its Medicare Part D clients. Navitus is finalizing details and anticipates the need for a contract amendment due to increases in costs as well as the need to update contract language for administering the M3P.

The stated goal of the M3P is to assist Medicare Part D members facing high copays and coinsurances at pharmacies. Under the Board's Medicare Part D plan, also known as the Employer Group Waiver Plan (EGWP), copays range from \$5 to \$50, with select situations requiring copays of \$150 to \$200. In 2023, the Board enrolled 36,087 Medicare Part D members, including 80 with copays totaling \$2,000 or more.

Table 1: EGWP Drug Cost Shares

Tier	Copay/Coinsurance	Tier Description
Level 1	\$5 copay	Preferred generic drugs and certain lower-cost preferred brand name drugs.
Level 2	20% coinsurance (\$50 max)	Preferred brand name drugs and certain higher-cost preferred generic drugs.
Level 3	40% coinsurance (\$150 max)	Non-preferred brand name drugs and certain high-cost generic drugs for which alternative/equivalent preferred generic and brand name drugs are covered.
Level 4	\$50 copay	Includes <i>only</i> specialty drugs filled at a preferred specialty pharmacy.
Level 4	40% coinsurance (\$200 max)	Specialty drugs filled at a pharmacy other than a preferred specialty pharmacy

In speaking with other public sector entities that provide EGWP plans for Medicare members, ETF has learned that the M3P will only benefit a very small portion of their members because EGWPs historically have low copays/coinsurances.

Trust and M3P Administration

Issues and concerns have been raised because of federal laws that prohibit the use of trust funds for personal debts. An unpaid M3P balance constitutes a personal debt for members. ETF and other trust administrators are seeking clarity on how to administer M3P under these guidelines, particularly in cases of member non-payment or death.

The [Public Sector Healthcare Roundtable](#), a coalition of public sector healthcare purchasers from across the United States, has engaged with the Center for Medicare and Medicaid (CMS), the United States Department of Internal Revenue Service (IRS) and the U.S. Department of Treasury to discuss issues the membership faces with the M3P. ETF continues to collaborate with the Public Sector Roundtable and Navitus to implement the M3P for 2025.

New Section 1557 Federal Rule

Section 1557 of the Affordable Care Act (Section 1557) prohibits discrimination on the basis of race, color, national origin, age, disability, or sex, in covered health programs or activities. ETF is currently reviewing recent regulatory changes related to Section 1557. ETF's current compliance largely mirrors those in the new regulations. As a result, ETF anticipates that implementation of the new rule will involve making only limited updates to the notice of nondiscrimination on its website, to its internal processes, and to certain forms and brochures. ETF communicated with health plans participating in the Group Health Insurance Program about the need to review this newly released information before reporting on its findings and providing guidance to the Board and vendors. The implementation deadline is unclear at this point, as enforcement of the rule has been partially enjoined by a federal district court.

Staff will be at the Board meeting to answer any questions.