

Tony Evers
Governor



**DIVISION OF MEDICAID SERVICES
DIVISION OF PUBLIC HEALTH**

DRUG REBATE PROGRAM
313 BLETTER BLVD
MADISON WI 53784

Kirsten L. Johnson
Secretary

**State of Wisconsin
Department of Health Services**

Telephone: 800-947-9627
Fax: 608-221-4567
TTY: 711

Dear Manufacturer:

This letter requests your participation in a drug rebate program for a portion of Wisconsin's Children's Health Insurance Program (CHIP). Your signed rebate agreement is needed to ensure that drugs you produce are available to thousands of Wisconsin children.

Overview of Wisconsin's Children's Health Insurance Program

Wisconsin operates a CHIP called BadgerCare Plus.

States can design their CHIP in several ways. States may choose to operate a separate program from Medicaid, expand Medicaid eligibility, or use a combination of both approaches. Wisconsin operates a combination CHIP, which allows for a Separate CHIP (SCHIP) and a Medicaid expansion CHIP (MCHIP) to cover different groups of eligible children based on their income level.

As a manufacturer who participates in the national Medicaid Drug Rebate Program, your existing Medicaid Rebate Agreement applies for those members who are covered under MCHIP. For members covered under SCHIP for needed prescription drugs that are produced by your company, a separate signed state rebate agreement is needed. The agreement is modeled after the national Medicaid rebate agreement and will be used for rebates on drugs purchased for members of SCHIP.

In order to facilitate your participation, the following are answers to anticipated questions about the State CHIP rebate agreement that you may find helpful.

SCHIP is authorized under Title XXI of the federal Social Security Act. The purpose of this rebate agreement is to establish manufacturer rebates for covered outpatient drugs utilized by SCHIP members. This rebate agreement is between the manufacturer identified in the agreement and the State of Wisconsin, Department of Health Services (DHS). Participating manufacturers agree to provide the State with rebates calculated using the full methodology prescribed by the federal government for the Medicaid Drug Rebate Program for each covered outpatient drug. However, the State CHIP rebate agreement provisions allow for exceptions to rebate calculations when there are Best Price impacts and discounts exceeding 100% of Wholesale Acquisition Cost (WAC).

State CHIP Rebate Agreement

Before you choose to participate, please read the enclosed rebate agreement in its entirety. This is a standard rebate agreement being offered to all manufacturers who are currently participating in the national Medicaid Drug Rebate Program. You may not alter, modify, or otherwise change the agreement. The agreements that are part of this package must be the ones that are signed and returned by you. If these conditions are not met, DHS will return the agreements to you and request that you meet these conditions. Two copies of the agreement are enclosed with this letter. If you choose to participate in this program, please complete and sign both copies to ensure coverage of your drugs under SCHIP. Once DHS has received the signed agreements, one signed agreement will be returned to you for your records.

Please return the signed rebate agreements by certified or registered mail within 30 days to the following address:

Wisconsin Drug Rebate Unit
313 Blettner Blvd
Madison WI 53784

If you have any questions, email DHSWIMDRP@dhs.wisconsin.gov or call 608-224-6087, Monday through Friday, 8:00 a.m.–4:30 p.m. Central time. Additional information regarding this program is posted on the Manufacturer Drug Rebate area of the ForwardHealth Portal at forwardhealth.wi.gov.

Thank you for your participation in Wisconsin's SCHIP Drug Rebate Program.

Sincerely,

Medicaid Director

Enclosure

L-010 (02/2025)

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STATE CHILDREN'S HEALTH INSURANCE PROGRAM REBATE AGREEMENT

State Children's Health Insurance Program Rebate Agreement Between Wisconsin Department of Health Services And The Manufacturer

This rebate agreement (Agreement) is made and entered into by and between the Manufacturer identified in this Agreement and the State of Wisconsin, Department of Health Services (DHS), for its State Children's Health Insurance Program (CHIP). Wisconsin DHS and the Manufacturer may be referred to collectively herein as the "Parties."

BACKGROUND

Wisconsin DHS administers a combination CHIP, meaning one part of the population is covered within Wisconsin's Medicaid program and the other part of the population is covered by a Separate CHIP (SCHIP) as authorized under Title XXI of the federal Social Security Act. The purpose of this Agreement is to establish manufacturer rebates for covered outpatient drugs utilized by SCHIP beneficiaries. Pursuant to this Agreement, the Manufacturer agrees and is willing to provide the State with rebates from and after the effective date of this Agreement in connection with the sale of covered outpatient drugs to SCHIP beneficiaries.

1. DEFINITIONS

1.1. Covered Outpatient Drug: This has the same meaning as set forth in 42 U.S.C. § 1396r-8(k)(2)-(4). All covered outpatient drugs are identified by the Manufacturer's National Drug Code (NDC) number, and the definition of NDC shall have the same meaning as in the Manufacturer's Medicaid Rebate Agreement.

1.2. Centers for Medicare & Medicaid Services (CMS): This is the agency of the U.S. Department of Health and Human Services (HHS) with the delegated authority to administer the Medicaid program.

1.3. Medicaid Drug Rebate Program and Medicaid Rebate Agreement: These mean, respectively, the program and a signed agreement for such program between the Secretary of HHS and Manufacturer to implement the provisions of Section 1927 of the Social Security Act.



1.4. Quarter: This means a calendar quarter.

1.5. SCHIP Drug Rebate Amount: This means, with respect to each covered outpatient drug, the amount computed by CMS pursuant to Section 1927(c)(1) of the Social Security Act to which the number of units of covered outpatient drugs will be applied to determine the amount of rebate owed to Wisconsin DHS from Manufacturer. The SCHIP drug rebate amount shall be calculated using the full methodology prescribed by the federal government for the Medicaid Drug Rebate Program.

- i. Should a determination be made that rebates paid for the SCHIP Drug Rebate Program do not meet the CMS criteria for exemption as a Best Price for the purpose of Medicaid rebate calculations, Manufacturer shall be allowed to make appropriate adjustments to the SCHIP Drug Rebate Amount so that the Manufacturer has no Best Price liability for applicable covered outpatient drugs.
- ii. Should a determination be made that rebates calculated for the SCHIP Drug Rebate Program result in a greater than 100% discount off the Wholesale Acquisition Cost (WAC), Manufacturer shall be allowed to make appropriate adjustments to the SCHIP Drug Rebate Amount so that the rebate will be reduced by the amount necessary to reach 100% of WAC for applicable covered outpatient drugs.

1.6. SCHIP Drug Rebate Program (Program): This means the program between Wisconsin DHS and participating manufacturers to offset the state costs of covered outpatient drugs dispensed to SCHIP beneficiaries. The program requires a manufacturer to enter into, and have in effect, a State CHIP Rebate Agreement with Wisconsin DHS in exchange for SCHIP coverage of the manufacturer's covered outpatient drugs.

2. MANUFACTURER'S RESPONSIBILITIES

2.1. Following receipt of separately identified SCHIP Drug Rebate Program quarterly invoices indicating pharmacy reimbursement utilization data by NDC during the prior quarter, the Manufacturer will pay to Wisconsin DHS the SCHIP drug rebate amount within the same timeframes as the Medicaid Drug Rebate Program. The Manufacturer shall identify and remit separate rebate payments directly to Wisconsin DHS to the address indicated on the SCHIP Drug Rebate Program invoices or via the secure Manufacturer Drug Rebate area of the ForwardHealth Portal (the Portal) at forwardhealth.wi.gov.

2.2. The Manufacturer agrees to allow Wisconsin DHS to access and use information included on the CMS quarterly Medicaid Drug Rebate Program file that is necessary for the creation of invoices for the SCHIP Drug Rebate Program. Any information about the Manufacturer that the Program obtains from the CMS file will be treated as confidential and will not be used or disclosed by the Program except in connection with the Agreement or as required under law or court order.

2.3. The rebate per unit (RPU) used to determine the SCHIP drug rebate amount shall be identical to the RPU included in Wisconsin DHS's quarterly Medicaid Drug Rebate Program file received from CMS during that same quarterly period. If the actual RPU is different from the one

invoiced by the Program or the Manufacturer has determined an adjustment is needed so there is no Best Price liability for applicable covered outpatient drugs, then the Manufacturer must change the RPU and report the correct RPU to Wisconsin DHS.

2.4. The Manufacturer understands that payment of the SCHIP Drug Rebate Amount in accordance with this Agreement is a condition of coverage of the Manufacturer's drugs under SCHIP.

2.5. For each quarterly rebate payment, the Manufacturer is required to separately document the SCHIP Drug Rebate Program rebates from the Medicaid Drug Rebate Program rebates using the Medicaid Drug Rebate-mandated Reconciliation of State Invoice form, CMS-304. For explanation of any adjusted rebate payments to the Program, the Prior Quarter Adjustment Statement form, CMS-304a, must be used.

2.6. Payment of Rebate. Subject to the Manufacturer's right to offset requested rebate and the Manufacturer's right to dispute product utilization amounts pursuant to section 2.7 of this Agreement, payment of any SCHIP drug rebate amount shall become due 30 days after receipt by the Manufacturer of the invoice from the Program. Interest on unpaid rebates begins accruing 38 days after whichever date comes first: the postmark date of a paper invoice, the date of an emailed invoice, or the date of an emailed notification that an invoice is ready to be downloaded. The Manufacturer is required to continue to make a rebate payment on all the covered outpatient drugs for which claims have been paid while the Agreement is in force.

2.7. If the Manufacturer questions quarterly invoiced units received from the Program, the Manufacturer can only withhold payment for the disputed units and must pay rebates for all undisputed units. After receipt of the Manufacturer's dispute, the dispute resolution process is initiated between Wisconsin DHS and the Manufacturer and will be conducted using the same dispute resolution procedures and timeframes as indicated in the Best Practices Guide for Dispute Resolution under the Medicaid Drug Rebate Program.

3. PROGRAM RESPONSIBILITIES

3.1. The Program shall provide SCHIP coverage of covered outpatient drugs manufactured by the Manufacturer that has entered into this Agreement.

3.2. The Program shall furnish separate quarterly invoices to Manufacturer within the same timeframes as required under the Medicaid Drug Rebate Program and in the same format as specified under the Medicaid Drug Rebate Program using the Medicaid Drug Rebate Invoice form, CMS-R-144. The Program will create invoices for labelers identified by the manufacturer's labeler codes indicated in the Wisconsin Drug Rebate Labeler Attachment included with this Agreement. Invoices will be submitted using the labeler invoice contact name and address included in the quarterly Medicaid Drug Rebate Program file received from CMS or via the secure Manufacturer Drug Rebate area of the Portal developed and maintained by the Program under section 3.4 of this Agreement.

3.3. The Program shall keep and maintain records to ensure the accuracy of the dispenser level data and the information contained in each invoice submitted to the Manufacturer. Upon request, the Manufacturer will be allowed to review this information as it relates to the Program. However, under no circumstances will the Program be required to disclose information contrary to applicable law or in violation of patient confidentiality.

3.4. The Program may make available a secure drug manufacturer Portal to Wisconsin DHS-approved manufacturers to enhance electronic rebate collections, operations, and invoicing processes that may be used by the Manufacturer and the Program for all drug rebate invoicing activities and other information and notices transmitted between the Parties under the terms of this Agreement.

4. AGREEMENT DURATION—NONRENEWAL AND TERMINATION

4.1. This Agreement shall become effective upon the date both Parties have signed the Agreement. SCHIP drug rebate amounts will begin to accrue on eligible utilization beginning on the effective date of this Agreement, even if copies of signed Agreements are not received until after that date. The Agreement shall continue to be in effect unless otherwise terminated by either Party or the Manufacturer is terminated by CMS from the Medicaid Drug Rebate Program.

4.2. This Agreement shall be effective for an initial period of one year and will automatically be renewed for additional successive terms of one year unless the Manufacturer or Wisconsin DHS gives written notice of intent to not renew this Agreement at least 90 days before the end of the current period.

4.3. Upon written notice, either Party may terminate this Agreement for any reason. The effective date of termination will be effective the first day of the first calendar quarter, beginning 60 days after notice requesting termination, or the ending date of the term of the Agreement if the 90-day notice has been given, whichever date is later.

A written notice for termination of this Agreement must be sent in writing or transmitted via the secure Manufacturer Drug Rebate area of the Portal developed and maintained by the Program under section 3.4 of this Agreement. Written notices shall be mailed to the following address:

Wisconsin SCHIP Drug Rebate Unit
313 Blettner Blvd
Madison WI 53784

4.4. In the event of a violation of the terms and provisions of this Agreement by either Party, written notice to the other Party alleging the violation shall be given. If the violation is not resolved within 30 days following receipt of the notice, the non-violating Party may terminate this Agreement immediately upon written notice. However, any non-renewal or termination will not affect rebates due on drugs that were dispensed prior to the effective date of termination.

Any written notice required to be given by the Manufacturer regarding violation of terms and provisions of this Agreement must be sent in writing to the following address:

Wisconsin SCHIP Drug Rebate Unit
313 Blettner Blvd
Madison WI 53784

5. MISCELLANEOUS

5.1. This Agreement is intended to comply fully with all applicable State of Wisconsin laws and regulations. In the event that this Agreement or any transactions included in this Agreement are determined by either Party not to be in compliance, the Parties shall negotiate in good faith to modify the terms and provisions of this Agreement to remedy any prior and future noncompliance. This Agreement will not be altered, except by an amendment in writing signed by both Parties. No person is authorized to alter or vary the terms unless the alteration appears by a written amendment that is signed by duly appointed representatives of both Parties.

If compliance cannot be achieved, either Party may elect to terminate this Agreement and neither Party shall have any further rights or obligations thereafter. However, if possible, Manufacturer and Wisconsin DHS shall take all possible action to remedy any noncompliance.

5.2. To enter into this Agreement and to perform its obligations, each Party represents and warrants that it has full power and authority to enter into this Agreement and to perform all of its obligations. The execution, delivery, and performance of this Agreement have been duly and validly authorized and approved by all necessary action, and the Agreement is a binding obligation, enforceable by each Party against the other. The execution, delivery, and performance of this document by the Parties does not violate, contravene, or conflict with any law or regulation of the State of Wisconsin or any agreement to which Wisconsin DHS may be a party.

5.3. The Program has not and will not permit the resale of covered outpatient drugs for which rebates are sought to other providers or for use by persons who are not SCHIP beneficiaries.

5.4. This Agreement constitutes the entire understanding between the Parties with respect to the transactions contemplated and supersedes all prior written or oral agreements, commitments, or understandings with respect to the matters provided for herein.

5.5. This Agreement, the rights and obligations of the Parties hereto, and any claims or disputes relating thereto shall be governed by and construed in accordance with the laws of the State of Wisconsin (but not including the choice of law rules thereof). The location of any petition brought under this Agreement will be Dane County, Wisconsin.

5.6. Agreement to conduct transaction by electronic means. The Parties to this Agreement agree that this Agreement and all transactions under this Agreement are subject to the Uniform Electronic Transactions Act, Wis. Stat. ch. 137, and agree that any transactions under this Agreement conducted by electronic means will be conducted within the meaning of Wis. Stat. §

137.13. Without limitation by way of enumeration, this Agreement to allow transactions conducted by electronic means includes agreements that:

- i. An electronic signature satisfies any requirement that a signature be affixed to this Agreement or any other document under this Agreement, within meaning of Wis. Stat. § 137.15(4);
- ii. Any requirement that a Party send or deliver information in writing to another Party is satisfied if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time of receipt, within the meaning of Wis. Stat. § 137.16(1);
- iii. Any electronic signature purporting to be by any representative of either Party was created by the act of that person and is attributable to that person, within the meaning of Wis. Stat. § 137.17;
- iv. Any requirement that a record be retained is satisfied by retaining the information set forth in the record as an electronic record that accurately reflects the information set forth in the record after it was first generated in its final form, and remains accessible for later reference, within the meaning of Wis. Stat. § 137.20;
- v. An electronic record is sent when it is addressed properly or otherwise directed properly to the secure Manufacturer Drug Rebate area of the Portal developed and maintained by the Program under section 3.4 of this Agreement and is in a form capable of being processed by that system; an electronic record is received when it enters the secure Manufacturer Drug Rebate area of the Portal developed and maintained by the Program under section 3.4 of this Agreement and is in a form capable of being processed by that system, within the meaning of Wis. Stat. § 137.23.

5.7. This Agreement is subject to any changes in the Medicaid statutes or regulations that affect the Medicaid Drug Rebate Program.

5.8. The headings of the sections in this Agreement are inserted for convenience of reference only and are not intended to be a part of or affect the meaning or interpretation.

5.9. Confidential Information. To the extent permitted under Wisconsin State law or regulation, in connection with this Agreement, each party may have access to certain confidential information relating to and/or collected by the other party. Subject to applicable state and federal law, each party shall treat such information as confidential, except in connection with this Agreement or as may be required by state or federal law, regulation, or other legal requirement. Each of the parties hereto agrees to take reasonable steps to assure compliance with this section by each officer, employee, or agent of such party having access to such information.

SIGNATURES

For the Administrator of the Department of Health Services
State Children's Health Insurance Program Drug Rebate Program
State of Wisconsin

SIGNATURE—Administrator
Division of Medicaid Services
Department of Health Services

Date Signed

ACCEPTED FOR THE MANUFACTURER—LABELER CODE

I certify that I have made no alterations, amendments, or other changes to this Rebate Agreement.

SIGNATURE—Manufacturer

Date Signed

Name (Print)

Title

Please indicate all labeler codes that are to be covered by this Agreement on the Wisconsin State Children's Health Insurance Program Drug Rebate Labeler Attachment, F-03355A. Manufacturers with access to the secure Manufacturer Drug Rebate area of the Portal developed and maintained by the Program under section 3.4 of this Agreement should submit the electronically signed rebate agreement and completed attachment via the Portal. Non-Portal users may return the signed rebate agreement and completed attachment by certified or registered mail to the address indicated on the attachment.

F-03355 (02/2025)

**WISCONSIN STATE CHILDREN'S HEALTH INSURANCE PROGRAM
DRUG REBATE LABELER ATTACHMENT**

Instructions: Indicate the requested information below.

This form must be completed and submitted with the State Children's Health Insurance Program Rebate Agreement, F-03355. Indicate all labeler codes that are to be covered by the State Children's Health Insurance Program Rebate Agreement on this form.

Manufacturers with access to the secure Drug Rebate Manufacturer area of the ForwardHealth Portal (the Portal) developed and maintained by the Wisconsin Medicaid Drug Rebate Program under section 3.4 of the State Children's Health Insurance Program Rebate Agreement should complete and submit the signed rebate agreement and this completed attachment via the secure Portal.

Manufacturers that do not have access to the secure Portal may return the signed State Children's Health Insurance Program Rebate Agreement and this completed attachment by certified or registered mail to the following address:

Wisconsin Department of Health Services
Drug Rebate Unit
313 Blettner Blvd
Madison WI 53784

[illegible]