

Department of Health Care Services
Proposed May Revision Trailer Bill Language

Upper Bill Limitation
(Most Favored Nation Requirement)
Version: 5-22-09

Section 14105.455 of the Welfare and Institutions Code is added to read:

14105.455 (a) Pharmacy providers must submit their usual and customary charge when billing the Medi-Cal program for prescribed drugs.

(b) "Usual and customary charge" means the lower of:

(1) the lowest price reimbursed to the pharmacy by other third party payers, excluding Medi-Cal managed care plans and Medicare Part D prescription drug plans; or

(2) the lowest price routinely offered to any segment of the general public.

(c) Donations or discounts provided to a charitable organization are not considered usual and customary charges.

(d) Pharmacy providers shall keep and maintain records of their usual and customary charges for a period of three years from the date the service was rendered.

(e) Payment to pharmacy providers shall be the lower of the pharmacy's usual and customary charge or the reimbursement rate pursuant to subdivision (b) of section 14105.45.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may take the actions specified in this section by means of a provider bulletin or notice, policy letter, or other similar instructions, without taking regulatory action.