

NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI  
OFFICE OF THE GOVERNOR  
DIVISION OF MEDICAID

Miss. Division of Medicaid  
c/o Bob M. Dent, Staff Officer  
Robert E. Lee Building  
239 N. Lamar Street  
Suite 801  
Jackson, MS 39201-1399  
(601) 359-6120  
<http://www.dom.state.ms.us>

Specific Legal Authority Authorizing the promulgation of  
Rule: Miss Code Ann. §43-13-121(1972), as amended

Reference to Rules repealed, amended or suspended by the  
Proposed Rule :

Provider Policy Manual Section 31.02

Date Rule Proposed:

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:  
AP 2006-58. Provider Policy Manual Update to amend section 31.02 regarding Pharmacy  
Participation.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

An oral proceeding was held on this rule:

Date:  
Time:  
Place:

An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

The rule as adopted differs from the proposed rule. The differences however are:  
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and  
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: November 1, 2006

  
Executive Director

Signature and Title of Person Submitting Rule for Filing

<b>Division of Medicaid</b>	<b>New: -X</b>	<b>Date: 02/01/04</b>
<b>State of Mississippi</b>	<b>Revised: X</b>	<b>Date: 11/01/06</b>
<b>Provider Policy Manual</b>	<b>Current:</b>	
<b>Section: Pharmacy</b>	<b>Section: 31.02</b>	
	<b>Pages: 2</b>	
<b>Subject: Pharmacy Participation</b>	<b>Cross Reference:</b>	

Participation as a pharmacy provider in the Mississippi Medicaid program is limited to those pharmacies that hold a permit issued by the Mississippi Board of Pharmacy as a Community Pharmacy, Institutional Pharmacy, or Non-resident Pharmacy. DOM recognizes the definitions of these terms as set forth by the Mississippi State Board of Pharmacy.

Listed below are the pharmacy provider categories for the Mississippi Medicaid program:

- **Retail Pharmacy:** Pharmacies that hold either a Community Pharmacy or Non-Resident Pharmacy permit

For pharmacies holding Community Pharmacy or Non-Resident Pharmacy permits, participation in the Mississippi Medicaid program requires the pharmacy to be a fully stocked community pharmacy, which is open during normal business hours that are posted at the entrance of the facility. A pharmacist must be on premises to dispense drugs to the general public. Prospective drug utilization review of beneficiary records is required prior to dispensing prescriptions. An opportunity for face-to-face counseling must be provided to beneficiaries or to their representatives (guardians, relatives, etc.). DOM will not reimburse a retail pharmacy provider for dispensing of prescriptions where a personal provider/patient relationship does not exist.

- **Closed-Door Pharmacy:** Pharmacies that hold a Specialty Community Pharmacy permit.

For pharmacies holding Specialty Community Pharmacy permits, participation in the Mississippi Medicaid program is limited to pharmacies dispensing infusion therapy drugs or pharmacies dispensing drugs to beneficiaries in an institutional setting (ex: a nursing home or similar long term care facility). A pharmacist must be on premises to dispense drugs. Prospective drug utilization review of beneficiary records is required prior to dispensing prescriptions. Face-to-face counseling is not required if the beneficiary is a resident of a long term care facility or the dispensed drugs are administered by a physician, nurse, or similarly authorized health professional.

- **Institutional Pharmacy:** Pharmacies that hold an Institutional I Pharmacy permit or an Institutional 2 Pharmacy permit

For pharmacies holding Institutional I Pharmacy permits or Institutional II Pharmacy permits, participation in the Mississippi Medicaid program is limited to the dispensing of drugs to beneficiaries in an institutional setting (ex: a nursing home or similar long term care facility). These pharmacies may be in-house or off premises, may have limited hours, and may dispense drugs to outpatient beneficiaries. Prospective drug utilization review of beneficiary records is required prior to dispensing prescriptions. Face-to-face counseling is not required if the beneficiary is a resident of a long term care facility or the dispensed drugs are administered by a physician, nurse, or similarly authorized health professional.

Permit holders who dispense drugs outside of the specified required criteria listed above are not eligible to be a Mississippi Medicaid provider of pharmacy services.

Medicaid Pharmacy Provider Agreements will not be initiated or maintained with pharmacy wholesalers or with holders of only a Drug Room Permit, Retail, Closed-door, or Institutional Pharmacy physically located more than thirty (30) miles from the state borders of Mississippi.

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An exception may be made if a pharmacy provider is the source of a drug not obtainable from any pharmacy providers within this thirty (30) mile limit, or is providing drugs to a Mississippi Medicaid beneficiary who is a resident of a nursing facility, ~~or~~ psychiatric residential treatment facility (PRTF), or receiving specialized care, such as a transplant, that is being provided outside of the thirty (30) mile limit.

DOM reimburses pharmacy providers only for prescriptions that are received via hand delivery by a beneficiary or his/her representative, or received directly via phone, fax, ~~or~~ mail, or other electronic means such as e-mail or electronic prescribing from a prescribing provider licensed under State law or an agent with medical training under the health professional's direct supervision (ex: nurse).

### **Change of Ownership Liability**

When a participating pharmacy changes ownership and the new owner desires to participate or continue participation in the Mississippi Medicaid program, the new owner, upon consummation of the transaction effecting the change of ownership, shall, as a condition of participation, assume liability for any and all amounts that may become due to the program as a result of audit. The new owner further agrees that such amounts may be withheld from the payment of claims submitted when determined, provided, however, that the assumption of liability by the new owner shall not be in any way construed as relieving the previous owner of his/her liability to DOM.

When there is a change in ownership or federal identification number of a provider, the new owner shall immediately notify the fiscal agent and request a new provider application and agreement to obtain a new provider number. After completion of a new provider application and agreement, and in accordance with enrollment procedures, the fiscal agent will assign a new provider number. No payment will be made until the provider number is assigned.