

# EHO Policy: Compliance with KRS 304.17A-162

**Purpose:** The purpose of this policy is to establish and maintain a transparent and equitable process for drug product reimbursement, maximum allowable cost (MAC) pricing, and appeals for contracted pharmacies in the state of Kentucky, in accordance with the requirements of Kentucky Revised Statute (KRS) 304.17A-162.

This policy applies to all payors of prescriptions, contracted pharmacies, and pharmacy services administration organizations operating within the Commonwealth of Kentucky.

## Section 1: Transparency in Drug Reimbursement

1. **Identification of Sources:** EHO shall identify to all contracted pharmacies the specific sources, compendia, and methodologies used to calculate the drug product reimbursement and maximum allowable cost (MAC) pricing for covered drugs. This information will be made available electronically.
2. **MAC List Availability:** A comprehensive list of every drug for which a MAC is established shall be made available to all contracted pharmacies. This list shall be electronically accessible, searchable, and sortable by drug name, national drug code (NDC), and generic code number.
3. **Regular Updates:** EHO shall review and make necessary adjustments to the MAC for every drug at least every seven (7) calendar days. Any changes will be implemented immediately and communicated to all affected contracted pharmacies.

## Section 2: Maximum Allowable Cost (MAC) Appeal Process

1. **Establishment of Process:** EHO shall maintain a clear and readily accessible process for contracted pharmacies to appeal and resolve disputes regarding MAC pricing.
2. **Appeal Timeline:** A contracted pharmacy, a pharmacy services administration organization, or a group purchasing organization may initiate an appeal. The right to appeal is limited to ten days following the initial claim adjudication.
3. **Investigation and Resolution:** Upon receipt of an appeal, EHO will investigate and resolve the dispute within ten (10) calendar days.
4. **Appeal Response:** EHO shall provide a written response to the appealing party that includes:
  - The date of the decision.
  - The name and contact information of the person who made the decision.
  - If the appeal is denied, the reason for the denial and the NDC of a drug product that can be purchased from a licensed wholesaler at or below the MAC.

### Section 3: MAC Price Adjustments

1. **Granted Appeals:** If an appeal is granted, EHO shall make the necessary MAC change retroactively to the initial date of service the appealed drug was dispensed.
2. **Network-Wide Adjustment:** The new MAC shall be adjusted for the appealing pharmacy and for all other contracted pharmacies in the network that filled a prescription for the same drug and health benefit plan from the same initial date of service.
3. **Claim Resubmission:** EHO will allow the appealing pharmacy and all other affected pharmacies to reverse and resubmit claims for a period of at least sixty (60) days following the notification of the granted appeal.

### Section 4: Prohibited Actions and General Compliance

1. **General Availability:** EHO will ensure that all drugs subject to MAC pricing are generally available for purchase by pharmacists and pharmacies in Kentucky from licensed wholesalers at a price at or below the MAC.
2. **Source Integrity:** MACs shall not be set lower than the acquisition cost a pharmacy can obtain from a national or regional wholesaler licensed in Kentucky.
3. **Reimbursement for Specific Drugs:** For drugs with a nationally recognized reference rating of "NR" or "NA" (or similar), the EHO shall ensure that reimbursement is based on the wholesale acquisition cost.
4. **Reporting:** EHO will submit its MAC pricing appeal process and a template response to the Kentucky Department of Insurance for review and approval.

### Section 5: Policy Statement:

As required by KRS 304.17A-162 (9), our policy is designed to ensure that no pharmacy is reimbursed less than the average acquisition cost for a covered drug. In the event that a pharmacy's reimbursement for a covered drug is below the average acquisition cost, as defined by the most recent data from the Department of Medicaid Services or other applicable state data, we will automatically adjust the reimbursement to meet or exceed this cost. This policy is intended to promote fair and equitable payment practices, maintain a robust network of pharmacies, and ensure that all Kentuckians have access to the medications they need.

In accordance with KRS 304.17A-162(10), EHO shall ensure that for any drug for which a Maximum Allowable Cost (MAC) is established, the reimbursement is based solely on that drug and its therapeutically equivalent generics. EHO will not utilize a drug or product that is not therapeutically equivalent to the drug in question for the purpose of establishing or calculating the MAC price.

We are committed to compliance with Kentucky Revised Statutes (KRS) 304.17A-162 (11), which prohibits the practice of "clawbacks" from pharmacies. Our policy is to ensure that no pharmacy is required to pay a fee or reimbursement that results in the pharmacy being reimbursed an amount less than the adjudicated payment for a prescription drug, as defined by this statute. We will not charge or collect any fee, including but not limited to direct and indirect remuneration (DIR) fees, from a pharmacy for a prescription claim that would result in a final reimbursement amount below the initial payment amount. This policy is designed to uphold the financial integrity of our pharmacy partners and ensure fair and transparent business practices in accordance with Kentucky law.

Under Kentucky's KRS 304.17A-162 (12), our policy ensures that for any drug with a maximum allowable cost (MAC), reimbursement is based *solely* on that specific drug, provided there are no other therapeutically equivalent drugs available. We will not use therapeutically different drugs to set reimbursement rates, as this practice is prohibited by Kentucky law. Our commitment is to comply with all aspects of KRS 304.17A-162, ensuring fair and transparent reimbursement practices for all contracted pharmacies in Kentucky.

Per **Kentucky Revised Statute (KRS) 304.17A-162 (13)**, our policy is to ensure that reimbursement for a drug subject to a **Maximum Allowable Cost (MAC)** is not based on a drug that is **obsolete, temporarily unavailable, or otherwise not generally available** for purchase by pharmacists and pharmacies in Kentucky from licensed wholesalers. We will consistently review and adjust our MAC lists to reflect the market, ensuring fair and accurate reimbursement for our network pharmacies. This includes verifying that a drug is consistently available before it is placed on a MAC list.

Based on **Kentucky Revised Statute (KRS) 304.17A-167**, EHO must have a policy in place to ensure that prior authorizations for prescription drugs are handled efficiently and transparently. This policy should mandate the use of electronic prior authorization processes that adhere to current National Council for Prescription Drug Programs (NCPDP) SCRIPT standards. Additionally, the policy must ensure that any prior authorization for a drug used for ongoing, chronic medication therapy is valid for a minimum of one year, unless the patient's health benefit plan coverage ends sooner or the medication falls under specific exemptions, such as those prescribed for non-maintenance conditions, short-term treatment, or controlled substances like opioid analgesics and benzodiazepines. The policy is designed to reduce administrative burdens on healthcare providers and ensure continuity of care for patients with long-term medication needs.

For the purpose of this policy, "therapeutically equivalent" refers to drugs that are considered pharmaceutical equivalents and can be expected to have the same clinical effect and safety profile when administered to patients under the conditions specified in the labeling. EHO will rely on a nationally recognized reference for therapeutic

equivalence ratings, such as the U.S. Food and Drug Administration (FDA) Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the "Orange Book."