Statewide Rx Rate Setting Based on Medicare Negotiated Price (maximum fair price)

To be written to Insurance, Commerce, State Employees, Medicaid Code as applicable :

On the effective date of the Medicare Maximum Fair Price (42USC Sec 1191(c)) for a prescription drug, the Maximum Fair Price shall be the upper payment limit for all for all state-regulated insurers, wholesalers, pharmacies, and healthcare facilities. The Medicare Maximum Fair Price of a drug shall apply to all financial transactions in the State concerning the drug, including purchases, billing, payments and reimbursements by all state regulated entities.

Background: This provision would make the Medicare negotiated price (Maximum Fair Price) a statewide upper payment limit that applies to all state regulated providers, suppliers, health plans. Medicare Part D plans will be billed at the UPL MFP because enrollees are served by state regulated entities. ERISA plans will also be billed at the UPL MFP because enrollees are served by state regulated entities. Since the Supreme Court Rutledge decision (12/2020) it appears that states can directly regulate healthcare payment rates for ERISA plans. Additionally, most ERISA plans contract with state-regulated pharmacy benefit managers. The statewide MFP would take effect at the same time as it is effective for Medicare beneficiaries. State licensed healthcare entities serve Medicare enrollees, ERISA enrollees, Medicaid enrollees, commercial plan enrollees and those without insurance.