**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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| **THE UNITED STATES OF AMERICA, and THE STATES OF CALIFORNIA, FLORIDA, ILLINOIS, INDIANA, LOUISIANA, MICHIGAN, NEVADA, NEW JERSEY, NEW MEXICO, NEW YORK, TEXAS, VIRGINIA, and WISCONSIN, *ex rel.* MICHAEL YARBERRY,**<br><br>**Plaintiffs,**<br><br>**v.**<br><br>**SEARS HOLDINGS CORPORATION, and KMART CORPORATION,**<br><br>**Defendants.** | ) | **No. 3:09-cv-00588-MJR/PMF**<br><br>**CJRA TRACK: C**<br><br>**PRESUMPTIVE TRIAL MONTH: DECEMBER 2013** |

**RELATOR'S THIRD AMENDED COMPLAINT**

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**PLAINTIFFS' THIRD AMENDED COMPLAINT**

Michael Yarberry ("Relator") files this action on behalf of the United States and the States of California, Florida, Illinois, Indiana, Louisiana, Michigan, Nevada, New Jersey, New Mexico, New York, Texas, Virginia and Wisconsin (collectively referenced as "States" or "Plaintiff States"), against Sears Holdings Corporation ("Sears") and Kmart Corporation ("Kmart") (when applicable, collectively referred to as "Defendants") and alleges as follows:

## I. INTRODUCTION

1. This is an action for damages and civil penalties on behalf of the United States of America and the States **(**collectively referenced as the "Plaintiffs"), through the Relator, arising from the Defendants' violations of the False Claims Act, 31 U.S.C. § 3729, et seq.; the Federal Anti-Kickback Statute, 42 U.S.C. §1320a-7b; and, analogous false claims acts, health care fraud remedial statutes, and Anti-Kickback Statutes of the Plaintiff States as referenced below.

2. Compliance with federal and state statutes prohibiting kickbacks is a material condition to payment under Federal and state government healthcare programs ("GHP" in the singular form and "GHPs" in the plural form), including Medicare, Medicaid, and TRICARE (including "CHAMPUS," the Civilian Health and Medical Program of the Uniformed Services). Any claims for payment that result from a transaction involving a kickback are necessarily false, illegal, and actionable under the federal and various state false claims acts as the provider is not eligible nor entitled to payment from the GHP.

3. Defendants' culpable conduct, as alleged with particularity below, includes knowingly offering and paying monetary inducements to GHP beneficiaries in return for customers filling their drug prescriptions at one of Defendants' pharmacies for which payment was made in whole or in part by a GHP. In short, Defendants' fraudulent schemes permitted GHP beneficiaries to receive monetary benefits at the significant expense of GHPs.

## II. PARTIES

4. Sears is a Delaware corporation with its principal place of business in Hoffman Estates, Illinois.

5. Kmart is a Delaware corporation with its principal place of business in Hoffman Estates, Illinois.

6. Sears wholly owns, operates and controls Kmart, and certain nationwide Sears stores containing pharmacies.

7. In 2010, Defendants provided comprehensive pharmacy services through 1,007 retail pharmacies in forty-eight (48) states within the United States.

8. Relator is a citizen of the United States and a resident of the State of Kentucky.

9. From 1992 to 1999, and from 2009 to the present, Relator has been employed by Defendants as a pharmacist.

## III. JURISDICTION AND VENUE

10. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 1367(a) and 31 U.S.C. § 3732(a) and (b). This court has personal jurisdiction over the Defendants pursuant to 31 U.S.C. § 3732(a). This court also has supplemental jurisdiction over Plaintiffs' state law claims under 31 U.S.C. § 3732(b) and 28 U.S.C. § 1367(a). Venue in this Judicial District is appropriate under 31 U.S.C. § 3732(a) because all Defendants can be found in, and transact business in, this Judicial District.

## IV. VOLUNTARY DISCLOSURE

11. As a pharmacist for Defendants, Relator has direct, personal, and independent knowledge of the facts underlying the allegations of this Complaint.

12. Relator has verified through personal experience as a pharmacist for Defendants in several states, and through personal communications with other pharmacy employees of the

Defendants through several States that the fraudulent conduct has occurred, and continues to occur nationwide. Further, Defendants utilize a standard "PDX" computer platform across all their pharmacies nationwide to process pharmacy claims. Because every one of Defendants' pharmacies utilizes the same PDX platform to process claims, Defendants' fraudulent conduct is occurring in all of Defendants' pharmacies.

13. Relator believes there has been no public disclosure of the allegations and transactions contained herein that preceded the filing of his Complaint; but should the question arise, and should the court determine otherwise, the Relator is an original source of the allegations in this Complaint, as defined in 31 U.S.C. §3730(e)(4)(B).

## V. ILLEGAL REMUNERATIONS TO GHP BENEFICIARIES

### A. Anti-Kickback Statutes of the United States and States

14. When the Federal Anti-Kickback Statute was enacted in 1972, Congress intended "to provide penalties for certain practices which have long been regarded by professional organizations as unethical, as well as unlawful… and which contribute appreciably to the cost of the Medicare and Medicaid programs." HR Rep. No. 92-231, 92d Cong., 1st Sess. 108 (1971), reprinted in 1972 U.S.C.C.A.N. 4989, 5093.

15. By broadening and strengthening the Statute through amendments in 1977 and again in 1980, Congress wished to "give a clear, loud signal to the thieves and the crooks and the abusers that we [Congress] mean to call a halt to their exploitation of the public and the public purse." 123 Cong. Rec. S31767 (daily ed. Sept. 30, 1977) (statement of Sen. Talmadge). Congress went on to state:

> [F]raud in these health care financing programs adversely impacts on all Americans. It cheats taxpayers who must ultimately bear the financial burden of misuse of funds in any government sponsored program. It diverts from those most in need, the nation's elderly and poor, scarce program dollars that were intended to provide vitally needed quality health services. The wasting of program funds through fraud also further erodes the financial stability of those state and local

> governments whose budgets are already overextended and who must commit an ever-increasing portion of their financial resources to fulfill the obligations of their medical assistance programs. In addition to these adverse financial consequences, the activities of those who seek to defraud these programs unfairly call into question [the] honesty and integrity of the vast majority of practitioners and health care institutions.

H.R. Rep. No. 95-393(II), pt.2, at 44, *reprinted in* 1977 U.S.C.C.A.N. 3039, 3047.

16. Congress again amended the Statute in 1987 by streamlining its provisions into a single statutory scheme and strengthening its provisions to ensure illicit transactions disguised as legitimate were nevertheless under the purview of the Statute. In so doing, Congress commented that it wished "to enhance the government's ability to prevent and prosecute kickback practices. These practices have become a pervasive problem in Federal procurement. This form of commercial bribery has tremendous impact. Kickbacks directly inflate contract costs paid by the taxpayer. Kickbacks destroy competition and they foster corruption." H.R. Rep. No. 99-964, at 4.

17. The Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b), provides in pertinent part :

> (b) Illegal remunerations
>
> * * * * *
>
> (2) Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person–
>
> (B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,
>
> shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

18. The Plaintiff States have analogous Anti-Kickback Statutes containing nearly identical anti-kickback provisions. By way of example, the Illinois Anti-Kickback Statute, 305 ILCS 5/8A-3(c), provides in pertinent part:

> A person shall be guilty of a violation of this Article and shall be punished as provided in Section 8A-6 [*305 ILCS 5/8A-6*] if he offers or pays any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:
>
> > (2) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Code.

19. The Illinois Anti-Kickback Statute also extends liability to any entity that "willfully, by means of a false statement or representation, or by concealment of any material fact or by other fraudulent scheme or device . . . obtains or attempts to obtain benefits or payments under this Code to which [it] is not entitled, or in a greater amount than that to which [it] is entitled." 305 ILCS 5/8A-3(a).

20. Through various mechanisms, including provider agreements, enrollment applications, pharmacy manuals[1], and claim forms, every GHP requires every healthcare provider as a precondition to payment, to expressly certify that it will comply with the Federal Anti-Kickback Statute, and/or applicable State Anti-Kickback Statute, and other laws governing the provision of health care services in the United States. Many of these documents are unavailable to the general public, including the Relator. It is Relator's understanding and belief, however, that such agreements, applications, and claim forms are in the custody and control of the Defendants.

[1] By way of example, pursuant to the Medicare Part D Addendum of the 2009 Medco Health Solutions, Inc. Pharmacy Services Manual, "[p]ayments… from Medco to Pharmacy are made, in whole or in part, from Federal funds, and subject Pharmacy to all laws applicable to the individuals or entities who receive Federal funds, including the False Claims Act (32 USC 3729, et seq.), [and] the Anti-Kickback Statute (section 1128B(b) of the Social Security Act)."

## B. Summary Overview

21. From at least 2006 and continuing to the present, in order to increase pharmacy volume and revenue, Defendants have knowingly and consistently defrauded GHPs by implementing a series of pharmacy incentive programs which paid GHP beneficiaries various forms of monetary incentives to induce GHP beneficiaries to purchase their prescription drugs at Defendants' pharmacies. Such monetary inducements are illegal remunerations in violation of the Federal Anti-Kickback Statute and various State Anti-Kickback Statutes.

22. Defendants knowingly gave discounts on prescription drugs that it provided to GHP beneficiaries through a variety of gift card and/or coupon promotions, which it did not report to the GHPs.

23. As a result of Defendants' continuous and knowing violation of the Federal Anti-Kickback Statute and various State Anti-Kickback Statutes, Defendants were reimbursed, and continue to be reimbursed, by GHPs for hundreds of thousands of claims that are materially false and illegal.

24. Claims submitted to GHPs on behalf of GHP beneficiaries subsequent to their receipt of the illegal inducements alleged herein are likewise false, illegal and should not have been reimbursed and are damages recoverable under the False Claims Act and various State False Claims Acts.

## C. Gift Card Incentive Programs

25. Between at least 2006 and June of 2009, Defendants' pharmacies offered an incentive program which distributed cash gift cards to customers with new prescriptions and customers who transferred their prescriptions from another pharmacy to one of Defendants' pharmacies. While Defendants' corporate officers authorized the incentive programs, the offers were mainly driven at the regional level and relied upon local advertising.

26. Although Defendants' gift cards stated in small-print that GHP beneficiaries were legally prohibited from receiving the gift cards, in practice Defendants provided this illegal remuneration to GHP beneficiaries. Defendants' PDX pharmacy software system was not set up to flag or identify GHP beneficiaries to keep them from receiving gift cards. Additionally, Defendants failed to adequately train or instruct their pharmacy staff not to distribute the gift cards to customers with GHP insurance. To the contrary, Defendants' pharmacy staff was berated with a series of emails and incentive programs that encouraged an unfiltered distribution of gift cards to pharmacy customers. As a consequence, GHP beneficiaries routinely received gift cards and coupons.

27. Beginning in July of 2009, Defendants offered their first nationwide gift card incentive program which distributed cash gift cards in amounts up to $100 to any customer with a new prescription or to any customer who transferred an existing prescription from another pharmacy to one of Defendants' pharmacies.

28. From July 12, 2009 to August 22, 2009, Defendants offered their "Smart Squad" Pharmacy Transfer Program promotion (hereinafter "Smart Squad I"). The Smart Squad I promotion paid up to $25 in the form of a gift card to pharmacy customers who filled a new prescription at one of Defendants' pharmacies or transferred an existing prescription from a competitor's pharmacy to one of Defendants' pharmacies. (Exhibit A).

29. According to Defendants' promotional flier, attached hereto as Exhibit B, a customer could receive up to $100 worth of gift cards, and the offer was valid in every State except Arkansas, New York, Louisiana (for controlled-substance prescriptions), and New Jersey (for prescriptions for customers over the age of 60).

30. Defendants instructed their pharmacy staff that in order for a pharmacy customer to obtain the full value of the gift card the "Retail Value" of the prescription must exceed the

value of the gift card offer. If the "Retail Value" did not exceed the value of the gift card offer, then Defendants' pharmacy staff was instructed to provide the customer with a gift card in an amount equal to the "Retail Value" not to exceed $25. In their training materials, Defendants define "Retail Value" as "…either the current Cash retail price for the prescription or the insurance reimbursed value." Accordingly, by way of illustration, if a pharmacy customer's prescription had a "Retail Value" of $18, then the customer would have received an $18 gift card. Alternatively, if the customer's prescription had a "Retail Value" of $30, then the customer would have received a $25 gift card.

31. From July 12, 2009 to August 22, 2009, Defendants issued, and their Smart Squad I promotion redeemed, 49,729 cash gift cards worth a total of $1,016,502.

32. Defendants' pharmacies also experienced a 2% increase in the number of non-pharmacy customers who began utilizing Defendants' pharmacies during the Smart Squad I promotion. Defendants calculated that for every $1 of cash card value redeemed, the customer spent an additional $0.74 on purchases. Thus, according to Defendants, a $25 cash card equated to an additional $43.50 in sales.

33. Because the Smart Squad I promotion significantly increased Defendants' sales and profits, Defendants' management implored their pharmacy staff to promote it, even offering employees substantial compensation incentives for processing large numbers of new and transferred prescriptions.

34. Defendants' Smart Squad gift cards were identical to the previous gift cards offered at the regional level, including a small-print paragraph stating that GHP beneficiaries were legally prohibited from receiving gift cards. However, because Defendants' PDX pharmacy software system was not set up to flag or otherwise identify GHP beneficiaries, GHP beneficiaries routinely received gift cards. Defendants were aware of this deficiency in their

PDX pharmacy software system and for the first six months did nothing to prohibit GHP beneficiaries from receiving this illegal remuneration.

35. Defendants failed to monitor or otherwise instruct their pharmacy staff on how to ensure GHP beneficiaries were not participating in their pharmacy gift card promotions.

36. Defendants made no effort to exclude GHP beneficiaries from receiving these pharmacy kickbacks until November, 2009, when Defendants hard-wired their PDX system to alert pharmacy staff that a prescription was to be billed to a GHP and, therefore, the customer was ineligible to receive a gift card. Specifically, Defendants identified and flagged as ineligible in their PDX system several GHPs, which served as an alert to Defendants pharmacy staff when attempting to disburse a cash gift card to a GHP beneficiary in the identified GHP plans. The identification and PDX flagging occurred at the corporate-level and was, and continues to be, an ongoing process.

37. Defendants' Smart Squad I coupon distributions and redemptions substantially declined after Defendants' PDX smart-system was implemented. From July 12, 2009 to August 22, 2009, which was prior to the period in which Defendants' PDX smart-system went into effect, 49,729 gift cards worth a total of $1,016,502 were redeemed. In contrast, from October 11, 2009 to November 21, 2009, after Defendants implemented their PDX smart-system, only 18,200 gift cards worth a total of $348,978 were redeemed.

38. By way of example, on August 22, 2009, a Medicare Part D patient transferred her prescription for Tramadol HCL 50mg from Rite Aid to Kmart Store #7288, Louisville, Kentucky. In exchange for the patient's copayment of $10.00 and Medicare Part D reimbursement of $2.16, Defendants issued the patient a cash gift card.

39. The PDX smart-system resulted in a significant decrease in gift card distributions to GHP beneficiaries and an associated decrease in revenues and profits. As a result, Defendants

instructed pharmacy staff to circumvent the PDX smart-system in order to continue providing pharmacy gift card coupons to GHP beneficiaries.

40. On or about January 31, 2010, Defendants instituted a new version of the "Smart Squad" promotion ("Smart Squad II"). Defendants' Smart Squad II promotion offered customers up to $25 in gift cards for each prescription transferred, and up to $100 in gift cards if they transferred four (4) prescriptions to Defendants' pharmacy.

41. Unlike Smart Squad I, Smart Squad II was implemented at the outset with the PDX smart-system in place to prevent GHP customers from obtaining Smart Squad II gift cards. Defendants' PDX smart-system was successful in preventing many GHP customers from receiving Smart Squad II gift cards. Consequently, Defendants' Smart Squad II promotion was relatively unsuccessful when compared to the Smart Squad I promotion carried on without the PDX smart-system flagging GHP beneficiaries.

42. Relator's District Manager, Ryan Cruser, sent out numerous emails, collectively and chronologically attached hereto as Exhibit C, to Defendants' pharmacies in Relator's district lamenting that the Smart Squad II promotion was failing to produce numbers as successful as Smart Squad I. During both a January 29, 2010, teleconference and in a June 1, 2010, email, attached hereto as Exhibit D, Cruser demanded that pharmacy staff do whatever was necessary to increase Smart Squad II's gift card distribution numbers and stated: "don't trouble yourself with being the coupon police," interpreted by staff to mean that Defendants' staff were to circumvent the PDX smart-system and otherwise freely give coupons to GHP beneficiaries who transferred their prescriptions to one of Defendants' pharmacies.

43. In some instances where the PDX smart-system flagged a customer as a GHP beneficiary ineligible for the Smart Squad II coupons, Defendants instead provided the

customers with $10 or $20 On-Time Guarantee ("OTG") gift cards in place of the prohibited Smart Squad II gift cards. See Exhibit E.

44. Defendants issued OTG cards for $20 until March of 2009, when the value of a single OTG card was reduced to $10. OTG cards could also be issued in other amounts.

45. In order to bypass register blocks preventing GHP beneficiaries from using coupons and to avoid detection of these unlawful coupon distributions, Defendants instructed pharmacy staff to administer the OTG Cards in separate transactions, independent of the GHP beneficiary prescription purchase. See Exhibit F.

46. Nevertheless, Defendants did retain paper documents to track the issuance of the OTG cards. Pharmacists were instructed to "document the prescription number and the person the coupon/OTG card is be [sic] given to on the second receipt that prints from the register. This second receipt is to be stapled to the coupon and placed into the register drawer to be turned in at the end of the day. Also, if you are giving out an OTG card place a brief description of why the card is being given out to the customer." See Exhibit G.

47. The OTG coupons and second receipts were collected and turned into each store's "back office" where accounting and bookkeeping were done.

48. Relator has personally verified that the paper OTG records were retained in the "back office" of Defendants' store Nos. 4180 and 7288 with those stores' "cash room supervisors," Nancy Odum and Pat Downs. Relator was informed that the stores keep the OTG records for no less than one year after which they are periodically boxed up and shipped to the Defendants' Corporate Offices.

49. Unlike any of their other gift card promotions, Defendants' OTG gift cards could be used toward prescription purchases. Accordingly, beneficiaries frequently utilized their OTG gift card to satisfy or offset mandatory GHP copayments on subsequent prescription purchases at

Defendants' pharmacies. Relator has personal knowledge of numerous instances where GHP beneficiaries received an OTG gift card from Defendants' pharmacy staff in exchange for having their prescription filled at one of Defendants' pharmacies and utilized said gift card to satisfy their mandatory GHP copayment on a subsequent prescription purchase.

50. Defendants' OTG gift card undermines the goals of cost-sharing arrangements between GHPs and beneficiaries by decreasing or alleviating beneficiaries' price sensitivities thereby resulting in overutilization. In November 2011, the Pharmaceutical Care Management Association reported that such copay coupons are expected to drive up healthcare costs by $32 billion over the next decade. Particularly, according to the Association's report, "[i]f Medicare's ban on copay coupons were not enforced, costs to the Part D program would increase by $18 billion over the 2012-21 period."

51. Defendants' policy was to use the OTG cards to compensate GHP beneficiaries who were ineligible for Defendants' inducement programs because their prescriptions were paid for in whole or in part by GHPs, thereby circumventing prohibitions on offering inducements to GHP beneficiaries. For example, Timothy Weber, Defendants' Divisional Pharmacy Coach, North Division, informed Jennifer Mullins, Defendants' Northeast Pharmacy Division District Coach in Virginia on April 28, 2008, that OTG cards could be given to Medicare Part D customers that received coupons that they were ineligible to use. See Exhibit H.

52. During the initial testing of a National Radio Pilot for new or transferred prescription coupons in August 2008, Robbert Ayshford, the Defendants' Director of Pharmacy Administration, instructed his team that if a GHP beneficiary that was ineligible for inducement offers requested a $10 gift card for a new or transfer prescription, the pharmacist was to "[f]ollow OTG policy" and give them an OTG card, then report the distribution up the chain to be added to the pilot testing analysis. See Exhibit I.

53. On January 29, 2010, Relator sent an email to District Manager Cruser to clarify Cruser's teleconference instructions relative to OTG gift card distribution. In that email, Relator asked, "If a customer comes in and the register recognizes that because of the payor source we are not allowed to give a gift card are we to give the customer a $10 on time gift card?" Cruser responded, "Yes, use OTG [On Time Guarantee] card." See Exhibit J and K

54. On February 19, 2010, Kmart Pharmacy District Manager Carmen Bjerke-Burns instructed Store 3624 personnel in Florida that, if they "disappoint" a GHP beneficiary who presents "a coupon that can't be used because on a government program . . . offer a $10 OTG card. The ultimate goal is to gain them as a loyal customer." See Exhibit L.

55. On March 7, 2010, Kmart Pharmacy District Manager Susannah Daughtry, RPh identified the "Top Priorit[y]" Smart Squad/$100 Transfer Program as "our opportunity to convert Kmart shoppers who DON'T use our pharmacy to Kmart Pharmacy shoppers," and she instructed Store 7360 personnel in Alabama to "Use OTG when necessary if customer is ineligible – We want the business even if they cannot participate in the Smart Squad transfer program. DO WHAT IT TAKES TO EARN THE BUSINESS!" See Exhibit M.

56. On July 5, 2010, Ryan Cruser, Defendants' former Pharmacy District Manager for Kentucky and Ohio, instructed Jeremy Smith, one of Defendants' pharmacists, that he could give Tennessee State Employees, Medicare beneficiaries, Tricare beneficiaries, and Medicaid beneficiaries $10 OTG cards in instances when the PDX software would not allow the GHP customers to use $25 Smart Squad coupons. See Exhibit N.

57. OTG cash cards provided to GHP beneficiaries are prohibited monetary inducements constituting illegal remunerations in violation of the False Claims Act, the Federal Anti-Kickback Statute, and various State Anti-Kickback Statutes. Defendants' policy of

circumventing the prohibition on offering inducements to GHP beneficiaries by using OTG cards resulted in GHP beneficiaries receiving thousands of these OTG cash cards.

58. For example, in Kmart Store 4771 on March 12, 2007 at 6:22 PM, a Medicaid customer filled a prescription for Valtrex. The Medicaid customer paid a $3 copay, and Medicaid paid Defendants a $163.24 reimbursement. In exchange for filling this prescription at Kmart, this Medicaid customer was issued a $20 OTG cash card.

59. In Kmart Store 7029 on December 10, 2007 at 11:57 AM, a Medicare Part B customer received a flu shot. The Medicare Part B customer paid nothing, and Medicare Part B paid Defendants a $28.00 reimbursement. In exchange for getting a flu shot at Kmart, this Medicare Part B customer was issued a $10 OTG cash card.

60. In Kmart Store 7288 on March 10, 2008 at 11:05 AM, a Medicare Part B customer filled a prescription for Softclix. The Medicare Part B customer paid a $3.98 copay, and Medicare Part B paid Defendants a $15.91 reimbursement. In exchange for filling this prescription at Kmart, this Medicare Part B customer was issued a $20 OTG cash card.

61. In Kmart Store 7288 on September 4, 2008 at 5:55 PM, a Tricare customer filled a prescription for Lidocaine. The Tricare customer paid a $3 copay, and Tricare paid Defendants a $306.40 reimbursement. In exchange for filling this prescription at Kmart, this Tricare customer was issued a $20 OTG cash card.

62. In Kmart Store 3021 on April 20, 2009 at 11:44 AM, a Medicaid customer filled prescriptions for Loratadine and Hydroxyzine Pamoate. The Medicaid customer paid two $3 copays, and Medicaid paid Defendants a $12.52 reimbursement. In exchange for filling these prescriptions at Kmart, this Medicaid customer was issued two $10 OTG cash cards.

63. In Kmart Store 4385 on March 2, 2010 at 2:49 PM, a Medicaid customer filled prescriptions for Oxycodone and Oxycontin. The Medicaid customer paid $4 in copays, and

Medicaid paid Defendants $2,103.07 in reimbursements. In exchange for filling these prescriptions at Kmart, this Medicaid customer received two $10 OTG cash cards.

64. In Kmart Store 9746 on March 12, 2010 at 6:44 PM, a Medicare Part D customer filled a prescription for Clindamycin. The Medicare Part D customer paid a $1.10 copay, and Medicare Part D paid Defendants a $18.69 reimbursement. In exchange for filling this prescription at Kmart, this Medicare Part D customer was issued a $10 OTG cash card.

65. In Kmart Store 7058 on March 1, 2011 at 10:16 AM, a Tricare customer filled a prescription for Exforge HCT. The Tricare customer paid a $9 copay, and Tricare paid Defendants a $83.10 reimbursement. In exchange for filling this prescription at Kmart, the Tricare customer was issued a $10 OTG cash card.

66. On December 17, 2010, Defendants' Director of Managed Care Services, Michael Hamilton, sent an email to Defendants' pharmacies that provided, among other things, Defendants' position with regard to the legality of their incentive programs. Specifically, when asked whether "it is illegal to give special incentives for government programs to get people to come to your pharmacy," Defendants responded that "[t]he word 'incentive' refers to money/goods given to the customer in exchange for transferring their prescriptions (i.e., $25, 25,000 bonus points, free product, etc). Co-pay differentials for preferred/non-preferred networks are not considered 'incentives.'" See, Exhibit O.

67. On March 31, 2011, Defendants' Pharmacy Operations Manager, Cheryl Guzik, sent another corporate-wide email, attached hereto as Exhibit P, which stated that, with limited exception, Defendants will no longer offer gift cards to customers who present new and transferred prescriptions. Additionally, the email indicated that "OTG" cards were suspended and Defendants would no longer honor their competitors' coupons for gift card offers. But only

weeks prior to this email, Defendants had been strongly encouraging their pharmacy staff to maximize their distribution of cash gift cards to new and transferred pharmacy customers.

68. In response to the announcement, Ryan Cruser commented that "OTG loss is the most painful part of that equation. Going to make it that much more difficult to enroll PSC." See Exhibit Q.

69. As described below, Defendants offered their new and transferred prescription gift card program until March 31, 2011, which was shortly after Defendants were made aware of the allegations contained in Plaintiffs' First Amended Complaint.

**D. Coupon/Gift Card Matching Program**

70. Until March 31, 2011, Defendants offered a program by which they matched any coupons or gift cards offered by a competitor pharmacy. Defendants' PDX software tracked the origin and amount of the competitor's coupons in order to maintain records of the amounts Defendants expended in matching competitor coupons. Defendants did not screen for or exclude GHP beneficiaries from participating in the coupon matching program. For example, Exhibit R shows a $20 Rite Aid pharmacy coupon presented to Defendants by a GHP beneficiary. The coupon was honored by Defendants who paid the GHP beneficiary a kickback of $20 for having a prescription filled at Defendants' pharmacy.

71. Defendants provided each of their pharmacies with a document titled "Competitor Coupon Redemption Register Procedures" that contained a series of barcodes assigned to each of Defendants' national competitors. Defendants instructed their pharmacy staff to scan the barcode assigned to the national competitor whose coupon/gift card the pharmacy staff member was honoring. For instance, for the example provided in paragraph 70, the pharmacy staff member would have scanned the Rite Aid barcode (7200013346) during the sales transaction to identify that Defendants were honoring a $20 Rite Aid pharmacy coupon.

72. On January 28, 2008, Kmart Store #4180 filled a prescription for Metoprolol ER 50mg tablets for a TRICARE patient, whereby Defendants received a patient copayment of $3.00 and TRICARE reimbursement of $20.14. The patient presented a Rite Aid coupon for a $25 gift card. The coupon was honored by Defendants who paid the GHP beneficiary a kickback of $25 for having a prescription filled at Defendants' pharmacy.

**E. Shop Your Way Rewards Program**

73. Since at least 2009, Defendants offered a program to its front-end, non-pharmacy customers titled "Shop Your Way Rewards" ("SYWR"). Defendants' front-end customers receive a SYWR Card when they become a SYWR member by signing up for the program either online at *shopyourwayrewards.com* or in person at one of Defendants' retail locations. This program allowed Defendants' front-end customers to earn points for every front-end, non-pharmacy purchase, which could later be redeemed by way of cash gift card(s). Specifically, when a SYWR member purchases a front-end item, Defendants automatically added points to the member's card in an amount equal to one-percent (1%) of the total purchase price. Thus, for instance, a SYWR member that had a total purchase price of $100.00 would receive $1.00 worth of redeemable points on the member's SYWR card.

74. In September of 2010, Defendants extended the existing SYWR to their pharmacy department. The SYWR program allows Defendants' pharmacy customers to earn points for every prescription purchase made at one of Defendants' pharmacies. Defendants' pharmacy customers earn five hundred (500) points, which equates to fifty cents ($.50), for every prescription purchase. In addition, for every fifth prescription purchase, Reward Card members receive an additional 500 point bonus. While SYWR members could not redeem their points for prescription purchases, they could use their points to purchase other items.

75. On November 24, 2010, Relator received an email from Defendants' Interim Director of Pharmacy Operations, Timothy Weber, revealing new bonus point opportunities Defendants were offering under their Reward Card Program, including 10,000 bonus points (or $10.00) for enrolling in Defendants' prescription auto-fill program, and 25,000 bonus points ($25.00) for each transferred prescription (up to four). A copy of Weber's email is attached as Exhibit S.

76. Defendants also offered as a bonus to SYWR members an opportunity to enter into a series of drawings for various prizes, including "30 trips in 30 days to Orlando" cruises and various merchandise.

77. Unlike many of their national competitors' reward point programs, Defendants' SYWR program was offered to every pharmacy customer, including GHP beneficiaries. In fact, in a series of emails from Defendants' Pharmacy Operations Manager, Cheryl Guzik, pharmacy staff were instructed "to ask every pharmacy customer", without limitation, to enroll in the SYWR program. See Exhibit J (November 10, 2010, March 5, 2011, and March 19, 2011, emails). Additionally, in an effort to increase the number of SYWR members in Relator's district, Relator's District Manager, Ryan Cruser, sent an email advising pharmacy staff that a minimum of thirty percent (30%) of their transactions must involve SYWR members and that "[t]his is FREE MONEY that they are not taking." See Exhibit T. Finally, Defendants' training manual explicitly instructed their pharmacy staff that GHP beneficiaries "CAN earn points on the program." (Emphasis in original).

78. On October 22, 2010, Defendants' Pharmacy Operations Manager, Cheryl Guzik, sent an email to Defendants' pharmacies indicating that the membership in the SYWR program had grown to 23 million members. See Exhibit U.

79. Between December 21, 2011, and December 24, 2011, a Medicare Part D patient had a series of five (5) prescriptions filled at Kmart #7288, Louisville, Kentucky. In exchange for the patient's total copayment of $12.15 and Medicare Part D reimbursement of $34.02, Defendants issued the patient 2,500 worth of SYWR points ($2.50) on December 26, 2011. The patient's Medicare Part D group number was later flagged as ineligible by Defendants' PDX system on January 1, 2012, which precluded the patient from redeeming SYWR points for prescriptions filled after January 1.

**F. Defendants' Purported Attempt to Eliminate Illegal Remunerations**

80. On March 25, 2011, Defendants' Pharmacy Operations Manager, Cheryl Guzik, sent an email to Defendants' pharmacies stating that, effective March 27, 2011, "[SYWR] members will no longer earn points for any government assisted prescriptions (new, refill or transfer)." Further, the email stated that "[b]y law, Government assisted prescriptions will **NOT** be eligible to earn points." See Exhibit V.

81. To implement their emergency halt to the unlawful distribution of SYWR points to GHP beneficiaries, Defendants distributed new signage, attached hereto as Exhibit W, which indicated that the SYWR program is only offered to customers whose prescriptions are not paid in whole or in part by state and/or federal healthcare programs.

82. Instead of hard-wiring their PDX software system to prevent GHP beneficiaries from receiving SYWR points, Defendants modified the mechanics of their SYWR program to allow for a quarterly transaction inspection by Defendants' corporate office. Prior to the change, SYWR members would receive points immediately after their prescription transaction. Effective March 27, however, eligible SYWR members were required to wait until the end of each quarter for their points to be added to their SYWR card. By delaying the addition of points, Defendants

allegedly intended to identify government funded prescription transactions at the end of each quarter and simply not award those SYWR members their points.

83. As seen in the example provided in paragraph 79, however, Defendants' purported attempt to prevent GHP beneficiaries from participating in the SYWR program was, at best, a disingenuous and half-hearted attempt to prevent disbursing illegal remunerations to GHP beneficiaries.

**G. Prescription Savings Club**

84. Beginning on or about July of 2009, Defendants offered a program called the Prescription Savings Club ("PSC"). PSC customers were required to pay a $10 annual enrollment fee to become eligible to receive certain 30-day and 90-day supplies of generic pharmaceuticals at discounted rates. Unlike similar programs offered by their national competitors, like Walgreens, Defendants' PSC is offered to all pharmacy customers, including GHP beneficiaries.

85. From the inception of their PSC program, Defendants offset the $10 enrollment fee by mailing to the PSC member's listed address a $10 cash gift card.

86. Prior to a December 9, 2010, mandatory pharmacy manager meeting in Relator's district, Defendants' Divisional Pharmacy Manager, Denny Holm, instructed Relator that pharmacies must begin distributing $10 OTG gift cards to new PSC members to immediately offset the initial $10 enrollment fee. Mr. Holm indicated that the PSC members would also continue to receive the $10 gift card through the mail. Thus, beginning December 9, new PSC members, which included GHP beneficiaries, were receiving $20 worth of gift cards upon enrolling in the PSC program. Through multiple conversations, Relator understands that Mr. Holm's instructions were reiterated during the December 9, 2010, mandatory district pharmacy

manager meeting. On information and belief, similar instructions were provide to Defendant pharmacy managers nationwide.

87. As discussed in paragraph 49, Defendants permitted their pharmacy customers, including GHP beneficiaries, to utilize the $10 OTG gift cards to satisfy mandatory prescription copayments.

88. Prior to March of 2011, which, as described above, is when Defendants abruptly terminated their distribution of gift cards, Relator has personal knowledge of GHP beneficiaries that received PSC incentive gift cards.

COUNT I – *FEDERAL FALSE CLAIMS ACT*

89. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

90. In an effort to increase its pharmacy volume and revenue from GHPs, Defendants knowingly engaged, and continue to engage, in the pattern and practice of distributing illegal remunerations to GHP pharmacy customers with new or transferred prescriptions.

91. As required by law and their GHP provider agreement, Defendants certified in each claim for GHP payment that they were in compliance with all federal health care laws, which includes the Federal Anti-Kickback Statute.

92. Defendants failed to disclose to the Government any of their distributions of illegal remunerations to their GHP customers or otherwise reflect the amount of the illegal remunerations in their claims for GHP reimbursement.

93. Despite withholding the existence of the discounts from GHPs, Defendants claimed reimbursement from GHPs in the full amount of the good, service, or item provided while contemporaneously certifying, both explicitly and implicitly, that Defendants were in

compliance with all federal and state health care laws, including the Federal Anti-kickback Statute.

94. If the United States government had been aware of Defendants' improper and illegal conduct, including the false certifications, the government would not have paid or approved Defendants' claims for GHP reimbursement.

95. Upon information and belief, pursuant to explicit provisions contained within GHP provider agreements and by law, Defendants were required to comply with all Federal health care law, including the Federal Anti-Kickback Statute. Defendants acted with actual knowledge, deliberate ignorance, and/or reckless disregard in submitting false or fraudulent claims to the government and in providing remunerations to influence federal and state health care beneficiaries to fill their prescriptions and to influence those same GHP beneficiaries to fill their prescriptions at Defendants' pharmacies.

96. The Federal government pays a share of the medical assistance expenditures under each State's Medicaid program. That share, known as the Federal Medical Assistance Percentage ("FMAP") or the Federal Financial Participation ("FFP"), is determined annually by a formula that compares each state's average per capita income with the national per capita income average. The federal share varies inversely with each state's per capita income; the greater a state's per capita income, the smaller the federal share of its Medicaid costs. By law, the FMAP cannot be lower than 50 percent or higher than 83 percent. Collectively attached hereto as Exhibit X is a list of Federal Medical Assistance Percentages and Enhanced Federal Medical Assistance Percentages for all states, for fiscal years 2009 and 2012.

97. The payment by the various States' Medicaid programs on the Defendants' false and fraudulent Medicaid clams resulted in the Federal Government paying an inflated FMAP and/or FFP which it should not have paid.

98. Prior to May 20, 2009, 31 U.S.C. § 3729 provided in pertinent part as follows:

(a) LIABILITY FOR CERTAIN ACTS. – Any person who –

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; . . . or

(3) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

…

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person.

99. As of May 20, 2009, 31 U.S.C. § 3729 of the FCA provides in pertinent part as follows:

(a) LIABILITY FOR CERTAIN ACTS

(1) IN GENERAL.—Subject to paragraph (2), any person who—

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; . . . or

…

(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410), plus 3 times the amount of damages which the Government sustains because of the act of that person.

100. Defendants knowingly presented, or caused to be presented, false or fraudulent claims to the United States Government for payment or approval in violation of 31 U.S.C. § 3729(a)(1).

101. Defendants knowingly presented, or caused to be presented, false or fraudulent claims to federal and state GHPs for payment or approval in violation of 31 U.S.C. § 3729(a)(1)(A).

102. Defendants knowingly made, used, or caused to be made or used, a false record or statement to get false or fraudulent claims paid or approved by the Government in violation of 31 U.S.C. § 3729(a)(2).

103. Defendants knowingly made, used, or caused to be made or used, a false record or statement material to false or fraudulent claims in violation of 31 U.S.C. § 3729(a)(1)(B).

104. Defendants knowingly made, used, or caused to be made or used, false records or statements to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government in violation of 31 U.S.C. § 3729(a)(7).

105. Defendants knowingly made, used, or caused to be made or used, false records or statements material to an obligation to pay or transmit money or property to the Government or knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit money or property to the Government in violation of 31 U.S.C. § 3729(a)(1)(G).

106. At all relevant times, Defendants' actions in violation of the False Claims Act were done "knowingly," as that term is defined at 31 U.S.C. § 3729(b)(1), that is, Defendants acted with actual knowledge, deliberate ignorance, or in reckless disregard of the truth or falsity of the information.

107. At all relevant times, Defendants' violations of Federal and State Anti-Kickback statutes were "material" within the meaning of 31 U.S.C. § 3729(b)(4), that is, they had a natural

tendency to influence, or be capable of influencing, the payment or receipt of money by the United States.

108. By reason of these payments, the Government has been damaged and continues to suffer damages in a substantial amount.

109. The Government unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to GHPs to its detriment.

110. The Government, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims to GHPs.

COUNT II - *CALIFORNIA FALSE CLAIMS ACT*

111. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

112. This action is brought by Relator pursuant to the submission of false claims to the State of California in violation of California False Claims Act, CAL. GOV'T. CODE § 12650, et seq.

113. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

114. In order for a pharmacy to become eligible to participate in California's Medicaid program, which is administered under the name "Medi-Cal", it must first execute a provider agreement with the State of California. The provider agreement specifically requires pharmacies to agree to comply with all applicable provisions of Chapters 7 and 8 of the Welfare and Institutions Code.

115. Chapter 7 of California's Welfare and Institutions Code contains California's Anti-Kickback Statute, which provides, in relevant part, the following:

> Any person who offers or pays any remuneration, including, but not restricted to, any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in valuable consideration of any kind… [t]o purchase, lease, order, or arrange for or recommend the purchasing, leasing, or ordering of any goods, facility, service, or merchandise for which payment may be made, in whole or in part, under this chapter or Chapter 8 (commencing with Section 14200), is punishable upon a first conviction by imprisonment in a county jail for not longer than one year or state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment in the state prison.

CAL. WELF. & INST. CODE § 14107.2(b)(2).

116. The State of California is statutorily authorized to withhold Medi-Cal payment if it receives evidence "of fraud or willful misrepresentation by a provider as defined in Section 14043.1." CAL. WELF. & INST. CODE § 14107.11(a)(2). Section 14043.1 defines "fraud" as "intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law." CAL. WELF. & INST. CODE § 14107.1(i).

117. Defendants violated CAL. WELF. & INST. CODE § 14107.2 by engaging in the conduct described herein.

118. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of California in connection with Defendants' conduct. Compliance with applicable California statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of California.

119. The State of California unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

120. The State of California, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT III - *FLORIDA FALSE CLAIMS ACT*

121. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

122. This action is brought by Relator pursuant to the submission of false claims to the State of Florida in violation of the Florida False Claims Act, FLA. STAT. § 68.081, et seq.

123. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

124. According to Florida's Anti-Kickback Statute, it is a felony for any person to:

> Knowingly solicit, offer, pay, or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for … obtaining, purchasing, leasing, ordering, or arranging for or recommending, obtaining, purchasing, leasing, or ordering any goods, facility, item, or service, for which payment may be made, in whole or in part, under the Medicaid program.

FLA. STAT. § 409.920(2)(a)(5).

125. Defendants violated FLA. STAT. § 409.920 by engaging in the conduct described herein.

126. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and, on information and belief, an express condition of payment of claims submitted to the State of Florida in connection with Defendants' conduct. Compliance

with applicable Florida statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Florida.

127. The State of Florida unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

128. The State of Florida, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT IV - *ILLINOIS FALSE CLAIMS ACT*

129. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

130. This action is brought by Relator pursuant to the submission of false claims to the State of Illinois in violation of the Illinois False Claims Act, 740 ILL. COMP. STAT. 175/1, et seq.

131. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

132. In pertinent part, the Illinois Anti-Kickback Statute provides the following:

> (c) A person shall be guilty of a violation of this Article and shall be punished as provided in Section 8A-6 [*305 ILCS 5/8A-6*] if he offers or pays any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:
>
> …
>
> > (2) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Code.

305 ILL. COMP. STAT. 5/8A-3(c).

133. The Illinois Anti-Kickback Statute also extends liability to any entity that "willfully, by means of a false statement or representation, or by concealment of any material fact or by other fraudulent scheme or device... obtains or attempts to obtain benefits or payments under this Code to which [it] is not entitled, or in a greater amount than that to which [it] is entitled." 305 ILL. COMP. STAT. 5/8A-3(a).

134. Medical providers seeking reimbursement from the Illinois Medical Assistance Program are also subject to the requirements of the Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b, which "prohibits kickbacks, false reporting and other fraudulent activities." 89 ILL. ADMIN. CODE §140.35.

135. Furthermore, medical providers seeking reimbursement from the Illinois Medical Assistance Program must execute an "Agreement for Participation" with the Illinois Department of Healthcare and Family Services, which provides, in relevant part, the following provisions:

> a. The Provider agrees, on a continuing basis, to comply with all current and future program policy and billing provisions as set forth in the applicable Healthcare and Family Services Medical Assistance Program rules and handbooks;
>
> b. Provider agrees, on a continuing basis, to comply with Federal standards specified in Title XIX and XXI of the Social Security Act and with all other applicable Federal and State laws and regulations;
>
> c. The Provider agrees to be fully liable for the truth, accuracy and completeness of all claims submitted electronically or on hard copy to the Department for payment. Provider acknowledges that it understands the laws and handbook provisions regarding services and certifies that the services will be provided in compliance with such laws and handbook provisions. Provider further acknowledges that compliance with such laws and handbook provisions is a condition of payment for all claims submitted. Any submittal of false or fraudulent claim or claims or any concealment of a material fact may be prosecuted under applicable Federal and State laws.

136. Defendants violated 305 ILL. COMP. STAT. 5/8A-3 by engaging in the conduct described herein.

137. Compliance with applicable Medicare, Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Illinois in connection with Defendants' conduct. Compliance with applicable Illinois statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Illinois.

138. The State of Illinois unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

139. The State of Illinois, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT V – *INDIANA FALSE CLAIMS AND WHISTLEBLOWER PROTECTION ACT*

140. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

141. This action is brought by Relator pursuant to the submission of false claims to the State of Indiana in violation of the Indiana False Claims and Whistleblower Protection Act, IND. CODE § 5-11-5-1, et seq.

142. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

143. The Indiana Anti-Kickback Statute makes it a misdemeanor to "furnish[] items or services to an individual for which payment is or may be made under this chapter and who solicits, offers, or receives a kickback in connection with the furnishing of the items or services or the making or receipt of the payment." IND. CODE § 12-15-22-2.

144. The Indiana Medicaid program has discretion to deny payment of claims "arising out of… acts or practices" including (1) "Engaging in a course of conduct or performing an act deemed by the office to be improper or abusive of the Medicaid program" and (2) "Violating any provisions of state or federal Medicaid law or any rule or regulation promulgated pursuant thereto." 405 IND. ADMIN. CODE § 1-1-4(a)(6)(E); 1-1-4(a)(6)(H); *See also* IND. CODE § 12-15-22-1.

145. Defendants violated IND. CODE § 12-15-22-2 by engaging in the conduct described herein.

146. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Indiana in connection with Defendants' conduct. Compliance with applicable Indiana statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Indiana.

147. The State of Indiana unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

148. The State of Indiana, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT VI - *LOUISIANA MEDICAL ASSISTANCE PROGRAMS INTEGRITY LAW*

149. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

150. This action is brought by Relator pursuant to the submission of false claims to the State of Louisiana in violation of the Louisiana Medical Assistance Programs Integrity Law, LA. REV. STAT. ANN. § 46:437.1, et seq., as amended (effective August 15, 2009).

151. The allegations set forth herein constitute violations of this Louisiana's Medical Assistance Programs Integrity Law for which the Relator seeks the maximum award pursuant to statute.

152. In pertinent part, the Louisiana Anti-Kickback Statute provides the following:

> No person shall solicit, receive, offer, or pay any remuneration, including but not limited to kickbacks, bribes, rebates, or bed hold payments, directly or indirectly, overtly or covertly, in cash or in kind, for the following:
>
> ...
>
> > (2) In return for purchasing, leasing, or ordering, or for arranging for or recommending purchasing, leasing, or ordering, any good, supply, or service, or facility for which payment may be made, in whole or in part, under the medical assistance programs.

LA. REV. STAT. ANN. § 46:438.2.

153. Defendants violated LA. REV. STAT. ANN. § 46:438.2 by engaging in the conduct described herein.

154. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Louisiana in connection with Defendants' conduct. Compliance with applicable Louisiana statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Louisiana.

155. The State of Louisiana unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

156. The State of Louisiana, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT VII - *MICHIGAN FALSE CLAIMS ACT*

157. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

158. This action is brought by Relator pursuant to the submission of false claims to the State of Michigan in violation of the Michigan Medicaid False Claims Act, MICH. COMP. LAWS § 400.601, et seq.

159. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

160. In pertinent part, the Michigan Anti-Kickback Statute provides that:

> A person who solicits, offers, or receives a kickback or bribe in connection with the furnishing of goods or services for which payment is or may be made in whole or in part pursuant to a program established under Act No. 280 of the Public Acts of 1939, as amended, who makes or receives the payment, or who receives a rebate of a fee or charge for referring an individual to another person for the furnishing of the goods and services is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $30,000.00, or both.

MICH. COMP. LAWS § 400.604.

161. Defendants violated MICH. COMP. LAWS § 400.604 by engaging in the conduct described herein.

162. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Michigan in connection with Defendants' conduct. Compliance with applicable Michigan statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Michigan.

163. The State of Michigan unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

164. The State of Michigan, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT VIII - *NEVADA FALSE CLAIMS ACT*

165. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

166. This action is brought by Relator pursuant to the submission of false claims to the State of Nevada in violation of the Nevada False Claims Act, NEV. REV. STAT. § 357.010, et seq.

167. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

168. In pertinent part, the Nevada Anti-Kickback Statute prohibits the sale or lease of any thing of value in connection with the provision of medical goods or services for which payment may be made in whole or in part under the Nevada Medicaid program. NEV. REV. STAT. § 422.560.

169. Defendants violated NEV. REV. STAT. § 422.560 by engaging in the conduct described herein.

170. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Nevada in connection with Defendants' conduct. Compliance with applicable Nevada statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Nevada.

171. The State of Nevada unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

172. The State of Nevada, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT IX –- *NEW JERSEY FALSE CLAIMS ACT*

173. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

174. This action is brought by Relator pursuant to the submission of false claims to the State of New Jersey in violation of the New Jersey False Claims Act, N.J. STAT. ANN. § 2A:32C-1, et seq.

175. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

176. In relevant part, the New Jersey Anti-Kickback Statute provides that:

> (c) Any provider, or any person, firm, partnership, corporation or entity who solicits, offers, or receives any kickback, rebate or bribe in connection with:

> (1) The furnishing of items or services for which payment is or may be made in whole or in part under this act; or
>
> (2) The furnishing of items or services whose cost is or may be reported in whole or in part in order to obtain benefits or payments under this act; or
>
> (3) The receipt of any benefit or payment under this act, is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than $ 10,000.00 or to imprisonment for not more than 3 years or both.

N.J. STAT. ANN. § 30:4D-17.

177. Defendants violated N.J. STAT. ANN. § 30:4D-17 by engaging in the conduct described herein.

178. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of New Jersey in connection with Defendants' conduct. Compliance with applicable New Jersey statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of New Jersey.

179. The State of New Jersey unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

180. The State of New Jersey, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT X - *NEW MEXICO FRAUD AGAINST TAXPAYERS ACT*

181. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

182. This action is brought by Relator pursuant to the submission of false claims to the State of New Mexico in violation of the New Mexico Fraud Against Taxpayers Act, N.M. STAT. § 27-14-1, et seq.

183. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

184. In pertinent part, the New Mexico Anti-Kickback Statute provides the following:

> A. Medicaid fraud consists of:
>
> (1) paying, soliciting, offering or receiving:
>
> (a) a kickback or bribe in connection with the furnishing of treatment, services or goods for which payment is or may be made in whole or in part under the program, including an offer or promise to, or a solicitation or acceptance by, a health care official of anything of value with intent to influence a decision or commit a fraud affecting a state or federally funded or mandated managed health care plan.

N.M. STAT. § 30-44-7.

185. Further, in order to become eligible to receive payment from and participate in the New Mexico Medicaid program, pharmacies must sign a provider agreement. In pertinent part, the provider agreement states:

> If the provider obtains an excess payment or benefit willfully, by means of false statement, representation, concealment of any material fact, or other fraudulent scheme or devise with intent to defraud, criminal sentences and fines and/or civil monetary penalties shall be imposed pursuant to, but not limited to, the Medicaid Fraud Act, *NMSA 1978, § 30-44-1 et seq., 42 U.S.C. § 1320a-7b*, and *42 C.F.R. § 455.23*.

186. Defendants violated N.M. STAT. § 30-44-7 by engaging in the conduct described herein.

187. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of New Mexico in connection with Defendants' conduct. Compliance with applicable New Mexico statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of New Mexico.

188. The State of New Mexico unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

189. The State of New Mexico, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT XI - *NEW YORK FALSE CLAIMS ACT*

190. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

191. This action is brought by Relator pursuant to the submission of false claims to the State of New York in violation of the New York False Claims Act, N.Y. STATE FIN. LAW, ch.13 § 187, et seq.

192. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

193. In relevant part, the New York Anti-Kickback Statute provides the following:

> 2. No medical assistance provider shall:
>
> > (b) offer, agree to give or give any payment or other consideration in any form to another person to the extent such payment or other consideration is given… (ii) to purchase, lease or order any good, facility, service or

> item for which payment is made under title eleven of article five of this chapter.

NY CLS SOC. SERV. § 366-d. *See also* 18 NYCRR § 515.2(b)(5).

194. Further, according to the New York Anti-Kickback Statute:

> 1. No person acting in concert with a medical assistance provider shall, with intent to defraud:
>
> > (b) offer, agree to give or give any payment or other consideration in any form to another person to the extent such payment or other consideration is given … (ii) to purchase, lease or order any good, facility, service or item for which payment is made under this title.

NY CLS SOC. SERV. § 366-f.

195. Defendants violated NY CLS SOC. SERV. §§ 366-d and 366-f by engaging in the conduct described herein.

196. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of New York in connection with Defendants' conduct. Compliance with applicable New York statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of New York.

197. The State of New York unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

198. The State of New York, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT XII - *TEXAS MEDICAID FRAUD PREVENTION ACT*

199. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

200. This action is brought by Relator for the State of Texas by reason of the Defendants' commission of unlawful acts in violation of the Texas Medicaid Fraud Prevention Act, TEX. HUM. RES. CODE, ch.36, § 36.001, et seq.

201. The allegations set forth herein constitute violations of this state's Medicaid Fraud Prevention Act, for which the Relator seeks the maximum award pursuant to statute.

202. The Texas Anti-Kickback Statute provides in pertinent part:

> A person commits an unlawful act if the person:
>
> …
>
> > (5) … knowingly pays… in addition to an amount paid under the Medicaid program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program.

TEX. HUM. RES. CODE, ch.36, § 36.002.

203. Defendants violated TEX. HUM. RES. CODE, ch.36, § 36.002 by engaging in the conduct described herein.

204. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Texas in connection with Defendants' conduct. Compliance with applicable Texas statutes, regulations and Pharmacy Manuals was also an express condition of payment of claims submitted to the State of Texas.

205. The State of Texas unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

206. The State of Texas, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT XIII - *STATE OF VIRGINIA FRAUD AGAINST TAXPAYERS ACT*

207. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

208. This action is brought by Relator pursuant to the submission of false claims to the State of Virginia in violation of the Virginia Fraud Against Taxpayers Act, VA. CODE ANN. § 8.01-216.1, et seq.

209. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

210. The Virginia Anti-Kickback Statute provides in pertinent part:

> B. A person shall be guilty of a Class 6 felony and, in addition, may be fined an amount not to exceed $ 25,000, if he knowingly and willfully offers or pays any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in-kind to any person to induce such person:
>
> …
>
> 2. To purchase, lease, order, or arrange for or recommend purchasing, leasing or ordering any goods, facility, service or item for which payment may be made in whole or in part under medical assistance.

VA. CODE ANN. § 32.1-315.

211. Defendants violated VA. CODE ANN. § 32.1-315 by engaging in the conduct described herein.

212. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Virginia in connection with Defendants' conduct. Compliance with applicable Virginia statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Virginia.

213. The State of Virginia unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

214. The State of Virginia, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

COUNT XIV - *STATE OF WISCONSIN FALSE CLAIMS FOR MEDICAL ASSISTANCE ACT*

215. Relator incorporates by reference and re-alleges Paragraphs 1- 88 as if fully set forth herein.

216. This action is brought by Relator pursuant to the submission of false claims to the State of Wisconsin in violation of the Wisconsin False Claims for Medical Assistance Act, WISC. STAT. § 20.901, et seq.

217. The allegations set forth herein constitute violations of this state's false claims act for which the Relator seeks the maximum award pursuant to statute.

218. In relevant part, the Wisconsin Anti-Kickback Statute provides that:

> Whoever offers or pays any remuneration including any kickback, bribe, or rebate directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a medical assistance program, or to purchase,

> lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part under a medical assistance program, is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in *s. 939.50 (3) (h)*, the person may be fined not more than 25,000.

WISC. STAT. § 49.49(2).

219. Defendants violated WISC. STAT. 49.49 by engaging in the conduct described herein.

220. Compliance with applicable Medicaid and the various other federal and state laws cited herein was an implied and express condition of payment of claims submitted to the State of Wisconsin in connection with Defendants' conduct. Compliance with applicable Wisconsin statutes, regulations and pharmacy manuals was also an express condition of payment of claims submitted to the State of Wisconsin.

221. The State of Wisconsin unaware of the falsity of the claims made by Defendants and lacking knowledge of the above described fraudulent acts, relied on the accuracy of Defendants reimbursement claims to its detriment.

222. The State of Wisconsin, being unaware of the inaccuracies and documentation deficiencies submitted by Defendants, paid and continues to pay Defendants for claims that should not have been, and should not be paid, based upon Defendants' false and fraudulent reimbursement claims.

PRAYER

WHEREFORE, for Counts I through XIV, Plaintiffs pray for judgment against Defendants as follows:

a. That Defendants be found to have violated and be enjoined from future violations of the California False Claims Act, CAL. GOV'T. CODE § 12651(a), the Florida False Claims Act, FLA. STAT. § 68.082(2), the Illinois False Claims Act, 740 ILL. COMP. STAT. 175/3, the Indiana False Claims and Whistleblower Protection Act, IND. CODE § 5-11-5-2, the Louisiana Medical Assistance Programs Integrity Law, LA. REV. STAT. ANN. § 46:438.3, the Michigan Medicaid False Claims Act, MICH. COMP. LAWS § 400.603, the Nevada False Claims Act, NEV. REV. STAT. § 357.040(1), the New Jersey False Claims Act, N.J. STAT. ANN. § 2A:32C-3, the New Mexico Fraud Against Taxpayers Act, N.M. STAT. § 27-14-4, the New York False Claims Act, N.Y. STATE FIN. LAW, ch.13 § 189, the Texas Medicaid Fraud Prevention Act, TEX. HUM. RES. CODE, ch.36, § 36.002, the Virginia Fraud Against Taxpayers Act, VA. CODE ANN. § 8.01-216.3, the Wisconsin False Claims for Medical Assistance Act, WISC. STAT. § 20.931(2).

b. That this Court enter judgment against Defendants for the maximum amount of damages sustained by each State because of Defendant's false or fraudulent claims, plus the maximum civil penalty for each violation of the California False Claims Act, CAL. GOV'T. CODE § 12651(a), the Florida False Claims Act, FLA. STAT. § 68.082(2), the Illinois False Claims Act, 740 ILL. COMP. STAT. 175/3, the Indiana False Claims and Whistleblower Protection Act, IND. CODE § 5-11-5-2, the Louisiana Medical Assistance Programs Integrity Law, LA. REV. STAT. ANN. § 46:438.3, the Michigan Medicaid False Claims Act, MICH. COMP. LAWS § 400.603,

the Nevada False Claims Act, NEV. REV. STAT. § 357.040(1), the New Jersey False Claims Act, N.J. STAT. ANN. § 2A:32C-3, the New Mexico Fraud Against Taxpayers Act, N.M. STAT. § 27-14-4, the New York False Claims Act, N.Y. STATE FIN. LAW, ch.13 § 189, the Virginia Fraud Against Taxpayers Act, VA. CODE ANN. § 8.01-216.3, the Wisconsin False Claims for Medical Assistance Act, WISC. STAT. § 20.931(2).

c. That this Court enters judgment against Defendants in an amount equal to three times the amount of damages the Federal and various State Governments have sustained because of Defendants' false or fraudulent claims, plus a civil penalty of $5,500 to $11,000 for each false claim.

d. That Relator be awarded the maximum amount allowed pursuant to the California False Claims Act, CAL. GOV'T. CODE § 12651(a), the Florida False Claims Act, FLA. STAT. § 68.082(2), the Illinois False Claims Act, 740 ILL. COMP. STAT. 175/3, the Indiana False Claims and Whistleblower Protection Act, IND. CODE § 5-11-5-2, the Louisiana Medical Assistance Programs Integrity Law, LA. REV. STAT. ANN. § 46:438.3, the Michigan Medicaid False Claims Act, MICH. COMP. LAWS § 400.603, the Nevada False Claims Act, NEV. REV. STAT. § 357.040(1), the New Jersey False Claims Act, N.J. STAT. ANN. § 2A:32C-3, the New Mexico Fraud Against Taxpayers Act, N.M. STAT. § 27-14-4, the New York False Claims Act, N.Y. STATE FIN. LAW, ch.13 § 189, Texas Medicaid Fraud Prevention Act, TEX. HUM. RES. CODE, ch.36, § 36.002, the Virginia Fraud Against Taxpayers Act, VA. CODE ANN. § 8.01-216.3, the Wisconsin False Claims for Medical Assistance Act, WISC. STAT. § 20.931(2), and all relief to which he is entitled pursuant to said laws.

e. That Relator be awarded all costs of this action, including expert witness fees, attorneys' fees, and court costs.

f. That Relator recovers such other relief as the Court deems just and proper.

Respectfully Submitted,

/s/ Timothy Keller
Timothy Keller
IL Bar No. 6225309
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*Attorneys for Relator,*
*Michael Yarberry*

| | | |
|---|---|---|
| **THE UNITED STATES OF AMERICA, and THE STATES OF CALIFORNIA, FLORIDA, ILLINOIS, INDIANA, LOUISIANA, MICHIGAN, NEVADA, NEW JERSEY, NEW MEXICO, NEW YORK, TEXAS, VIRGINIA, and WISCONSIN, *ex rel*. MICHAEL YARBERRY,**<br><br>**Plaintiffs,**<br><br>**v.**<br><br>**SEARS HOLDINGS CORPORATION, and KMART CORPORATION,**<br><br>**Defendants.** | ) | **No. 3:09-cv-00588-MJR/PMF**<br><br>**CJRA TRACK: C**<br><br>**PRESUMPTIVE TRIAL MONTH: DECEMBER 2013** |

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of June 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filings(s) to the following:

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gerald.burke@usdoj.gov, sandra.carr@usdoj.gov, donna.gerdes@usdoj.gov,

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Respectfully Submitted,

*/s/ Timothy Keller*
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*Attorneys for Plaintiffs and Relator*

kmart pharmacy your home for family health™

# discover kmart pharmacy!

get up to

# $100

in Kmart gift cards
when you transfer four prescriptions
to Kmart Pharmacy

## get up to $100 in Kmart gift cards

when you transfer four prescriptions

Up to a $25 gift card with each transfer. Limit 4. Value of gift card not to exceed the full retail value of the prescription.

| DATE | STORE # | RX # | INITIALS |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

KMART PHARMACY CERTIFICATE VALID THROUGH 12/31/2009. Good toward next purchase of non-pharmacy merchandise, except where prohibited by law. Consumer: Receive this special offer when you bring this certificate with the purchase of four transferred prescription. Consumers to pay all required taxes. Valid in U.S.A. Some restrictions apply. Not valid on transferred prescriptions from another Kmart Pharmacy. PRESCRIPTION MUST BE FILLED FOR QUANTITY WRITTEN OR ALLOWED BY PHYSICIAN TO REDEEM CERTIFICATE. LIMIT FOUR CERTIFICATES PER CUSTOMER. Not valid in combination with any other offer, where prohibited by law, or if reproduced. LA state *law prohibits use of coupons for controlled-substance prescriptions.* Offer not valid in AR, NY, or on prescriptions paid for in whole or in part by any government programs. In NJ, valid only for customers over 60 years of age. The retail / insurance reimbursed value of the prescription must exceed the value of the gift card offer to qualify for the full value of the offer.

0 72000 13351 4

**Exhibit A**

KMART PHARMACY CERTIFICATE VALID THROUGH 12/31/2009. Good toward next purchase of non-pharmacy merchandise, except where prohibited by law. Consumer: Receive this special offer when you bring this certificate with the purchase of a transferred prescription. Consumers to pay all required taxes. Valid in U.S.A. Some restrictions apply. Not valid on transferred prescriptions from another Kmart Pharmacy. PRESCRIPTION MUST BE FILLED FOR QUANTITY WRITTEN OR ALLOWED BY PHYSICIAN TO REDEEM CERTIFICATE. LIMIT **FOUR** CERTIFICATES PER CUSTOMER. Not valid in combination with any other offer, where prohibited by law, or if reproduced. LA state law prohibits use of coupons for controlled-substance prescriptions. Offer not valid in AR, NY, or on prescriptions paid for in whole or in part by any government programs. In NJ, valid only for customers over 60 years of age. The retail / insurance reimbursed value of the prescription must exceed the value of the gift card offer to qualify for the full value of the offer. Void if acquired from any channel other than those approved by Kmart Corp., if photocopied or otherwise reproduced and where prohibited by law; any other use constitutes fraud. Lost or stolen coupons will not be replaced. Cash value 1/20¢.

Sales Associate: please scan and collect this Kmart Savings Coupon and turn in to cash office.

KMART PHARMACY CERTIFICATE VALID THROUGH 12/31/2009. Good toward next purchase of non-pharmacy merchandise, except where prohibited by law. Consumer: Receive this special offer when you bring this certificate with the purchase of a transferred prescription. Consumers to pay all required taxes. Valid in U.S.A. Some restrictions apply. Not valid on transferred prescriptions from another Kmart Pharmacy. PRESCRIPTION MUST BE FILLED FOR QUANTITY WRITTEN OR ALLOWED BY PHYSICIAN TO REDEEM CERTIFICATE. LIMIT **FOUR** CERTIFICATES PER CUSTOMER. Not valid in combination with any other offer, where prohibited by law, or if reproduced. LA state law prohibits use of coupons for controlled-substance prescriptions. Offer not valid in AR, NY, or on prescriptions paid for in whole or in part by any government programs. In NJ, valid only for customers over 60 years of age. The retail / insurance reimbursed value of the prescription must exceed the value of the gift card offer to qualify for the full value of the offer. Void if acquired from any channel other than those approved by Kmart Corp., if photocopied or otherwise reproduced and where prohibited by law; any other use constitutes fraud. Lost or stolen coupons will not be replaced. Cash value 1/20¢.

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Sales Associate: please scan and collect this Kmart Savings Coupon and turn in to cash office.

A00 29-01167744-0

**Exhibit B**

Yarberry004890

**From:** "Saved by Windows Internet Explorer 8"
**Sent:** Monday, February 08, 2010 8:18 AM

If you don't want to wait for me to post results, you can now look this up yourself each day.

Notice the number of emails this morning regarding Smart Squad? Guess what is going to be continued to be pushed very heavily?

This isn't going away, if your store isn't performing find out why and get it fixed. We need every script we can get to hit our plan for 2010. My goal is to have every store get bonus (I am referring to the pharmacist's yearly bonus here) and we MUST make this promotion a success to be in the running.

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522
-----Original Message-----
**From:** Vaughan, Robert
**Sent:** Tuesday, February 02, 2010 2:55 PM
**To:** Pharmacy Field
**Subject:** Smart Squad Results Posted On OWB

Pharmacy Field Team,

Great news!

The Smart Squad results are now being posted to OWB daily. Please communicate this to your pharmacy and store teams.

The location is listed below:

**It's in OWB / General Information / Store Operations / Pharmacy / Smart Quad Transfer Results.**

Fight for every script!!

**Robert Vaughan, RPh, MBA**
**Divisional Pharmacy Director**
**314-831-0905**

**Discover the Difference of Kmart Pharmacy and I'll give you $20!**
**Click here for details and coupon!**

**Exhibit C**

**From:** "Saved by Windows Internet Explorer 8"

Store Managers/Pharmacists:

Below are the numbers through Sunday. I am officially beginning to get worried. We still have 5 stores that have not redeemed a single claim. Our minimum expectation was to average 10 redemptions per week. A couple of you are proven top performs from the last time around, not sure what is occurring, but motivate your teams!!

Thank you to stores 3688, 3029, 4006, 4232, 9684, & 9503 for all being in the double digits. OUTSTANDING JOB!!!

I will be visiting several stores this week undercover in jeans and will be going through the lines to see if we are engaging the customer. I hope to report back that all are compliant!

If I can help in any way, please don't hesitate to reach out.

Thank you everyone for the efforts being put into this, working together we will make this a success!

| | | | Sun - Feb 7 | |
|---|---|---|---|---|
| Store | State | Program Total Redemp | Units | Cash Card |
| 3688 | KY | 18 | 5 | $54 |
| 3029 | KY | 16 | 1 | $25 |
| 4006 | KY | 16 | 0 | $0 |
| 4232 | KY | 16 | 1 | $19 |
| 9684 | KY | 10 | 0 | $0 |
| 9503 | KY | 10 | 3 | $75 |
| 3646 | KY | 9 | 0 | $0 |
| 7174 | KY | 9 | 0 | $0 |
| 7354 | KY | 8 | 0 | $0 |
| 3941 | KY | 6 | 0 | $0 |
| 3850 | KY | 6 | 0 | $0 |
| 4753 | KY | 6 | 0 | $0 |
| 4830 | KY | 5 | 0 | $0 |
| 3103 | KY | 5 | 1 | $25 |
| 3822 | KY | 2 | 0 | $0 |
| 4847 | KY | 2 | 0 | $0 |
| 9513 | KY | 1 | 0 | $0 |
| 3420 | OH | 1 | 0 | $0 |
| 4827 | KY | 1 | 1 | $16 |
| 7229 | KY | 1 | 1 | $5 |
| 3057 | KY | 0 | 0 | $0 |
| 7255 | KY | 0 | 0 | $0 |
| 7288 | KY | 0 | 0 | $0 |
| 9538 | OH | 0 | 0 | $0 |
| 9749 | KY | 0 | 0 | $0 |

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522

**From:** "Saved by Windows Internet Explorer 8"

Store Managers/Pharmacists:

Below are the updated numbers through Sunday. We have made good progress and are down to a single store without any claims.

3057- Ensure your cashiers are speaking to this program!!

I have highlighted the single digit stores below. Our next goal is to get everyone into the double digits. We are entering our 3rd week and are far behind what our totals should be. Continue to focus on this project.

Congratulations:

Stores 3688, 4232, 3029, & 9684 for all being above 25 redemptions! Who is going to win the battle?

Also, congratulations to store 7288, going from 0 to 14 over the weekend!!!! This proves it is never too late to start & to get your associates into the incentive!!

To show the legs this project has behind it:

- The company has filled over 14,000 prescriptions it would have not filled without this program.
- Our district has filled over 400 prescriptions it would have not filled without this program (including the roto wrap).

This represents thousands of dollars to our district alone. Continue the push!!

I did ask a few stores to give some feedback on what is working at their stores. Kevin, the store manager at 3688, provided the below information which is outstanding. As you will notice there is a common theme throughout each of his points, communication. It is vital to make this a success.

If you are a store that is struggling, utilize what *is* working at his store. Thank you Kevin for being proactive with this program and making it a success at your store!

***We have really been focusing on getting the word out on the Smart Quad coupons***

*- We did mailings to all the customer that transferred out scripts over the last 6 months*

*- We did a personal mailing to the loyal customers. We are asking them to tell there friends about this great opportunity*

*- We have communicated and delivered to many of the regular Physicians we serve*

*- We have the one on one communication at the Pharmacy and Checkouts*

*- The Management is communicating throughout the day with the associates. With this we are getting our numbers in by 5:00 each day.*

***Kevin Meyer Store Manager***
*Kmart 3688*
*2606 Zion Rd*
*Henderson Kentucky 42420*

| | | | | | | | Week 3 - Transfer Counts 2/14 - 2/20 | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | WK 1 TOTAL | | WK 2 TOTAL | | Sun - Feb 14 | | WK 3 TOTAL | |
| Store | State | Program Total Redemp | Units | Cash Card | Units | Cash Card | Units | Cash Card | Units | Cash Card |
| 3688 | KY | 38 | 13 | $206 | 25 | $321 | 0 | $0 | 0 | $0 |
| 4232 | KY | 27 | 15 | $254 | 12 | $198 | 0 | $0 | 0 | $0 |
| 3029 | KY | 26 | 15 | $277 | 6 | $116 | 5 | $72 | 5 | $72 |
| 9684 | KY | 25 | 10 | $250 | 15 | $367 | 0 | $0 | 0 | $0 |
| 4753 | KY | 22 | 6 | $101 | 16 | $293 | 0 | $0 | 0 | $0 |
| 4830 | KY | 21 | 5 | $71 | 15 | $242 | 1 | $23 | 1 | $23 |
| 4006 | KY | 20 | 16 | $270 | 3 | $62 | 1 | $25 | 1 | $25 |
| 9503 | KY | 17 | 7 | $175 | 9 | $225 | 1 | $25 | 1 | $25 |
| 3103 | KY | 16 | 4 | $71 | 12 | $223 | 0 | $0 | 0 | $0 |
| 3850 | KY | 14 | 6 | $95 | 8 | $102 | 0 | $0 | 0 | $0 |
| 7288 | KY | 14 | 0 | $0 | 14 | $262 | 0 | $0 | 0 | $0 |
| 3646 | KY | 13 | 9 | $190 | 4 | $70 | 0 | $0 | 0 | $0 |
| 7255 | KY | 13 | 0 | $0 | 13 | $336 | 0 | $0 | 0 | $0 |
| 7354 | KY | 12 | 8 | $154 | 4 | $100 | 0 | $0 | 0 | $0 |
| 7174 | KY | 10 | 9 | $157 | 1 | $4 | 0 | $0 | 0 | $0 |
| 3941 | KY | 8 | 6 | $91 | 2 | $35 | 0 | $0 | 0 | $0 |
| 3822 | KY | 7 | 2 | $50 | 5 | $63 | 0 | $0 | 0 | $0 |
| 3420 | OH | 6 | 1 | $25 | 5 | $75 | 0 | $0 | 0 | $0 |
| 9513 | KY | 5 | 1 | $10 | 4 | $75 | 0 | $0 | 0 | $0 |
| 7229 | KY | 5 | 0 | $0 | 5 | $69 | 0 | $0 | 0 | $0 |
| 4847 | KY | 4 | 2 | $50 | 2 | $42 | 0 | $0 | 0 | $0 |
| 4827 | KY | 3 | 0 | $0 | 3 | $66 | 0 | $0 | 0 | $0 |
| 9538 | OH | 3 | 0 | $0 | 3 | $75 | 0 | $0 | 0 | $0 |
| 9749 | KY | 1 | 0 | $0 | 1 | $25 | 0 | $0 | 0 | $0 |
| 3057 | KY | 0 | 0 | $0 | 0 | $0 | 0 | $0 | 0 | $0 |

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522

This message was sent with high importance.

**Yarberry, Michael W.**

**From:** Ayshford, Robbert **Sent:** Wed 6/16/2010 7:42 AM
**To:** Pharmacy Field; AllPharmacists
**Cc:** Ayshford, Robbert; Zakin, Adam; Vaughan, Robert (Rx); Holm, Denny; Curry, Ken
**Subject:** Smart Squad - Today is the Day!!
**Attachments:**

Good Morning Pharmacy Team,

Today is Day #11 of our Smart Squad Initiative. Today is the day that we change the momentum of Smart Squad redemptions.

It's time to act! It's time for each and every one of our Pharmacy Team member to lead / drive their store / districts. All eligible stores must actively participate. Have you done all that is possible to support the initiative? Have you set a redemption goal?

Special thanks to those team members that have helped provide our initial results.

I look forward to seeing the results improve.

Thank you for your support!

Robbert

Robbert Ayshford, RPh, MBA | Divisional Vice President | Kmart Pharmacy |

Sears Holdings Corporation | 3333 Beverly Road | AC-375B | Hoffman Estates, IL 60179

847.286.8242 | Robbert.Ayshford@searshc.com

This message was sent with high importance.

**Yarberry, Michael W.**

**From:** Cruser, Ryan **Sent:** Wed 6/23/2010 4:23 PM

**To:** Rx-District 826; SM3029, Store Manager; SM3057, Store Manager; SM3103, Store Manager; SM3420, Store Manager; SM3646, Store Manager; SM3688, Store Manager; SM3822, Store Manager; SM3850, Store Manager; SM3941, Store Manager; SM4006, Store Manager; SM4232, Store Manager; SM4753, Store Manager; SM4827, Store Manager; SM4830, Store Manager; SM4847, Store Manager; SM7174, Store Manager; SM7229, Store Manager; SM7255, Store Manager; SM7288, Store Manager; SM7354, Store Manager; SM9503, Store Manager; SM9513, Store Manager; SM9538, Store Manager; SM9684, Store Manager; SM9749, Store Manager

**Cc:** Radcliffe, Dan; Disque, David; Watson, Ray; Hillard, William; Silva, John; Pugh, Hurlock; Miltenberger, Jud

**Subject:** Smart Squad Current Performance Data

**Attachments:**

Pharmacy/Store Management Team:

We are about 2 weeks into the current Smart Squad Promotion and the results through yesterday are below. To say these numbers are underwhelming is an understatement.

The file reads across as:

1. Store Number
2. Program Total Redemptions- the number of transfers the pharmacy has performed
3. Total Scans- the number of brochures the register operators have scanned as they are passing out the brochures
    a. The procedure for this Smart Squad Promotion is that the cashier is to scan the barcode at the top of the brochure each time they hand one to a customer. Why we have so few in some stores baffles me. The stores with zero, are your cashiers really not handing these out or engaging the customer? If so this must change TODAY.

| Store | Program Total Redemp | Total Scans | Store Operations Dist Mgr |
|---|---|---|---|
| 3029 | 5 | 190 | DISQUE, DAVID |
| 3057 | 5 | 1541 | PUGH, HURLOCK |
| 3103 | 16 | 53 | WOFFORD, JAMES |
| 3420 | 0 | 0 | MILTENBERGER, JUD |
| 3646 | 0 | 0 | WATSON, RAY |
| 3688 | 13 | 578 | WOFFORD, JAMES |
| 3822 | 5 | 1814 | WATSON, RAY |
| 3850 | 14 | 303 | RADCLIFFE, DAN |
| 3941 | 3 | 2437 | WATSON, RAY |
| 4006 | 17 | 57 | PUGH, HURLOCK |
| 4232 | 9 | 1878 | RADCLIFFE, DAN |
| 4753 | 0 | 88 | PUGH, HURLOCK |
| 4827 | 0 | 0 | MILTENBERGER, JUD |
| | | | |

| | | | |
|---|---|---|---|
| 4830 | 18 | 1941 | DISQUE, DAVID |
| 4847 | 9 | 12 | RADCLIFFE, DAN |
| 7174 | 8 | 0 | SILVA, JOHN |
| 7229 | 3 | 2235 | MILTENBERGER, JUD |
| 7255 | 7 | 419 | WATSON, RAY |
| 7288 | 18 | 903 | PUGH, HURLOCK |
| 7354 | 14 | 4107 | HILLARD, WILLIAM |
| 9503 | 5 | 6 | RADCLIFFE, DAN |
| 9513 | 9 | 2273 | HILLARD, WILLIAM |
| 9538 | 9 | 95 | MILTENBERGER, JUD |
| 9684 | 24 | 34 | RADCLIFFE, DAN |
| 9749 | 0 | 0 | RADCLIFFE, DAN |

I cannot stress to everyone enough how important this 12 week promotion is to the pharmacy hitting our sales plan for 2010. I can guarantee you that this will either make or break your pharmacy this year. Unless your store already has more sales dollars than it can handle, I need you to be involved and ensure your cashiers are engaged with this promotion.

I would like to call out our leaders and thank them for their efforts. Stores 9684, 7288, 4839, & 4006 are leading the way in redemptions and store 7354 stands alone with the number of scans, OUTSTANDING JOB!!

I am here to help in any way I can. I know you all received procedural documents on Smart Squad, but if you need those resent or questions answered, I would be more than happy to.

Working together we can accomplish this goal and have the pharmacy be one of the driving forces for your store hitting sales plan this year.

Ryan Cruser

Kmart Pharmacy District Manager KY/OH

Fax# 847-747-1522

This message was sent with high importance.

**Yarberry, Michael W.**

**From:** Cruser, Ryan **Sent:** Thu 7/1/2010 4:08 PM

**To:** Rx-District 826; SM3029, Store Manager; SM3057, Store Manager; SM3103, Store Manager; SM3420, Store Manager; SM3646, Store Manager; SM3688, Store Manager; SM3822, Store Manager; SM3850, Store Manager; SM3941, Store Manager; SM4006, Store Manager; SM4232, Store Manager; SM4753, Store Manager; SM4827, Store Manager; SM4830, Store Manager; SM4847, Store Manager; SM7174, Store Manager; SM7229, Store Manager; SM7255, Store Manager; SM7288, Store Manager; SM7354, Store Manager; SM9503, Store Manager; SM9513, Store Manager; SM9538, Store Manager; SM9684, Store Manager; SM9749, Store Manager

**Cc:** Radcliffe, Dan; Disque, David; Watson, Ray; Hillard, William; Silva, John; Pugh, Hurlock; Miltenberger, Jud

**Subject:** Smart Squad Performance Update

**Attachments:**

Store Managers/Pharmacists:

Latest update from the current Smart Squad Promotion. We continue to lag behind on this. From my most recent store visits, the cashiers have been surprised to know this was a competition and that they could receive a cash card at the end of the promotion. Please ensure this message is getting across and please ensure they are scanning the brochures when they pass them out. There is a record on workbench for each of your associates regarding how many they are handing out and is an invaluable tool for you to use and to help you concentrate your message to the proper associates.

If you need assistance please let me know.

3420 & 9749, please continue to push this program, all stores should have redemptions at this time!

**Wk 3 Total**

| Store | Program Total Redemp | Total Scans | Units | Cash Card |
|---|---|---|---|---|
| 3029 | 15 | 335 | **8** | **$ 103.01** |
| 3057 | 6 | 2192 | **1** | **$ 25.00** |
| 3103 | 22 | 927 | **5** | **$ 98.04** |
| 3420 | 0 | 1269 | **0** | **$ -** |
| 3646 | 11 | 0 | **1** | **$ 25.00** |
| 3688 | 17 | 753 | **2** | **$ 33.00** |
| 3822 | 9 | 2823 | **4** | **$ 23.34** |
| 3850 | 17 | 310 | **3** | **$ 75.00** |
| 3941 | 4 | 2793 | **1** | **$ 25.00** |
| 4006 | 19 | 334 | **2** | **$ 50.00** |
| 4232 | 10 | 2158 | **0** | **$ -** |
| 4753 | 2 | 107 | **0** | **$ -** |
| 4827 | 2 | 352 | **0** | **$ -** |
| 4830 | 37 | 2626 | **9** | **$ 208.83** |
| 4847 | 12 | 12 | **3** | **$ 39.99** |
| 7174 | 13 | 150 | **3** | **$ 75.00** |
| 7229 | 7 | 3497 | **2** | **$ 23.74** |
| 7255 | 10 | 516 | **0** | **$ -** |
| 7288 | 34 | 999 | **5** | **$ 80.00** |
| 7354 | 19 | 4815 | **4** | **$ 100.00** |
| 9503 | 11 | 11 | **1** | **$ 25.00** |
| 9513 | 14 | 2667 | **2** | **$ 18.00** |
| 9538 | 12 | 206 | **3** | **$ 75.00** |
| 9684 | 29 | 34 | **3** | **$ 75.00** |
| 9749 | 0 | 39 | **0** | **$ -** |

Ryan Cruser

Kmart Pharmacy District Manager KY/OH

Fax# 847-747-1522

This message was sent with high importance.

**Yarberry, Michael W.**

**From:** Cruser, Ryan **Sent:** Tue 7/6/2010 5:46 PM

**To:** Rx-District 826; SM3029, Store Manager; SM3057, Store Manager; SM3103, Store Manager; SM3420, Store Manager; SM3646, Store Manager; SM3688, Store Manager; SM3822, Store Manager; SM3850, Store Manager; SM3941, Store Manager; SM4006, Store Manager; SM4232, Store Manager; SM4753, Store Manager; SM4827, Store Manager; SM4830, Store Manager; SM4847, Store Manager; SM7174, Store Manager; SM7229, Store Manager; SM7255, Store Manager; SM7288, Store Manager; SM7354, Store Manager; SM9503, Store Manager; SM9513, Store Manager; SM9538, Store Manager; SM9684, Store Manager; SM9749, Store Manager

**Cc:** Radcliffe, Dan; Disque, David; Watson, Ray; Hillard, William; Silva, John; Pugh, Hurlock; Miltenberger, Jud

**Subject:** Smart Squad Update

**Attachments:**

Store Managers/Pharmacists:

Below are the latest Smart Squad Numbers. 4830, 7288, & 9684 are leading the pack, who is going to challenge them?

3420- I don't know what to say, not a single redemption? There are only 17 stores in the entire country without a redemption.....focus MUST be placed on this.

Stores with low scan numbers, please ensure your cashiers know to scan the brochures as they are being handed out. A quick check of workbench will show you who is and isn't compliant within your store.

Keep pushing this, we need the sales!!!

| Store | State | Program Total Redemp | Total Scans |
|---|---|---|---|
| 3029 | KY | 18 | 389 |
| 3057 | KY | 9 | 2382 |
| 3103 | KY | 26 | 1489 |
| 3420 | OH | 0 | 1827 |
| 3646 | KY | 11 | 1 |
| 3688 | KY | 17 | 805 |
| 3822 | KY | 11 | 2954 |
| 3850 | KY | 17 | 312 |
| 3941 | KY | 5 | 2856 |
| 4006 | KY | 26 | 441 |
| 4232 | KY | 15 | 2323 |

| | | | |
|---|---|---|---|
| 4753 | KY | 5 | 107 |
| 4827 | KY | 5 | 577 |
| 4830 | KY | 43 | 2897 |
| 4847 | KY | 12 | 12 |
| 7174 | KY | 15 | 404 |
| 7229 | KY | 12 | 4337 |
| 7255 | KY | 11 | 537 |
| 7288 | KY | 35 | 1031 |
| 7354 | KY | 22 | 4939 |
| 9503 | KY | 12 | 108 |
| 9513 | KY | 14 | 3262 |
| 9538 | OH | 16 | 209 |
| 9684 | KY | 32 | 34 |
| 9749 | KY | 1 | 218 |

Ryan Cruser

Kmart Pharmacy District Manager KY/OH

Fax# 847-747-1522

This message was sent with high importance.
Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

**Yarberry, Michael W.**

**From:** Cruser, Ryan **Sent:** Tue 6/1/2010 4:11 PM
**To:** Rx-District 813; Rx-District 826
**Cc:**
**Subject:** FW: JUNE 2010 SMART SQUAD
**Attachments:** June 2010 Smart Squad Signing and Marketing EXCLUDING Puerto Rico.doc(46KB) MARKETING ELEMENTS.xls(28KB) PRODUCT LIST.xls(24KB) MAINLAND BROCHURE.pdf(1006KB) SENIORS (NJ ONLY) BROCHURE.pdf(1MB) MYGOFER BROCHURE.pdf(1006KB) MAINLAND BOTTLE HANGER.pdf(297KB) SENIORS (NJ ONLY) BOTTLE HANGER.pdf(299KB) MAINLAND AND SENIOR (NJ ONLY) BLADE SIGNS.pdf (305KB) EXISTING SIGNAGE - FROM FEB SMART SQUAD EVENT.pdf(1MB) BROCHURE Jun 2010 Smart Squad Store List - FINAL.xls(198KB) BOTTLE HANGER Jun 2010 Smart Squad Store List - FINAL.xls(192KB) BLADE SIGNS Jun 2010 Smart Squad Store List - FINAL.xls(188KB) Smart Squad Associate MemoJune2010.doc(35KB) June Smart Squad Register Directions.doc(26KB) CounterMat369-028045V-Folio.pdf(109KB) COUNTER MATS Jun 2010 Smart Squad Store List - FINAL.xls(192KB)

I don't think I have to stress the importance of this program and its benefits with anyone. This could be what makes/breaks us for hitting our 2010 Plan. Take time to review each of the attachments (I realize there are many) and share them with your entire pharmacy team. Knowledge is power with these promotions, the more you know the better your pharmacy will perform.

If there are any pharmacists out there that don't understand this program or have questions, please don't be shy, send me those questions/concerns. I will be more than happy to address them.

As a reminder, don't trouble yourself being the coupon police. Corporate knows that there are coupon shoppers out there and build this into the financial model. It is not worth your frustration to burden yourself with that task.

I expect 100% participation from every store (except the lone Sears Essential store). Work with your store manager to ensure the cashiers are speaking to the program and making it a success.

Let's see how many stores we can get to hit the 200 mark!

Ryan Cruser

Kmart Pharmacy District Manager KY/OH

Fax# 847-747-1522

-----Original Message-----
**From:** Guzik, Cheryl

**Exhibit D**

**Sent:** Tuesday, June 01, 2010 4:06 PM
**To:** Pharmacy Field; Rx-All Pharmacists
**Subject:** FW: JUNE 2010 SMART SQUAD

**Attached are the documents for the rollout of the June 2010 Smart Squad.**

- **This will run from 6/6/10 to 8/28/10, 12 week program**
- **Payouts will work the same except *200 redemptions needed* since program is 12 weeks**
- **There are 4 different versions of this program:**
  - ✓ **Mainland – (excluding AR and NY, including Virgin Islands and Guam)**
  - ✓ **Puerto Rico - $10 per Rx (Noel sent out the documents for PR)**
  - ✓ **Seniors**
  - ✓ **New Jersey < 60 years old**
- **Brochures that are handed out *MUST* be scanned (barcode on front) at the register and "0" entered as selling price – this is for tracking purposes to see how the store is implementing**
- **POS reporting - TBD**
- **On 6/15/10 all Mainland stores will receive 2 countermats which should be placed immediately on the pick-up and drop-off counters**
  - ✓ **New Jersey will have the countermats for the Seniors**
- **Goal - Maximize front store traffic and turn it into a repetitive pharmacy customer**

**I will forward a copy of the document that is going to the stores as soon as I receive the final.**

**Thanks**

**Cheryl Guzik**

Pharmacy Operations Manager - Kmart Pharmacy

Sears Holding Corporation

3333 Beverly Road, BC 258-A

Hoffman Estates, IL 60179

PH-847-286-1967

FAX-847-747-1519

**Cheryl.Guzik@searshc.com**

**Exhibit**

**E**

For your balance inquiry, call 1-800-922-5511

ACCT# 6052 2487 8188 1185

KSN 912499-126

This card is issued by SHC Promotions, Inc. and is redeemable for merchandise and services purchased in conjunction with merchandise at participating Sears, Roebuck and Co., Lands' End, The Great Indoors, and Kmart store locations, except restaurant or Portrait Studio transactions, in the U.S., Puerto Rico, Guam and U.S. Virgin Islands and at sears.com, kmart.com, landsend.com and Lands' End consumer catalogs. It cannot be redeemed for cash or applied to your Sears, Lands' End, The Great Indoors or Kmart credit accounts, except where required by law. Lost, stolen or damaged gift cards may only be cancelled and replaced with the required proof of purchase. To add value to your gift card, see a Sales Associate at any register. © 2008 SHC Promotions, Inc.

Reload

0 72000 12195 5

**From:** Crupie, John A
**Sent:** Wednesday, November 18, 2009 5:49 PM
**To:** McDevitt, Brigid M
**Subject:** Re: OTG cards

2 transactions
John Crupie RPh

---

**From:** McDevitt, Brigid M
**To:** Crupie, John A
**Sent:** Wed Nov 18 18:08:43 2009
**Subject:** OTG cards
Hi John,

We noticed the rollout that blocks cash-card coupons at the register for govt plans has started - yay! The downside seems to be that it also blocks the On Time Guarantee bar code. Are there any plans in the works to correct that, or should we just ring up two separate transactions if we need to give an OTG card to a PACE or Medicaid person?

Thanks!
Brigid @ 3529



Exhibit F

KM-YAR-005-001696

**From:** Surber, Gary C
**Sent:** Wednesday, July 14, 2010 8:19 AM
**To:** Cruser, Ryan
**Subject:** 2 weeks notice or as long as you need???...

Hello Ryan,

This is Gary Surber. I work at the Johnson City location. I met Evan today and I was just wondering how much longer you needed me. I have a few things in the works as far as employment back in Va. Please let me know how much longer you need me to work as I am very flexable. If you think Evan will be ready to go on her own in a few weeks that may work for me as well just let me know please.

Thank you

**From:** Cruser, Ryan
**Sent:** Tue 7/13/2010 9:37 AM
**To:** Rx-District 813; Rx-District 826
**Subject:** PROPER COUPON/OTG DOCUMENTATION **VERY IMPORTANT**

Pharmacy Team:

With the current increased amount of coupons that are occurring I want to remind everyone that it is imperative that we document the prescription number and the person the coupon/OTG card is be given to on the second receipt that prints from the register. This second receipt is to be stapled to the coupon and placed into the register drawer to be turned in at the end of the day. Also, if you are giving out an OTG card place a brief description of why the card is being given out to the customer.

Ensure you discuss this matter with your entire staff and that this is being strictly adhered to.

If you have any questions, please let me know.

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522



Exhibit G



PX 63

**From:** Weber, Timothy
**Sent:** Monday, April 28, 2008 2:44 PM
**To:** Mullins, Jennifer
**Subject:** RE: Incentive letters

We try to eliminate them, but it's not always easy, especially when it's a Med-D plan that's run through a multi-use TP code that doesn't clearly define as Part D.

OTG cards can be used for those "less-friendly customers"

Tim Weber, RPh
Divisional Pharmacy Coach - North Division

-----Original Message-----
**From:** Mullins, Jennifer
**Sent:** Monday, April 28, 2008 2:41 PM
**To:** Weber, Timothy
**Subject:** FW: Incentive letters

Does this make sense to you? It seems silly we would send a coupon letter to a person who is ineligible to use it.

Jennifer Mullins, PharmD.
Kmart Pharmacy District Coach
Northeast Pharmacy Division
Kmart #3324
3533 Franklin Rd.
Roanoke, VA 24014
Office: 540-982-0995
Cell: 540-525-8207
Email: jmullin1@searshc.com

-----Original Message-----
**From:** Kennedy, Shannon M
**Sent:** Monday, April 28, 2008 11:47 AM
**To:** Mullins, Jennifer
**Subject:** Incentive letters

We had a customer bring in a letter with a gift card coupon attached to the bottom. She is on Medicare Part D, and the coupon excludes government-paid prescriptions. How are we to handle this situation should it happen again? She was fine with not being able to use the coupon, but I am afraid a less-friendly customer may get angry that we send them a coupon they can't use.

Shannon



Exhibit H

**From:** Ayshford, Robbert
**Sent:** Thursday, August 21, 2008 7:12 PM
**To:** Gray, Lavan; Schuck, Brian; Moore, Johnny (Field); Hands, Joe; Cruser, Ryan
**Cc:** Vaughan, Robert; Weber, Timothy; Curry, Ken; Zakin, Adam; Crupie, John A; Doerr, Mark; Ayshford, Robbert
**Subject:** RE: National Radio Test Starts 8/24/08

1st customer receives OTG card and RPh reports to PDC. PDC informs Mark Doerr and Robb Ayshford and forwards coupons / procedures to the additional location. Mark or Robb will add to the pilot analytics. Thanks, Robb

-----Original Message-----
**From:** Gray, Lavan
**Sent:** Thursday, August 21, 2008 7:10 PM
**To:** Ayshford, Robbert; Schuck, Brian; Moore, Johnny (Field); Hands, Joe; Cruser, Ryan
**Cc:** Vaughan, Robert; Weber, Timothy; Curry, Ken; Zakin, Adam; Crupie, John A; Doerr, Mark
**Subject:** RE: National Radio Test Starts 8/24/08

Thanks.

Give $20 OTG and track (with results forwarded to you)?

*LaVan Gray RPH*
**Kmart Pharmacy District Coach**
Email: lgray@searshc.com

-----Original Message-----
**From:** Ayshford, Robbert
**Sent:** Thursday, August 21, 2008 8:01 PM
**To:** Gray, Lavan; Schuck, Brian; Moore, Johnny (Field); Hands, Joe; Cruser, Ryan
**Cc:** Vaughan, Robert; Weber, Timothy; Curry, Ken; Zakin, Adam; Crupie, John A; Doerr, Mark; Ayshford, Robbert
**Subject:** RE: National Radio Test Starts 8/24/08

1) Radio stations were not provided. We will check on availability
2) Please notify. Follow OTG policy.
3) Radio Commercials mention Kmart Pharmacy. Please forward coupons and instructions to the Sears location.

-----Original Message-----
**From:** Gray, Lavan
**Sent:** Thursday, August 21, 2008 3:41 PM
**To:** Ayshford, Robbert; Schuck, Brian; Moore, Johnny (Field); Hands, Joe; Cruser, Ryan
**Cc:** Vaughan, Robert; Weber, Timothy; Curry, Ken; Zakin, Adam; Crupie, John A; Doerr, Mark
**Subject:** RE: National Radio Test Starts 8/24/08

Robb,

Thanks for the call. Three questions, if I may: 1. Do you have a list of the radio stations the ad will run on? 2. What should we do if the patients do come into surrounding stores and ask for the coupon? (I know you said we need to let you know but I was thinking more in the order of



Exhibit I

satisfying the customer issue) A lot of the population in Baltimore commutes to D.C. for government jobs so I can see this happening quite a bit if it is successful. 3. I have a Sears Grand right in the middle of that market also, are they not included? (7282 Clinton, MD)

Thanks.

*LaVan Gray RPH*
**Kmart Pharmacy District Coach**
Email: lgray@searshc.com

-----Original Message-----
**From:** Ayshford, Robbert
**Sent:** Thursday, August 21, 2008 3:58 PM
**To:** Schuck, Brian; Moore, Johnny (Field); Hands, Joe; Gray, Lavan; Cruser, Ryan
**Cc:** Vaughan, Robert; Weber, Timothy; Curry, Ken; Zakin, Adam; Crupie, John A; Doerr, Mark; Ayshford, Robbert
**Subject:** National Radio Test Starts 8/24/08
**Importance:** High

**NATIONAL RADIO TEST STARTS 8/24/08**

PDCs,

The attached locations have been selected for the National Radio Pilot. The attached radio commercial will play in the selected markets from 8/24/08 to 9/20/08. The main focus of the commercial will be to attract new patients to Kmart Pharmacy by offering a $10 gift card for a new or transferred prescription. All that is required by the patient is to mention the radio commercial when picking up or dropping off a prescription to receive the offer. The pharmacy team member will need to print the offer from operations workbench reports (Pharmacy web page > Operations workbench > Pharmacy Folder > RADIO TEST). The pharmacy team member should also offer a bounce back coupon to the patient (also located on operations workbench reports). Please note that coupons will not be published on operations workbench for pilot stores until 8/22/08 after 12noon.

This is a pilot and it is extremely important that these coupons are only used at the attached locations. Also, each team member must understand how and when to hand the coupons out. Pharmacy team members that hand out coupons to patients that do not mention the radio commercial will sku the pilot results.

Please contact me directly with any questions or issues.

Robbert Ayshford, RPh, MBA
Director of Pharmacy Administration
MS AC375B
Phone: 847.286.8242
Fax: 847.286.5090
rayshfor@searshc.com

**From:** Cruser, Ryan
**Sent:** Monday, February 01, 2010 8:28 AM
**To:** Yarberry, Michael W.
**Subject:** RE: Smart Squad Conference Call Question

Mike,

I will answer your questions below in the same order asked.

1. 4180 will not be handing brochures out, but I wanted them on the call incase you see coupons from the Kmart locations. You can honor coupons.

2. Correct.

3. Yes, use on OTG card.

4. Correct, simply document what the OTG card is being used for.

Let me know if anything else comes up.

Thanks,

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522

-----Original Message-----
**From:** Yarberry, Michael W.
**Sent:** Friday, January 29, 2010 4:37 PM
**To:** Cruser, Ryan
**Subject:** Smart Squad Conference Call Question

Hi Ryan,

I was working at 7288 and we were really busy during the call so just want to verify some of the highlights. Kim was also busy so just want to make sure

1. Will Store 4180 be participating. I know last time Sears Essential pharmacies did not participate.

2. Prescriptions on RMP we are only to give either $10 or $15 we are only to give either $10 or $15 value on the gift card? Also on the $4 prescriptions are we are only to give $4 gift card.

3. If a customer comes in and the register recognizes that because of the payor source we are not allowed to give a gift card are we to give the customer a $10 on time gift card? This especially if it is a customer that has gotten gift cards in the past before the implementation of the register system and may be upset.

4. The $10 on time time guarantee gift card just has to be given on a separate transaction because the register will not allow on same transaction.

Thanks
Michael



Exhibit
J

KM-YAR-006-003928

**From:** Parrino, Leo J
**Sent:** Tuesday, February 09, 2010 9:51 AM
**To:** Cruser, Ryan
**Subject:** RE: smart squad

The 3 rx numbers I have transferred are 6885731, 4465534, 6885860

---

**From:** Cruser, Ryan
**Sent:** Tue 2/9/2010 8:39 AM
**To:** Parrino, Leo J
**Subject:** RE: smart squad

That is the correct coupon code. If you can find examples please let me know and we will investigate.

I understand the concerns you receive at the store level, I get them too. I appreciate the diligence in ensuring we are following the program properly. As I mentioned on the conference call make sure to offer them an OTG card for the confusion and hopefully that can smooth the waters.

Thanks for the info as always Lee.

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522

-----Original Message-----
**From:** Parrino, Leo J
**Sent:** Tuesday, February 09, 2010 8:29 AM
**To:** Cruser, Ryan
**Subject:** smart squad

Ryan
what number from the coupon are we using for this program. I thought it was 13352. I know I have done at least 3 transfers but they are not appearing on our record. Also I am not making excuses but Laura and I have been much more diligent in denying gift cards to those customers who participate in any government sponsored insurance. We have so many retirees from Government jobs around here plus many many Med Part D. Last august these people were slipping thru with transfers so we got much better results. Also we have lost several transfers simply because they were attempting to transfer a prescription of low return value and therefore were not eligible for the full 25.00. I understand the companies perspective but its a public relation nightmare for us in some cases. They always remind me that Walgreen's, Rite-Aid etc always give the full value of the coupon regardless of the price of the RX. The intent of this note is not to make excuses, but to give you a perspective of what is going on with us in the trenches.

Thanks
Lee



Exhibit K

| | |
|---|---|
| **From:** | Bjerke-Burns, Carmen R |
| **Sent:** | Friday, February 19, 2010 1:44 PM |
| **To:** | Duff, Jeffrey J; SM3624, Store Manager; Wilson, Terrance L.; Holm, Denny; Zakin, Adam; Stewart, Paula; Bjerke-Burns, Carmen R |
| **Subject:** | 3624_2-16-10_BjerkeBurns_m |
| **Attachments:** | 3624_2-16-10_BjerkeBurns_m.xls; 3624_Smart Squad Checklist.xls; Smart Squad Associate Memo.doc |

**3624– Winter Haven , FL** **2-16-10**
**Jeff Duff, RPh**

Thanks for all that you do every day. I appreciate your time and below you will find comments based on the time we spent together on Tuesday. Also please read and save the attached store visit detail.

**Comments:** The primary purpose for my visit was to monitor the execution of the **Smart Squad Program**.

What did I see?
Placement of Smart Squad signage was 100% executed.

Execution by the cashiers was almost at 0% at all stores. Although awareness of the program is better than I was seeing in stores last week. The corporate letter to cashiers is in distribution, continue to make sure that it gets in every cashiers hand. I spoke to several associates (Kerishea, Marsha, Arlene, Carol), explaining the program, the store goal and potential rewards to the individuals. We need to focus our energy on daily communication to the cashiers to make this a successful program. It is the responsibility of the pharmacist to communicate EVERY DAY about this program to the cashiers, upfront lead and store manager. We need to work as a TEAM to achieve success.

Why is this program important to us?
It has proven to increase our script count. In order for our pharmacy district to make our 2010 plan we need to gain 6.5% in sales. This is the start of accomplishing that. Embracing this program will go a long way towards each of us getting a bonus for 2010. Starting the year with a bang, and retaining these customers with the WOW factor and educating them on what Kmart Pharmacy can offer them is key to a successful year.

How can we be successful?
Work closely with the store team to execute this program. Every cashier is **"YOUR SALES REP"**. They all should be talking about Kmart Pharmacy and this will point patients to your counter. Remember, 92% of customers inside the store DO NOT use the Pharmacy. We must work together to capture that business. Ultimately, this will help Rx count, sales dollars, store traffic and ultimately contribute to the bottom line. It is the solid expectation of the company that you fill at least 18 redemptions per week. This will bring you over the 100 Rx Goal for the six-week period. Everyone will benefit – your patients, the store, and the company. As you know, Associates will be rewarded for their efforts. When walking through the store, make sure the cashiers are working the program. If not, talk with your Store Manager immediately. If you still need help, contact me at once. Thank you for your efforts and teamwork with the store.

What do I expect from you?
1. Communicate Daily with Up Front Lead and Store Manager
2. Mark the thermometer daily when results are posted



Exhibit L

3. Make sure that EVERY cashier knows that they can MAKE MONEY by asking the question "Do you fill all of your prescriptions at Kmart Pharmacy"?
4. WOW every customer that brings a transfer coupon in. Take the time to introduce yourself, explain our programs and INVITE THEM BACK! Let your techs know that when presented a coupon, let you know so you can have this conversation with them.
5. When presented with a coupon that can't be used because on a government program. Explain it professionally and with empathy. It is not a Kmart Policy, it is a federal regulation that we can not use inducements for government funded programs. Don't be afraid to ask for their business anyway! If we disappoint them, offer a $10 OTG card. The ultimate goal is to gain them as a loyal customer.

**Corporate Strategies:** Bring in more scripts every day! Focus on Smart Squad, RMP, Prescription Savings Club, and our Associate Discount Benefit. WOW every customer and explain the benefits of using Kmart Pharmacy to them. Make sure that they know there is no reason for them to shop anywhere else. We have our Service Guarantee (OTG), Autofill, price match, take competitor coupons and will do it faster and with better customer service then anyone in town! There is no reason for them to go anywhere else. Our 2010 plan is aggressive, WE need to be aggressive to achieve it.

**Carmen R. Bjerke Burns, RPh**
Kmart Pharmacy
Pharmacy District Manager Central Florida
501 N Orlando Ave
Winter Park, Fl 32789
office 407-644-8828
cell 407-473-4253
fax 847-747-1517
carmen.bjerke-burns@searshc.com

**Discover the Difference of Kmart Pharmacy and I'll give you $20!**
**Click here for details and coupon!**

**From:** Daughtry, Susannah
**Sent:** Sunday, March 07, 2010 11:53 PM
**To:** Folsom, James R.; Thompson, Brenda J; SM7360, Store Manager
**Cc:** Duell, Anthony; Holm, Denny; Zakin, Adam; Stewart, Paula
**Subject:** 7360 Store Visit
**Attachments:** 7360_02_09_10_Daughtry_m.xls

Ryan and Brenda,
Ryan and I had a productive store visit on Feb. 9. We took the opportunity to address performance areas your store is doing well in and areas that we need to focus on improving.
Please review what we discussed below:

## Performance Review

- Rx Count - finished Fiscal 2009 down 9.3% 28,088Rxs vs 30,973 Downward trend is slowing Wk 1 down 1.6% to LY compared to being down 26% in Wk 1 of LY.
- Sales - down 8.9% for Fiscal 2009
- Variable Profit Contribution - Fiscal 2009 $42,733 vs Plan $12,097
- Autofill - has improved LEAPS and BOUNDS over LY , Week 1 at 23.6% compared to LY at 4.8!! GREAT JOB
- Inventory - just over $2k under goal Wk1. Great job managing the inventory. At this time last year your store was $46k OVER budget goal.
- Labor - operated 29.5% ($4,663) OVER budget Fiscal 2009, but have been operating within hourly labor budget for months
- GOR 98.4% - one of highest in district (Corporate Goal is 98%)

## Top Priorities

1) Rx Count - Smart Squad/$100 Transfer Program is our opportunity to convert Kmart shoppers who DON'T use our pharmacy to Kmart Pharmacy shoppers. We only capture 8% of the business that shops in our stores and we are looking to increase that penetration by at least 2% - which translates to 25% increase in pharmacy sales!!!
    - Attend store huddles to promote program to incentive eligible associates and update associates on performance



Exhibit M

- Observe and coach cashiers and front end service associates for execution. We must engage the customer and ask them if they get prescriptions filled at Kmart Pharmacy, NOT just place coupon in the bag
- Use OTG when necessary if customer is ineligible – We want the business even if they cannot participate in the Smart Squad transfer program. DO WHAT IT TAKES TO EARN THE BUSINESS!

2) Autofill – Continue to utilize the Autofill Not Enrolled report every weekend to look for missed opportunities. This report has helped to build this program from he ground up at 7360. Team 7360 has truly taken ownership of this program. Yall have done a great job building this program at your store. Remember to use the Help Ticket Option for patients who do not wish to receive the reminder calls.

*Susannah Daughtry, RPh*
*Pharmacy District Manager*
*Kmart 3082*
*2185 Reeves St.*
*Dothan, AL 36303*
*Office: 334-794-0623*
*Cell: 334-648-4315*
*Fax: 847-747-1506*

**Discover the Difference of Kmart Pharmacy and I'll give you $20!**
**Click here for details and coupon!**



Confidential

**From:** Cruser, Ryan
**Sent:** Monday, July 05, 2010 4:39 PM
**To:** Smith, Jeremy D
**Subject:** Re: Smart Squad Coupons for TN State Employees

Correct. The cards are for disappointing customers, not a "lure" to come to our pharmacy. The "lure" is what a coupon is and where the legal issues come into play.

Ryan Cruser
Pharmacy District Manager KY/OH
Fax: 847-747-1522

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**From**: Smith, Jeremy D
**To**: Cruser, Ryan
**Sent**: Mon Jul 05 17:30:40 2010
**Subject**: RE: Smart Squad Coupons for TN State Employees

Oh ok, no problem! So, does this mean we can also give out the $10 OTG cards to customers on Medicare, Tricare or Medicaid if they are upset as well?

Jeremy

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**From:** Cruser, Ryan
**Sent:** Mon 7/5/2010 4:16 PM
**To:** Smith, Jeremy D
**Subject:** Re: Smart Squad Coupons for TN State Employees

I should have added that you can give an OTG card to any customer that is upset by this for the inconvenience.

Ryan Cruser
Pharmacy District Manager KY/OH
Fax: 847-747-1522

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**From**: Smith, Jeremy D
**To**: Cruser, Ryan
**Sent**: Mon Jul 05 12:22:39 2010
**Subject**: Smart Squad Coupons for TN State Employees

Ryan,

On these $25 Smart Squad coupons, they are saying on the register when we scan them that TN State Employees are exempt from this program. It's the new CVS Caremark plan that they are enrolled in. Are we not allowed to give them these coupons? I didn't think these are actually government funded ins. plans - can we just scan them either before or after ringing up the Rx on cash register? Thanks.

Jeremy



Exhibit
N

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

**Yarberry, Michael W.**

**From:** Hamilton, Michael **Sent:** Fri 12/17/2010 2:43 PM
**To:** Rx-All Pharmacists
**Cc:** Pharmacy Field; Pharmacy Support Desk
**Subject:** 2011 PLANS- NEW and CHANGES End Of Year
**Attachments:** 2011 TP New Plans Change in Plans.xls(95KB)

**Good day! Below find our End Of Year Managed Care Newsletter, and attached find a quick tip sheet for major plan changes and client movements for 2011. This is the information we have at this point, and we plan to resend on 12/30/10 if there are updates.**

**We hope you find this beneficial, and sincerely wish you MANY THANKS for all the hard work during 2010, and hope you have a GREAT HOLIDAY…..**

kmart pharmacy
Your Home for Family Health.™

**Managed Care Newsletter – 12/18/2010**

**~~ Special Plan Updates for 2011~~**

**NATIONAL**

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**FAQ ABOUT THE WALMART – HUMANA PARTNERSHIP**

**Q) "We have been told it is illegal to give special incentives for government programs to get people to come to your pharmacy. How can this be legal?"**

**A) "The word "incentive" refers to money/goods given to the customer in exchange for transferring their prescriptions (i.e., $25, 25,000 bonus points, free product, etc). Co-pay differentials for preferred / non-preferred networks are not considered "incentives"**

**Q) "How will this impact our business? What are the numbers of lives at stake"**

**Exhibit O**

**A) There are 45,000,000 people enrolled in Medicare. There are 10 million enrolled in MANAGED Medicare. Of those 10 million, there are @ 1.5 million enrolled in Humana's DRUG program. Of those 1.5 million, we anticipate 5% will join the WalMart partnership. That is roughly 75,000 lives. Relative to our geographic positioning with WalMart stores, the impact to us would be approximate 6,000 patients, at the most. That is assuming they leave us completely.**

**Q). "How can we retain these patients"?**

**A) "The Walmart-Humana plan has approximately $315 in deductibles. That means the patient MUST pay $315 in cash before they see the copay differential. Emphasize this fact to your patients."**

**Q) "What are we doing?"**

**A) "We are working, and had hoped to finalize by this newsletter (which we obviously did not) a deal with the LARGEST Medicare Pharmacy provider. It would be in tandem with other chains. We will keep you posted….ADDITIONALLY, we are working with PBM's such as Express Scripts to be a preferred pharmacy in limited networks. For example, there are currently 30,000 potential patients that will receive a letter in the next few weeks giving them KMART PHARMACY as the preferred alternative. We continue to aggressively work with these types of partnerships.**

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**Aetna Moves to Caremark**

As of January 1, 2011, Aetna's participating pharmacy providers will transition from the Aetna pharmacy network to the CVS Caremark pharmacy network. This means that Aetna participating commercial pharmacy providers will be transitioned to CVS Caremark national networks.

Aetna participating Medicare Part D pharmacy providers will also be transitioned to CVS Caremark's respective networks.

Q: What BINs do I submit Aetna claims to after December 31, 2010?

A: You should continue to submit Aetna claims to the following BINs. Please note that the Commercial and Medicare Part D BINs remain the same, but if applicable, Workers' Compensation claims will be submitted to a new BIN.

| Plan Type | BIN |
|---|---|
| Commercial | 610502 |
| Medicare Part D | 610502 |
| Workers' Compensation | 610235 |

**Lifescan**

As of 1/1/2011 Roche's Accu-Chek strips and meters become Tier 1 co-pay for United Healthcare members. Lifescan's OneTouch strips and meters remain Tier 1 for the same plan.

**Importance of transitioning Tier 3 patients to Tier 1 after 1/1/2011:**

To drive switching to Tier 1 **after 1/1/2011** United Healthcare will implement the following:

- Provide 2 grace fills to patients on Tier 3;
- If patients have not transitioned to Tier 1 (Accu-Chek or OneTouch) after the 2nd script fill, they will be automatically switched to mail order with Medco Mail and Kmart Pharmacy will lose these patients.

**The potential loss of patients is significant!**

All pharmacists are advised to assist United Health patients in transitioning to Tier 1 products.

**Patient benefits from switching to Tier 1:**

- **Co-pay savings**
  - Tier 1 average co-pay $10
  - Tier 3 average co-pay $50
  - No Tier 2 available
- **Vendor incentives to support transition**

Roche Diagnostic is offering free meters and co-pay assistance on Accuchek strips valid until 12/31/10. Please use instructions below to process:

| **Use the following information to dispense an ACCU-CHEK Aviva or ACCU-CHEK Compact Plus meter at no charge:** | **Use the following information to dispense ACCU-CHEK Aviva or ACCU-CHEK Compact Plus test strips at a $10 co-pay:** |
|---|---|
| RxGRP (CarrierGroup): MAX27575<br>ID#: 1ACCUCHEK<br>Suffix (Dependent) Code: 01<br>BIN: 610415<br>PCN: PCS<br>COB: Primary<br>Other Coverage Code: blank | RxGRP (CarrierGroup): FRT10001<br>ID#: 460000001<br>Exp: 12/31/2010<br>Suffix (Dependent) Code: 01<br>BIN: 013089<br>PCN: COMPCS<br>COB: Secondary |

The edit below is activated as of this week for all strips and meters other than Accu-Chek and OneTouch processed through United Healthcare.

**~IMPORTANT PLAN NOTICE FOR HEALTH ALLIANCE MEDICAL PLAN~**

Effective January 1, 2011, Health Alliance Medical Plan (PCN HAMP and BIN 014815) will no longer cover Proton Pump Inhibitors, brand or generic. This includes Prilosec OTC, Nexium, Prevacid, Protonix, Aciphex, Zegerid and Dexilant.

Medicare Groups are excluded from this change.

For further assistance with pharmacy claims processing, you may also feel free to call the MedImpact Pharmacy Help Desk at 1-800-788-2949.

**~IMPORTANT PLAN NOTICE FOR HEALTH ALLIANCE MEDICAL PLAN~**

Effective January 1, 2011, Health Alliance Medical Plan (PCN HAMP and BIN 014815) will no longer cover Allegra, Allegra-D, fexofenadine or fexofenidine PSE.

Medicare Groups are excluded from this change.

For further assistance with pharmacy claims processing, you may also feel free to call the MedImpact Pharmacy Help Desk at 1-800-788-2949.

**~Medimpact**

This notification is being sent to alert pharmacies to changes related to Medicare Part D that will be effective on January 1, 2011. These changes are related to the following topics:

1. The Coverage Gap Discount Program
2. Patient Location Code changes for Long Term Care
3. Preventing Part D payments for Hospice drugs
4. 2011 Non-matched NDC

If you have any questions regarding these changes, please contact the Pharmacy Help Desk at (800) 788-2949

**1. Coverage Gap Discount Program**

**List of manufacturers participating in the Gap Discount Program**

CMS has signed discount agreements with manufacturers that cover all brand name and biologic Part D drug products needed under the Part D program. The list of participating manufacturers is now available on the CMS Part D Manufacturer Webpage: http://www.cms.gov/PrescriptionDrugCovGenIn/05_Pharma.asp#TopOfPage.

Note that any drugs not on this list will no longer be covered under Medicare Part D .Pharmacies should use this list to ensure that their inventories include drugs from manufacturers that participate in the Gap Discount program so that the applicable

drugs will be covered under Part D in 2011.

- If brand drug is no longer covered under Part D because it is not on the Labeler List , claim will reject with this message:

  "Manufacturer does not participate in Brand Discount Program"

**CMS defined Brand and Generic Drugs**

CMS has indicated that NDCs with an ANDA approval status must be treated as generic drugs, and NDCs with an NDA or BLA approval status must be treated as brand drugs. Some drugs, such as Furosemide, have multiple manufacturers, some of which market drugs with an NDA and others with an ANDA for the same drug. This could affect beneficiary copays if the pharmacy switches from one manufacturer to another, since the copay will be calculated based on the approval status.

**Employer Group Waiver Plan (EGWP) Option for the Coverage Gap Discount Program**

CMS has given Employer Groups flexibility in how they apply the manufacturer's discount. These Employer Groups can provide their benefits after the manufacturer's discount has been calculated by having a second claim submitted to a secondary BIN/PCN. CMS and NCPDP have provided guidance and instructions for Employer Groups that choose this option; these instructions consist of the following steps:

1. Pharmacy submits the claim to the beneficiary's Part D benefit
2. MedImpact will adjudicate the claim and return a POS message containing OHI information back to the pharmacy, with instructions to bill the secondary PCN with OCC 8
3. Pharmacy will submit the second claim with OCC 8 to the secondary PCN.
4. MedImpact will adjudicate the 2nd claim and final member liability will be determined

**In order for the member to pay the correct cost share, it is extremely important for pharmacies to send the second claim to the secondary BIN/PCN when the OHI data is present on the initial claim.**

- If EGWP is providing a secondary wrap benefit, after processing the Part D claim for a brand drug in the gap, MedImpact will return this message to the pharmacy:

  "Submit secondary claim with OCC 8"

The PCN for the second claim will be provided in a second message:

**OH:**1**BN:**003585**PN:**xxxxx*bbbbb***GP:***bbbbbbbbbbbbbbbb***ID:**987654321Ø98765*bbbbb***PC:**123**RC:**1**PH:**8ØØ5559999_____.

- When pharmacy submits a claim to the EGWP commercial wrap benefit prior to submitting the Part D claim, claim will reject with this message:

  "Bill Medicare Part D first"

- If a pharmacy sends the secondary claim to the EGWP secondary PCN without Other Coverage Code (OCC) = 8, the claim will reject with the message:

  "Please resubmit claim with OCC 8"

- When a pharmacy attempts to reverse a Part D claim when there is an associated secondary claim, and the secondary claim has not been reversed, the pharmacy will receive an error code with the message:

  "Secondary claim must be reversed prior to the reversal of the original claim"

**2. Patient Location Code Changes for Long Term Care**

Effective January 1, 2011, Patient Location Code "5" will no longer be an indicator for Long Term Care. This is sent in field 3Ø7-C7 in NCPDP Telecommunication Standard Version 5.1. Pharmacies can continue to send "Patient Location Code" "3" and "4" to identify LTC claims. Additional changes regarding the identification of Long Term Care claim in NCPDP Telecommunication Standard Version D.Ø will be communicated separately.

**3. Preventing Part D Payments for Hospice Drugs**

CMS sent guidance on October 22, 2010 to direct Plan Sponsors to communicate with their network pharmacies to ensure that Medicare hospice drugs are not billed to Part D. Hospice care is a Medicare Part A benefit and covered under the Medicare payments to the hospice program. All pharmacies, but particularly long-term care (LTC) pharmacies, must work with the LTC facilities in which their members reside to identify any Medicare enrollees who have elected hospice and ensure hospice drugs are billed to Part A not to Part D.

**4. 2011 Non-Matched NDC**

CMS sent guidance on October 22, 2010 stating the 2011 Non-Matched NDC was updated in October and will be updated a final time in December. CMS will establish new edits beginning on or around January 1, 2011 that will reject prescription drug event (PDE) submissions from Part D sponsors for NDCs identified on the list. Part D sponsors should communicate with their pharmacies to prepare for any changes, including working with suppliers to ensure unlisted products are not offered to Medicare beneficiaries.

**DISCOUNT CARDS**

**From:** Weber, Timothy
**Sent:** Monday, November 08, 2010 4:52 PM
**To:** Pharmacy Field; Rx-All Pharmacists
**Subject:** Discount Cards arriving at Pharmacies
**Importance:** High

Team –

During this time of year, pharmacies are likely to experience multiple instances where prescription discount cards (some may even contain our logo) are mailed to pharmacies asking pharmacists to distribute these cards to patients.

Unless specifically announced via email from Mike Hamilton, Robb Ayshford, or myself that a discount card will be arriving in your stores, you are to discard these cards immediately upon receipt and not distribute any of the cards to customers.

When customers inquire about discount drug programs or cards, a conversation regarding the benefits of Kmart's Prescription Savings Club, Generics +, and/or Gold K (as appropriate) should take place. At the current time, these are the only prescription discount programs any Kmart Pharmacy should be actively promoting.

Tim Weber, RPh

Interim Director, Pharmacy Operations

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**ALABAMA**

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**~Alabama Medicaid Identification Number~**

After four years of transition, the Alabama Medicaid Agency is phasing out the acceptance of the old Medicaid ID number for claims processing, effective January 17, 2011. Medicaid will DENY any claims received on or after January 17, 2011, that are submitted with the old Medicaid ID number.

All new Medicaid ID numbers issued after the conversion also begin with a "5". The old Medicaid ID number begins with "000". Please verify the Medicaid ID number for Medicaid recipients at the time of service. If the Medicaid ID number begins with "000", obtain the correct Medicaid ID number before submitting the claim to Medicaid for processing.

Providers with questions about the new recipient ID numbers should contact the Provider Help Desk at 1-800-688-7989. Medicaid recipients with questions about the new ID numbers should call toll-free at 1-800-362-1504. Other information is available at: http://www.medicaid.alabama.gov/news/medicaid_id_numbers.aspx?tab=2

**KANSAS**

**Kansas Medicaid Processing ALERT**

Kansas Medicaid transitioned to the Express Scripts' adjudication platform, effective November 17, 2010.

Members may be presenting cards with a former Rx Group number and former BIN number, causing claims to reject.

Please be aware of the following group number and BIN number changes, and reference the steps below when processing all Kansas Medicaid member claims.

| Former Rx Group Number | **New Rx Group Number** |
|---|---|
| 185700 | **1861000001** |
| 185600 | **1861010001** |
| Former BIN Number | **New BIN Number** |
| 610053 | **003858** |

NEW YORK

A Reminder from EPIC . . .

If you receive a Part D denial and one from EPIC, here are some steps you should take to complete the transaction.

- Check for billing errors (i.e. Part D quantity limit)
- Call the prescriber if the drug is non-formulary or needs a PA
- Ask the prescriber if an alternative drug can be substituted (provide an option if you know of one that is on the Part D plan)
- Tell the prescriber that if the Temporary Coverage Request (TCR) line is called (1-800-634-1340), EPIC will allow a 90-day temporary supply of the drug while the Part D plan is contacted to discuss an appeal. Explain that EPIC will cover the drug for an extended period if two levels of the Part D appeal are denied.
- Give the prescriber the Temporary Coverage Request (TCR) line number (1-800-634-1340) if the drug cannot be substituted
- If you are unable to reach the prescriber and the member needs the drug, you should call the TCR line to get authorization for a three-day emergency supply

Thanks! By doing this, you will assure that the EPIC member receives medication and will allow the prescriber time to appeal the drug if necessary.

## EPIC needs your HELP :

Many EPIC members will change Medicare Part D plans beginning on January 1st. The current Part D plan must be billed correctly in order for EPIC to provide secondary coverage. EPIC is the payer of **last** resort.

## How to fix a claim that is rejected by Part D plan:

Submit a Medicare eligibility transaction (E1) to confirm current plan information and bill the correct Part D plan primary and EPIC secondary.

## TIPS:

- If you are not familiar with the E1 transaction, please contact your software vendor or corporate office for technical assistance.
- Current plan information also can be obtained at Medicare, call 1-866-835-7595.
- If the Part D plan denies a claim, the provider should attempt to resolve the denial. If unsuccessful, contact the prescriber to discuss: changing to a formulary drug; reducing quantity; obtaining a Part D prior authorization; or initiating an appeal.
- OCC 8 should **not** be used for drug discount cards for Part D members or if Part D denied the claim. OCC 8 can be used when a primary plan paid on the claim or for coverage gap claims.
- Questions? Contact the EPIC Provider Helpline at 1-800-634-1340.

**COMPLIANCE**

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**Wyoming –** If your pharmacy receives a prescription for a drug of concern and the prescriber does not have a DEA number, please notify the below two persons. The script can be processed without the DEA number but we need to be informed in order to request a waiver for your script from the board of pharmacy since they do not have an alternative way to handle processing drugs of concern without a DEA number.

**Diana Ushman**, Compliance Manager (e-mail below)

**Luisa Kopala**, Pharmacy Support Supervisor @ Luisa.Kopala@searshc.com

| | | |
|---|---|---|
| Michael.Hamilton@searshc.com | – | Director Managed Care Services |
| Nancy.Thomas@searshc.com | – | Third Party Contract Administrator |
| Diana.Ushman@searshc.com | – | Manager Compliance Government and Third Party |
| Sarah.Woloszyn@searshc.com | – | Audit Coordinator |
| BrianAndrew.Muza@searshc.com | – | Third Party Analyst |

TBD – Manager, Contracting

**Sears Holdings is committed to improving the lives of our customers by providing quality services, products and solutions that earn their trust and build lifetime relationships.**

**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| AARP® MedicareComplete - Plans 1, 2, & | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | SHAZ, SHCA, SHCO, SHW, SHOR, SHTX, SHNV or | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareComplete (HMO) | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | SHAZ, SHCA, SHCO, SHW, SHOR, SHTX, SHNV or | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareComplete | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | COS | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareComplete Essential | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | SHAZ, SHCA, SHCO, SHW, SHOR, SHTX, SHNV or | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareComplete Premier | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | SHAZ, SHCA, SHCO, SHW, SHOR, SHTX, SHNV or | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareComplete Value | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | SHAZ, SHCA, SHCO, SHW, SHOR, SHTX, SHNV or | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareRx Enhanced | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | PDPIND or WRAPGR per PT. Card | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareRx Plans insured | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | PDPIND or WRAPGR per PT. Card | | | | | | | | 1.888.889.6510 | |
| AARP® MedicareRx Preferred | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | PDPIND or WRAPGR per PT. Card | | | | | | | | 1.888.889.6510 | |
| ACCU-CHEK Aviva or ACCU-CHEK | 1/1/2011 | | 610415 | PCS | PCS | PCS | MAX27575 | N | INFORMATIONAL | | NATIONWIDE | | | ID#: 1ACCUCHEK, Suffix (Dependent) Code: 01, COB: Primary, Other Coverage Code: blank | 1.866.805.1598 | |
| ACCU-CHEK Aviva or ACCU-CHEK | 1/1/2011 | | 013089 | COMPCS | PCS | COMPCS | FRT10001 | N | INFORMATIONAL | | NATIONWIDE | | | ID#: 460000001, Exp: 12/31/2010, Suffix (Dependent) Code: 01, COB: Secondary | 1.866.805.1598 | |
| Albuquerqu | 1/1/2011 | Medco | 610014 | | PAI | | APSNMRX | | | 27,500 | New Mexico | | | | 1.800.922.1557 | |
| American Electric Power - Vaccine Coverage | 12/15/2010 | Medco | 610014 | | PAI | | AEPUMBR | Y | | 74,000 | OH, TX, VA | | | Submit claims for vaccine drug product with the administration fee through the TelePAID® System using the billing information on the member's ID card. | 1.800.922.1557 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amerigroup Community Care of Florida, Inc. | 1/1/2011 | CVS Caremark | 004336 | ADV | NPP | ADV | RX4298 | N | Y | | Florida | | | COB: Supplemental RXBIN: 013089 Supplemental RXPCN: AMGSEGADV Supplemental RXGRP: Required (see ID card) Other Coverage Codes: 02-07 If needed, please refer to the Caremark Payer Sheet at www.caremark.com and click on Professional Services (lower right) > Health Professional Services > NCPDP Version 5.1 Payer Sheet | 1.800.364.6331 | |
| AmWINS Rx (formerly IdealScripts) | 1/1/2011 | AmWINS Rx (formerly IdealScripts) | 015178 | CMSPARTD | AMW | CMSPARTD | | | | | | | | | 1.877.747.2612 | |
| Asuris Medicare Script | 1/1/2011 | | 610623 | 02110000 | REG | 02110000 | N/A | N | INFORMATIONAL | | Mostly Washington and Oregon | Y | ONLY Part D covered immunizations | Admin fee must be included in DUR/PPS segment with professional service 'MA' and result of service '00' | 1.888.437.1508 | No flu shot coverage |
| Asuris Northwest | 1/1/2011 | | 610624 | 02090000 | REG | 02090000 | N/A | N | INFORMATIONAL | | Mostly Washington | Some | Flu | Bill with full cost as U&C | 1.888.437.1508 | If flu claim rejects, member does not have coverage. |
| Asuris TruAdvantage + RX | 1/1/2011 | | 610623 | 02100000 | REG | 02100000 | N/A | N | INFORMATIONAL | | Mostly Washington | Y | ONLY Part D covered immunizations | Admin fee must be included in DUR/PPS segment with professional service 'MA' and result of service '00' | 1.888.437.1508 | Also cover flu shots--if claim rejects, member does not have coverage. |
| Auto Wares Group | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | AWG | Y | | | located primarily in Michigan | | | Auto Wares Group: RXGroup is AWG and they allow up to a 34 Day Supply | 1.608.729.1577 | |
| Avaya | 1/1/2011 | Medco | 610014 | | PAI | | AVAYARX | | | 36,000 | Nationwide (conc. in NJ and CO) | | | | 1.800.922.1557 | |
| Baxter Healthcare | 1/1/2011 | Caremark | 610029 | CRK | NPP | CRK | BAX | N | Y | | PR | | | Caremark will begin managing the prescription drug benefit program | 1.877.542.0280 | |
| BAYFRONT HEALTH | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 216609 | N | INFORMATIONAL | 3,600 | FL / NATIONAL | | | | | |
| BCBS AL - Blue | 1/1/2011 | Prime Therapeutics | 014897 | MBG | BAL | MBG | | Y | | | Alabama | | | | 1.877.878.8668 | |
| BCBS AL - BlueRx (PDP) | 1/1/2011 | Prime Therapeutics | 014897 | RPD | BAL | RPD14897 | | Y | | | Alabama | | | | 1.877.878.8668 | |
| BCBS AL - BlueRx (PDP) | 1/1/2011 | Prime Therapeutics | 014897 | RPD | BAL | RPD14897 | | Y | | | Alabama | | | | 1.877.878.8668 | |
| BCBS AL - Medicare Part B claim | 1/1/2011 | Prime Therapeutics | 004915 | PARTB | BAL | PARTB | | Y | | | Alabama | | | | 1.877.878.8668 | |
| BCBS FL (Select populations) | 1/1/2011 | Prime Therapeutics | 012833 | FLBC | PTA | FLBC | | Y | | | Florida select populations: Prior authorization for gilenya, Step therapy for non-sedating antihistamines, Quantity limit for stadol nasal spray | | | When submitting claims you must omit the first three alpha characters from the Member ID number. | 1.888.877.6323 | |
| Black Hawk | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | BHC | Y | | | located primarily in Iowa | | | Allow up to a 30 and 90 Day Supply | 1.608.729.1577 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| BlueCross BlueShield of Delaware | 1/1/2011 | Argus | 600428 | 03010000 | ARG | 3010000 | | N | Y | | NATIONWIDE | | | all compound claims must be submitted using MIC (Multi-Ingredient Compound) logic | 1.800.865.4018 | |
| Boeing | 1/1/2011 | Medco | 610014 | | PAI | | BOEING1 | | | 101,000 | Nationwide | | | Boeing will be issuing new prescription-only ID cards for 101,000 members. These will replace the combined medical/prescription ID cards previously issued. It is important to note that each member's ID number will be changing to a new 12-digit identifier | 1.800.922.1557 | |
| Capital BlueCross | 1/1/2011 | CVS Caremark | 004336 | ADV | NPP | ADV | RXCAP | Y | | | Concentrated in Pennsylvania with some population in surrounding states | | | Please rely on the claims system to determine the correct amount to collect from the plan member. | 1.800.364.6331 | |
| Capital District Physicians Health Plan (CDPHP) | 1/1/2011 | CVS Caremark | 610415 | PCS | PCS | PCS | MEDMEDD or MEDBMEDB | N | Y | | New York | | | If you receive a reject message of '70-item not covered' whose primary payer is Medicare Part D, please ask CDPHP plan members for their Medicare Part B cards and resubmit claim for appropriate drug coverage determination. | 1.800.345.5413 | |
| Carolina Care – | 1/1/2011 | MedImpact | 003585 | 34106 | MEI | 34106 | | N | Y | 9,000 | South Carolina | | | | 1.800.788.2949 | |
| Carolina | 1/1/2011 | Medco | 610014 | | PAI | | MMODRUG | | | 45,000 | Nationwide | | | | 1.800.922.1557 | |
| CAROLINAS HEALTHCARE | 11/1/2010 | MedImpact | 003585 | 34106 | MEI | 34106 | | N | Y | 2,000 | South Carolina/ North Carolina | | | | 1.800.788.2949 | |
| Catalyst | 1/1/2011 | SXC | 005947 | CLAIMCR | CPB | | AAUTO | Y | N | 750 | North Carolina/ South Carolina | | | | 1.888.869.4600 | |
| Catalyst | 1/1/2011 | SXC | 005947 | CLAIMCR | CPB | | CLV | Y | N | 3,500 | Las Vegas, Nevada | | | | 1.888.869.4600 | |
| Catalyst | 1/1/2011 | SXC | 005947 | CLAIMCR | CPB | | DZF | Y | N | 20,000 | USA | | | | 1.888.869.4600 | |
| Catalyst | 1/1/2011 | SXC | 005947 | CLAIMCR | CPB | | HUGH | Y | N | 1,400 | North Carolina | | | | 1.888.869.4600 | |
| Catalyst Health | 1/1/2011 | SXC | 005947 | CLAIMCR | CPB | | ICHIP | Y | N | 17,000 | Illinois | | | | 1.888.869.4600 | |
| Catalyst Health Solutions-St. Jude | 1/1/2011 | SXC | 005947 | CLAIMCR | CPB | | SJM | Y | N | 22,000 | Minnesota / California / Texas | | | LJU prefix is to be omitted when processing claims. In addition to the ID number, claims can be processed with SSN and DOB. | 1.888.869.4600 | |
| Catalyst Health | 1/1/2011 | SXC | 005947 | CLAIMCR | CPB | | UVARX | Y | N | 28,000 | Virginia/National | | | In addition to the ID number, claims can be processed with SSN and DOB | 1.888.869.4600 | |
| CINCINNATI BELL | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 215128 | N | INFORMATIONAL | 10,844 | US | | | | | |
| City of | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | CSH | Y | | | located primarily in Michigan | | | Allow up to a 30 Day Supply | 1.608.729.1577 | |
| Commercial Board of | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 2247 | | | | | | | | 1.888.907.0050 | |
| Community | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | CMB | Y | | | located primarily in Wisconsin | | | Allow up to a 30 Day Supply | 1.608.729.1577 | |
| Community | 1/1/2011 | MEDIMPACT | 003585 | 31226 | MEI | 31226 | | | | 18 | OR | | | | 1.800.788.2949 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Coventry | 1/1/2011 | Medco | 610014 | | PAI | | CVTYCOM | | | 100,000 | Nationwide (conc. in KS) | | | | 1.800.922.1557 | |
| CUATRO LLC | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | CTR | | | | | | | | 1.888.889.6510 | |
| Cumberland County | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 2112 | | | | | | | | 1.888.907.0050 | |
| Denville Township | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 3345 | | | | | | | | 1.888.907.0050 | |
| Doctors | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | DHR | Y | | | They are located primarily in | | | Allow up to a 34 Day Supply | 1.608.729.1577 | |
| E & J GALLO | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 743650 | N | INFORMATIONAL | 4,850 | MODEST, CA / NATIONWIDE | | | | | |
| E & J GALLO | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 743650 | N | INFORMATIONAL | 4,850 | MODEST, CA / NATIONWIDE | | | | | |
| E & J GALLO | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 743650 | N | INFORMATIONAL | 4,850 | MODEST, CA / NATIONWIDE | | | | | |
| E & J GALLO | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 743650 | N | INFORMATIONAL | 4,850 | MODEST, CA / NATIONWIDE | | | | | |
| EASY SCRIPTS RX CARD | 1/1/2011 | AmWINS Rx (formerly IdealScripts) | 011289 | | HTR | IDEAL | | | | | | | | | 1.877.747.2612 | |
| EASY SCRIPTS RX CARD | 1/1/2011 | AmWINS Rx (formerly IdealScripts) | 013492 | | AMW | | | | | | | | | | 1.877.747.2612 | |
| Edward | 1/1/2011 | Medco | 610014 | | PAI | | EJRXPLAN | | | 50,000 | Nationwide (conc. in MO) | | | | 1.800.922.1557 | |
| Electronic Coordination of Benefits for Secondary Health Cost SolutionsClaims | 1/1/2011 | CVS Caremark | 013089 | COMADV | PCS | COMADV | RX2100 | N | Y | | Arizona, Virginia, Tennessee, Kentucky, California, Colorado and Florida | | | COPAY ONLY; the OACS field (Other Amount Claim Submitted) should be populated with the patient pay amount from the primary claim. | 1.800.364.6331 | The most common scenario to occur for SECONDARY ID cardholders for Health Cost Solutions is if the Primary is: Commercial Insurance Plan and if the Secondary is Health Cost Solutions use BIN: 013089, PCN: COMADV, GRP: RX2100 If the plan participant has a PRIMARY ID card for Health Cost Solutions and no SECONDARY ID, use BIN: 004336, PCN: ADV, GRP: RX2100 |
| Erickson Advantage ® | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | COS | | | | | | | | 1.888.889.6510 | |
| Evercare® Coordinatio | 1/1/2011 | Prescription Solutions | 610494 | 9999 | PSN | | COS | | | | | | | | 1.888.889.6510 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Evercare® Coordinatio | 1/1/2011 | Prescription Solutions | 610494 | 2222 | PSN | 2222 | COS | | | | | | | | 1.888.889.6510 | |
| Evercare® Medicaid | 1/1/2011 | Prescription Solutions | 610494 | 2222 | PSN | 2222 | COS | | | | | | | | 1.888.889.6510 | |
| Evercare® Plans (DH, DH-POS, DP, | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | COS | | | | | | | | 1.888.889.6510 | |
| Exempla Healthcare | 1/1/2011 | HealthTrans | 009117 | HT | HTR | HT | EXEMPLA | | | | Colorado, Kansas, Montana, Missouri, Cody Wyoming | | | | 1.800.345.3189 | |
| Federal | 1/1/2011 | Caremark | 610239 | FEPRX | NPP | FEPRX | 65006500 | | | | Nationwide | | | | 1.800.364.6331 | |
| Fidelis | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | FID | | | | | | | | 1.888.889.6510 | |
| Five Rivers | 1/1/2011 | Prime Therapeutics | 011552 | BCTX | BTX | | | | | | | | | | 1.800.821.4795 | |
| Florence Township | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 2309 | | | | | | | | 1.888.907.0050 | |
| Florida (FL) Share of | 1/1/2011 | Prescription Solutions | 610494 | 2222 | PSN | 2222 | COS | | | | | | | | 1.888.889.6510 | |
| Frontier | 1/1/2011 | Medco | 610014 | | PAI | | FRCOMM1 | | | 14,000 | Nationwide | | | | 1.800.922.1557 | |
| Gill Industries | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | GIL | Y | | | located primarily in Michigan | | | Gill Industries: RXGroup is GIL and they will allow up to a 30 day supply | 1.608.729.1577 | |
| Golden State | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | GSM | | | | | | | | 1.888.889.6510 | |
| GS-POPS | Immediately | ProCare Rx | 014830 | | PRC | GSPOPS | | N | | | | | | | 1.877.320.1378 | The Pharmacy Network Department is also available via email at network@procarerx.com. |
| HealthSpring (For Commercial plans) | 1/1/2011 | informedRx Network | 610011 | HSPCOM | PCN | HSPCOM | | N | Y | | Illinois | | | effective January 1, 2011 the only diabetic meters and testing supplies that will be covered by HealthSpring are the Bayer CONTOUR® and BREEZE 2® as well as the Abbott FreeStyle Lite™, FreeStyle Freedom® Lite, and Precision Xtra®. These covered Abbott and Bayer blood glucose meters and test strips are provided to HealthSpring Medicare Advantage (MAPD) members at NO COST. No other meters or test strips will be covered by HealthSpring. | 1.480.362.5227 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| HealthSpring (For MAPD or PDP plans) | 1/1/2011 | informedRx Network | 610011 | HTHSPRING | PCN | HTH | | N | Y | | | | | effective January 1, 2011 the only diabetic meters and testing supplies that will be covered by HealthSpring are the Bayer CONTOUR® and BREEZE 2® as well as the Abbott FreeStyle Lite™, FreeStyle Freedom® Lite, and Precision Xtra®. These covered Abbott and Bayer blood glucose meters and test strips are provided to HealthSpring Medicare Advantage (MAPD) members at NO COST. No other meters or test strips will be covered by HealthSpring. | 1.480.362.5227 | |
| Hennepin County | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | HEN | Y | | | located primarily in Minnesota | | | Allow up to a 30 Day Supply and 90 Day Supply | 1.608.729.1577 | |
| Hillside Board of | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 1125 | | | | | | | | 1.888.907.0050 | |
| HILTON WORLDWIDE | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 212271 | N | INFORMATIONAL | 39,125 | NATIONWIDE | | | | | |
| HILTON WORLDWIDE | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 212271 | N | INFORMATIONAL | 39,125 | NATIONWIDE | | | | | |
| IdealScripts | 1/1/2011 | IdealScripts | 013527 | | IDL | | | | | | | | | | 1.866.286.5152 | |
| Illinois Cares/Rx | 1/1/2011 | Prescription Solutions | 610097 | 8888 | PSN | 8888 | COS | | | | | | | | 1.888.889.6510 | |
| Illinois CaresRx | 1/1/2011 | Prescription Solutions | 610097 | 8888 | PSN | 8888 | COS | | | | | | | | 1.888.889.6510 | |
| Illinois CaresRx | 1/1/2011 | Prescription Solutions | 610097 | 8888 | PSN | 8888 | COS | | | | | | | | 1.888.889.6510 | |
| Illinois CaresRx | 1/1/2011 | Prescription Solutions | 610097 | 8888 | PSN | 8888 | WRAPGR | | | | | | | | 1.888.889.6510 | |
| Illinois CaresRx Plus | 1/1/2011 | Prescription Solutions | 610097 | 8888 | PSN | 8888 | COS | | | | | | | | 1.888.889.6510 | |
| Illinois CaresRx Plus | 1/1/2011 | Prescription Solutions | 610097 | 8888 | PSN | 8888 | WRAPGR | | | | | | | | 1.888.889.6510 | |
| Indiana Roofers State Council Health and | 1/1/2011 | LDI Integrated Pharmacy Services | 800010 | LDI | LDI | | | N | Y | 5,000 | Indiana, Iowa, Missouri, West Virginia, Kentucky, Illinois and Ohio | | | Members may receive their new ID cards prior to January 1, 2011. Please continue to process their claims to the current PBM (SavRx) until January 1, 2011. | | |
| JBS USA | 1/1/2011 | Prime Therapeutics | 011552 | BCTX | BTX | | | | | | | | | | 1.800.821.4795 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Kaiser POS and HMO plans | Immediately | MedImpact | 003585 | 70000 | MEI | 70000 | | N | Y | | Nationwide | | | If a member presents a Kaiser ID Card, regardless of the appearance of the card, below are a few things to keep in mind before turning the member away: 1. The MedImpact or MedCare logo should be visible on the card presented. 2. Ensure the member is providing you with the most current ID Card. 3. In addition to the Kaiser Help Desk, MedImpact's customer service is also available to assist you. | 1.800.788.2949 | |
| LECO Corporation | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | LEC | Y | | | located primarily in Michigan | | | LECO Corporation: RXGroup is LEC and they allow up to 102 Day Supply | 1.608.729.1577 | |
| Marathon Oil Company - Vaccine Coverage | Immediately | Medco | 610014 | | PAI | | MARATHN | Y | | 30,000 | OH, TX, IL | | | Submit claims for vaccine drug product with the administration fee through the TelePAID® System using the billing information on the member's ID card. | 1.800.922.1557 | |
| MARION GENERAL | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 215275 | N | INFORMATIONAL | 1,575 | MARION, IN / NATIONWIDE | | | | | |
| MARTA | 1/1/2011 | | 603286 | 01410000 | WIN | 01410000 | 486610 | N | INFORMATIONAL | 7,360 | GA / NATIONWIDE | | | | | |
| Maryland (MD) Senior | 1/1/2011 | Prescription Solutions | 610097 | 8888 | PSN | 8888 | WRAPGR | | | | | | | | 1.888.889.6510 | |
| MCLEOD | 1/1/2011 | MedImpact | 003585 | 37090 | MEI | 37090 | | N | Y | 7,500 | South Carolina | | | | 1.800.788.2949 | |
| Medford Township | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 2848 | | | | | | | | 1.888.907.0050 | |
| MedicareComplete Choice | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | COS | | | | | | | | 1.888.889.6510 | |
| MedicareComplete Choice Plan | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | COS | | | | | | | | 1.888.889.6510 | |
| MedicareComplete Choice Plan | 1/1/2011 | Prescription Solutions | 610097 | 9999 or 8888 per PT. Card | PSN | PCN: 9999= AARP PCN: 8888= 8888 | COS | | | | | | | | 1.888.889.6510 | |
| MedicareComplete® Retiree Plan MedicareCo | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | SHAZ, SHCA, SHCO, SHW, SHOR, SHTX, SHNV or | | | | | | | | 1.888.889.6510 | |
| Memphis | 1/1/2011 | Medco | 610014 | | PAI | | MLGWRXS | | | 11,500 | Tennessee | | | | 1.800.922.1557 | |
| Merck - Addition of | 1/1/2011 | Medco | 610014 | | PAI | | MEDMRCK | N | Y | 50,000 | Nationwide w/ concentrations in NJ and PA | | | | 1.800.922.1557 | |
| Merck | 1/1/2011 | Medco | 610014 | | PAI | | MEDMERCK | | | 50,000 | Nationwide | | | | 1.800.922.1557 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Meridian Rx | 1/1/2011 | Meridian RX | 610241 | HPM-MCR | MRX | HPM-MCR | | Y | N | | National | | | Use for MEDICARE Patients | 1.866.984.6462 | |
| Meridian Rx | 1/1/2011 | Meridian RX | 610241 | HPM-MCD | MRX | HPM-MCD | | Y | N | | National | | | Use for MEDICAID Patients | 1.866.984.6462 | |
| Millville Board of | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 1205 | | | | | | | | 1.888.907.0050 | |
| Montana State Fund Workers' Compensation | 1/1/2011 | Express Scripts | 003858 | A4 | ESI | A4 | K9HA | Y | | | Montana | | | Step 4 - Enter Injured Worker's Nine Digit ID# (SSN) ID (for new claim injury). Step 5 - Enter 12 digit MSF Claim # (for existing injury claim). Step 7 - Enter injured worker's date of injury (enter in PA field in the format ccyymmdd). | 1.800.824.0898 | |
| National | 1/1/2011 | Medco | 610014 | | PAI | | NATLELV | | | 82,000 | Nationwide | | | | 1.800.922.1557 | |
| National League of Cities | 1/23/2011 | CVS Caremark | 610415 | ADV | PCS | ADV | RXNLCSAFAZ | Y | | | SAFFORD, AZ | | | Plan members on all plans will be responsible for 100 percent of the discounted cost of the prescription at the point of sale. The amount to be collected from the member will be displayed by the Caremark system. | 1.800.364.6331 | |
| National League of Cities | 1/23/2011 | CVS Caremark | 610415 | ADV | PCS | ADV | RXNLCLAPCA | Y | | | LA PUENTE, CA | | | Plan members on all plans will be responsible for 100 percent of the discounted cost of the prescription at the point of sale. The amount to be collected from the member will be displayed by the Caremark system. | 1.800.364.6331 | |
| National League of Cities | 1/23/2011 | CVS Caremark | 610415 | ADV | PCS | ADV | RXNLCEVEMA | Y | | | EVERETT, MA | | | Plan members on all plans will be responsible for 100 percent of the discounted cost of the prescription at the point of sale. The amount to be collected from the member will be displayed by the Caremark system. | 1.800.364.6331 | |
| Northern | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | NAC | Y | | | located primarily in Arizona | | | Allow up to a 30 and 90 Day Supply | 1.608.729.1577 | |
| Northwest | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | NWH | Y | | | located primarily in Washington | | | Allow up to a 30 Day Supply | 1.608.729.1577 | |
| Nucor | 1/1/2011 | Medco | 610014 | | PAI | | NUCORRX | | | 40,000 | Nationwide | | | | 1.800.922.1557 | |
| OccuScript | Immediately | ProCare Rx | 008936 | | OCS | | | | N | | | | | | 1.800.699.3542 | The Pharmacy Network Department is also available via email at network@procarerx.com. |
| OHC | Immediately | ProCare Rx | 014666 | | PRC | 14666 | | N | | | | | | | 1.888.683.4221 | The Pharmacy Network Department is also available via email at network@procarerx.com. |



Case 3:09-cv-00588-MJR-PMF Document 133-15 Filed 06/11/13 Page 18 of 21 Page ID #1385

**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Optima Health | 1/1/2011 | informedRx | 610011 | OPTIMAMPD | PCN | OPTID | | N | Y | | | | | | 1.480.362.5227 | |
| Optima | 1/1/2011 | informedRx | 610011 | OPTIMAPTB | PCN | OPTIB | MAV | N | Y | | | | | | 1.480.362.5227 | |
| Owensboro Medical Health Systems | 1/1/2011 | LDI Integrated Pharmacy Services | 800010 | LDI | LDI | | 83110 | Y | | | Western Kentuck & Southern Indiana | | | Members will receive their new ID cards prior to January 1, 2011. Please continue to process their claims to the current PBM until January 1, 2011. | 1.866.516.3121 | |
| P.S.E.R.S. (Pennsylvani | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | PSR | | | | | | | | 1.888.889.6510 | |
| Packaging Specialties, Inc. (PSI) | 1/1/2011 | LDI Integrated Pharmacy Services | 800010 | LDI | LDI | | | Y | | 520 | Arkansas and Georgia | | | Members may receive their new ID cards prior to January 1, 2011. Please continue to process their claims to the current PBM (Catalyst Rx) until January 1, 2011. | 1.866.516.3121 | |
| Physicians United Plan | 1/1/2011 | Prescription Solutions | 610097 | 9999 | PSN | AARP | PUP | | | | | | | | 1.888.889.6510 | |
| Piedmont Medicare Advantage | 1/1/2011 | CVS Caremark | 004336 | ADV | NPP | ADV | RX8555 | N | Y | | Virginia | | | Copays vary by plan design; please rely on the Patient Pay Amount field to indicate the amount to collect from the patient. | 1.800.364.6331 | |
| Pinnacle Entertainme nt | 1/1/2011 | Catalyst | 005947 | CLAIMCR | CPB | | PINNACLE | N | Y | | Nevada, Louisiana, Missouri, Indiana | | | Pinnacle Entertainment will have a new Rx Card with new member ID numbers | 1.888.869.4600 | |
| Pitney | 1/1/2011 | Medco | 610014 | | PAI | | PTNYBWS | | | 40,000 | Nationwide (conc. in CT) | | | | 1.800.922.1557 | |
| Prince Manufacturi | 1/1/2011 | Navitus | 610602 | NVT | TOU | NVT | PRM | Y | | | located primarily in South Carolina | | | They allow a 34 and 90 Day Supply | 1.608.729.1577 | |
| ProCare Rx | Immediately | ProCare Rx | 009430, 610489, 610601 | | PRC | PBM | | | N | | | | | | 1.800.352.8542 | The Pharmacy Network Department is also available via email at network@procarerx.com. |
| Prospect Transportati | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 2678 | | | | | | | | 1.888.907.0050 | |
| Puget Sound | 1/1/2011 | MEDIMPACT | 003585 | 78741 | MEI | 78741 | | | | 10,000 | | | | | 1.877.391.9299 | |
| QualChoice (QCA) (Termed 01/01/2011) | Immediately | ProCare Rx | 013501 | | PRC | QCA | | N | | | | | | | 1.800.946.6132 | The Pharmacy Network Department is also available via email at network@procarerx.com. |
| Quality Health Plans (QHP)– MAPD | 1/1/2011 | Prescription Solutions | 011875 | MEDD | PRC | MEDD | MCR007, MCR032, MCR035, MCR036, MCR038, | | | | | | | | 1.888.889.6510 | |
| Quinton Board of | 1/1/2011 | Benecard PBF | 014179 | 9743 | ARG | 9743 | 1333 | | | | | | | | 1.888.907.0050 | |



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**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

| Plan Name | Effective Date | Processor | BIN | PCN | PDX Code | Plan Code | Group Number | New Plan? | Change In Plan/Plan Design? | # of Lives | Region(s) Affected | Can Pharmacists Immunize members? Y / N | If Yes, which Meds? | Notes to Pharmacist(s) | Comments / Support or Help Desk # | Additional Areas of Interest / Your Concerns |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Regence BlueCross | 1/1/2011 | | 610623 | 02050000 | REG | 02050000 | N/A | N | INFORMATIONAL | | Mostly Oregon and Clark County, WA | Y | Flu | Bill with full cost as U&C | 1.800.643.5918 | |
| Regence BlueCross BlueShield of | 1/1/2011 | | 610623 | 02100000 | REG | 02100000 | N/A | N | INFORMATIONAL | | Mostly Oregon and Clark County, WA | Y | ONLY Part D covered immunizations | Admin fee must be included in DUR/PPS segment with professional service 'MA' and result of service '00' | 1.888.437.1508 | Also cover flu shots--if claim rejects, member does not have coverage. |
| Regence BlueCross | 1/1/2011 | | 610648 | 01890000 | REG | 01890000 | N/A | N | INFORMATIONAL | | Mostly Utah | Some | Flu | Bill with full cost as U&C | 1.800.572.0316 | If flu claim rejects, member does not have coverage. |
| Regence BlueCross BlueShield of | 1/1/2011 | | 610623 | 02100000 | REG | 02100000 | N/A | N | INFORMATIONAL | | Mostly Utah | Y | ONLY Part D covered immunizations | Admin fee must be included in DUR/PPS segment with professional service 'MA' and result of service '00' | 1.888.437.1508 | Also cover flu shots--if claim rejects, member does not have coverage. |
| Regence BlueShield MedAdvant | 1/1/2011 | | 610623 | 02100000 | REG | 02100000 | N/A | N | INFORMATIONAL | | Mostly Washington | Y | ONLY Part D covered immunizations | Admin fee must be included in DUR/PPS segment with professional service 'MA' and result of service '00' | 1.888.437.1508 | Also cover flu shots--if claim rejects, member does not have coverage. |
| Regence BlueShield of | 1/1/2011 | | 610648 | 01820000 | ARG | 01820000 | N/A | N | INFORMATIONAL | | Mostly Idaho | Some | Flu | Bill with full cost as U&C | 1.800.572.0316 | If flu claim rejects, member does not have coverage. |
| Regence BlueShield of Idaho | 1/1/2011 | | 610623 | 02100000 | REG | 02100000 | N/A | N | INFORMATIONAL | | Mostly Idaho | Y | ONLY Part D covered immunizations | Admin fee must be included in DUR/PPS segment with professional service 'MA' and result of service '00' | 1.888.437.1508 | Also cover flu shots--if claim rejects, member does not have coverage. |



Case 3:09-cv-00588-MRP Document 133-15 Filed 06/11/13 Page 20 of 21 Page ID #1387

**Kmart Pharmacy -- 2009 Third Party New Plans/New Plan Changes**

**Cell:** A22
**Comment:** Teri Wood:
Transitioning from PCN 02080000. Please see member ID for correct PCN.



Case 3:09-cv-00588-MJR-PMF Document 133-15 Filed 06/11/13 Page 21 of 21 Page ID #1388

This message was sent with high importance.

**Yarberry, Michael W.**

**From:** Guzik, Cheryl **Sent:** Thu 3/31/2011 5:45 PM
**To:** Rx-All Pharmacists
**Cc:** Pharmacy Field
**Subject:** FW: New Kmart Pharmacy Procedures - PRICE OVERRIDES/TRANSFER PROGRAMS
**Attachments:**

Pharmacy Team

Effective immediately, until further notice, the following changes for Kmart Pharmacy will take place

**ALL PRICE OVERRIDES FOR PRESCRIPTION DRUGS WILL BE SUSPENDED**

Action Items

- All Price Match signage must be removed and placed in storage (do not destroy)
- Utilize PSC, RMP and KHR as cost-effective alternatives
- This does **NOT** include:
  - OTC Items
    - Pricing will be loaded into PDX to minimize the impact

      Stores should open Help Tickets for issues
    - The following plans will still be allowed price overrides
      - OPP / OTC (new plan created for cash OTC purchases)
      - All Medicaids
      - All Medicare Part B
  - KRB (Kmart Roster Billing – copay only)
  - PFP / WRITEOFF (new plan created to handle partial fills for when ***cash*** customers do not come back for remainder of their medication)

**THE ON-TIME GUARANTEE PROGRAM IS SUSPENDED— OTG CARDS MAY NO LONGER BE ISSUED FOR ANY REASON**

Action Items

- All OTG signage must be removed and put in storage (do not destroy)

**EFFECTIVE IMMEDIATELY, WE WILL NO LONGER HONOR COMPETITORS' COUPONS FOR GIFT CARD OFFERS**

**ONLY *MYGOFER* COUPON OFFERS FOR GIFT CARDS FOR NEW/TRANSFERRED PRESCRIPTIONS WILL BE APPROVED IN THE FUTURE.**

Action Items

- All signage for coupon offers, except the March of Dimes offer or any MyGofer offer, must be removed and put in storage (do not destroy)
- In-store PA suspended
- ClearNecks removed from shelves
- Discontinue handing out coupons

**ALL COUPONS CURRENTLY IN CIRCULATION WILL BE HONORED UNTIL THE EXPIRATION DATE ON THE COUPON.**

| Barcode | Rx Offer Currently in Circulation |
|---|---|
| 72000133361 | Super K Tall Tab (Feb 2011) - $20 trans only + 10% Savings pass (2/6/11 - 3/26/11) 11.6M impressions |
| 72000133378 | Catalina - 5 / $20 trans ($100 trans) - (2/1/11 - 3/26/11) |
| 72000133385 | In-Store Pass-Out - $100 trans (5/ $20 trans) valid dates (2/11 - 3/26) |
| 72000750704 | My Gofer $100 (4/$25)Transfer Coupon (1/31/10 - 12/31/11) |
| 72000751329 | Medtipster Email Blas - $10 new/trans (3/13/11 - 4/30/11) |

**Exhibit P**

| | |
|---|---|
| 72000751343 | Renaissance Marketing 2011 - $20 Trans only (3/1/11 - 8/20/11) |
| 72000751411 | March 2011 Lost Customer Letters (Rx DECLINE - pts who filled Rx within last 6 months but not come back in 3 months) - 3/13/11 - 5/31/11 |
| 72000751473 | March 2011 Lost Customer Letters (TRANS OUT) - 3/13/11 - 5/31/11 |
| 72000751480 | March 2011 Lost Customer Letters (DIABETES - pts who filled Rx for diabetes product within 6 month but not returned in the last 2 months) - 3/13/11 - 5/31/11 |
| 072000751534 | Circular WRAP (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 - 4/30/11) $5 donation to MOD |
| 072000751541 | Super K Ad (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 - 4/30/11) $5 donation to MOD |
| 072000751725 | BAU Email (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 4/30/11) $5 donation to MOD |
| 072000751763 | SYWR Email (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 - 4/30/11) $5 donation to MOD |
| 072000751770 | SYWR Targeted Email (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 - 4/30/11) $5 donation to MOD |
| 072000751787 | Rx Social Media Coupon (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 4/30/11) $5 donation to MOD |
| 072000751794 | Rx Online/Website Coupon Sheet (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 - 4/30/11) $5 donation to MOD |
| 072000751800 | In-Store Pass-Out Black & White (MOD Offer) $100 (5/$20) TRANS only (3/6/11 - 4/30/11) $5 donation to MOD |
| 072000751817 | Store # 4735 ROP (MOD Offer) - $100 (5/$20) TRANS only (3/6/11 - 4/30/11) $5 donation to MOD |
| 072000751916 | Mar Catalina (Mainland/ Underperf) - $10 new/trans (3/13/11 - 4/16/11) trigger #1: Coupon Shopper ID's |
| 072000751923 | Mar Catalina (Mainland/ Underperf) - $10 new/trans (3/13/11 4/6/11) trigger #2: Manu Coupon in trans |
| 072000751930 | Mar Catalina (Island/ PR Stores) - $10 NEW only (3/13/11 - 4/16/11) trigger #1: Coupon Shopper ID's |
| 072000751947 | Mar Catalina (Island/ PR Stores) - $10 NEW only (3/13/11 4/16/11) trigger #2: Manu Coupon in trans |

**If you have any questions, please contact your District Manager.**

Cheryl Guzik

Pharmacy Operations Manager - Kmart Pharmacy

Sears Holding Corporation

3333 Beverly Road. AC-369-B **(NEW)**

Hoffman Estates. IL 60179

PH-847-286-1967

Cell-815-409-8166

FAX-847-747-1519

Cheryl.Guzik@searshc.com

**From:** Stanislaw, Scott M
**Sent:** Thursday, March 31, 2011 8:15 AM
**To:** Cruser, Ryan; Ault, Robert; Osmundson, Jerry
**Subject:** RE: price match and gift cards

I have to believe they will view the coupon removal as wonderful news. It will overshadow any negativity, in my opinion. They can now get back to practicing pharmacy. Perhaps with less Rx's, but a real pharmacy is back.

-----Original Message-----
**From:** Cruser, Ryan
**Sent:** Thursday, March 31, 2011 9:14 AM
**To:** Stanislaw, Scott M; Ault, Robert; Osmundson, Jerry
**Subject:** RE: price match and gift cards

I just meant all the cuts all at once may have people thinking the ship is going down.

Good point regarding the coupons, the stores will be very happy about this. No more coupon policing.

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522

-----Original Message-----
**From:** Stanislaw, Scott M
**Sent:** Thursday, March 31, 2011 9:12 AM
**To:** Ault, Robert; Cruser, Ryan; Osmundson, Jerry
**Subject:** Re: price match and gift cards

Personally, its like store closings-i would rather have everything at once and get it over with rather than a piece every week and then the worry of what's next. YIPPEE
Scott M. Stanislaw, R.Ph. Pharmacy District Manager 954-551-5962.

**From:** Ault, Robert
**Sent:** Thursday, March 31, 2011 09:09 AM
**To:** Stanislaw, Scott M; Cruser, Ryan; Osmundson, Jerry
**Subject:** RE: price match and gift cards

Exactly
They will love the coupon removal but along with no match and no OTG card its going to seem like too much at once

**Robert (Bob) Ault**
Pharmacy District Manager
Fax 847-747-1557
Office 706-226-1026
Cell 706-618-2130
Find us online:
www.kmart.com/pharmacy
www.facebook.com/KmartPharmacy
http://twitter.com/KmartPharmacy



Exhibit Q

KM-YAR-006-005118

Px 59

-----Original Message-----
**From:** Stanislaw, Scott M
**Sent:** Thursday, March 31, 2011 9:09 AM
**To:** Cruser, Ryan; Ault, Robert; Osmundson, Jerry
**Subject:** Re: price match and gift cards

So you are saying the removal of coupons is good but not the OTG at the same time ?
Scott M. Stanislaw, R.Ph. Pharmacy District Manager 954-551-5962.

---

**From:** Cruser, Ryan
**Sent:** Thursday, March 31, 2011 09:07 AM
**To:** Ault, Robert; Osmundson, Jerry; Stanislaw, Scott M
**Subject:** RE: price match and gift cards

It is going to spook pharmacists. And maybe DMs.....

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522

-----Original Message-----
**From:** Ault, Robert
**Sent:** Thursday, March 31, 2011 9:06 AM
**To:** Cruser, Ryan; Osmundson, Jerry; Stanislaw, Scott M
**Subject:** RE: price match and gift cards

I know Margin is in the toilet and we need to make changes but this may be too much at one time.

**Robert (Bob) Ault**
Pharmacy District Manager
Fax 847-747-1557
Office 706-226-1026
Cell 706-618-2130
Find us online:
www.kmart.com/pharmacy
www.facebook.com/KmartPharmacy
http://twitter.com/KmartPharmacy

-----Original Message-----
**From:** Cruser, Ryan
**Sent:** Thursday, March 31, 2011 9:05 AM
**To:** Ault, Robert; Osmundson, Jerry; Stanislaw, Scott M
**Subject:** RE: price match and gift cards

OTG loss is the most painful part of that equation. Going to make it that much more difficult to enroll PSC.

Ryan Cruser
Kmart Pharmacy District Manager KY/OH
Fax# 847-747-1522

-----Original Message-----
**From:** Ault, Robert
**Sent:** Thursday, March 31, 2011 9:03 AM
**To:** Cruser, Ryan; Osmundson, Jerry; Stanislaw, Scott M
**Subject:** FW: price match and gift cards

Holy crap! I was afraid there was more coming when the announcement did not go out Monday.

**Robert (Bob) Ault**
Pharmacy District Manager
Fax 847-747-1557
Office 706-226-1026
Cell 706-618-2130
Find us online:
www.kmart.com/pharmacy
www.facebook.com/KmartPharmacy
http://twitter.com/KmartPharmacy

-----Original Message-----
**From:** Holm, Denny
**Sent:** Thursday, March 31, 2011 8:55 AM
**To:** Rx-Division 40854
**Subject:** price match and gift cards

This is a heads up to all and for your information only, do not pass on to stores. The suspension/discontinuing of the price match policy communication should go to stores today. Also the suspension of gift cards will be part of the communication. As it stands now and I repeat as it stands now we will honor the MOD offer and any outstanding offers, but there will be no new offers. In addition competitor coupon match and otg offers will be discontinued. Please hold on your communication to your stores until the official communication comes from Robb.

**Denny Holm, RPh**
**Pharmacy Divisional Director South**
**Office: 813-949-5143**
**Cell: 813-778-1236**

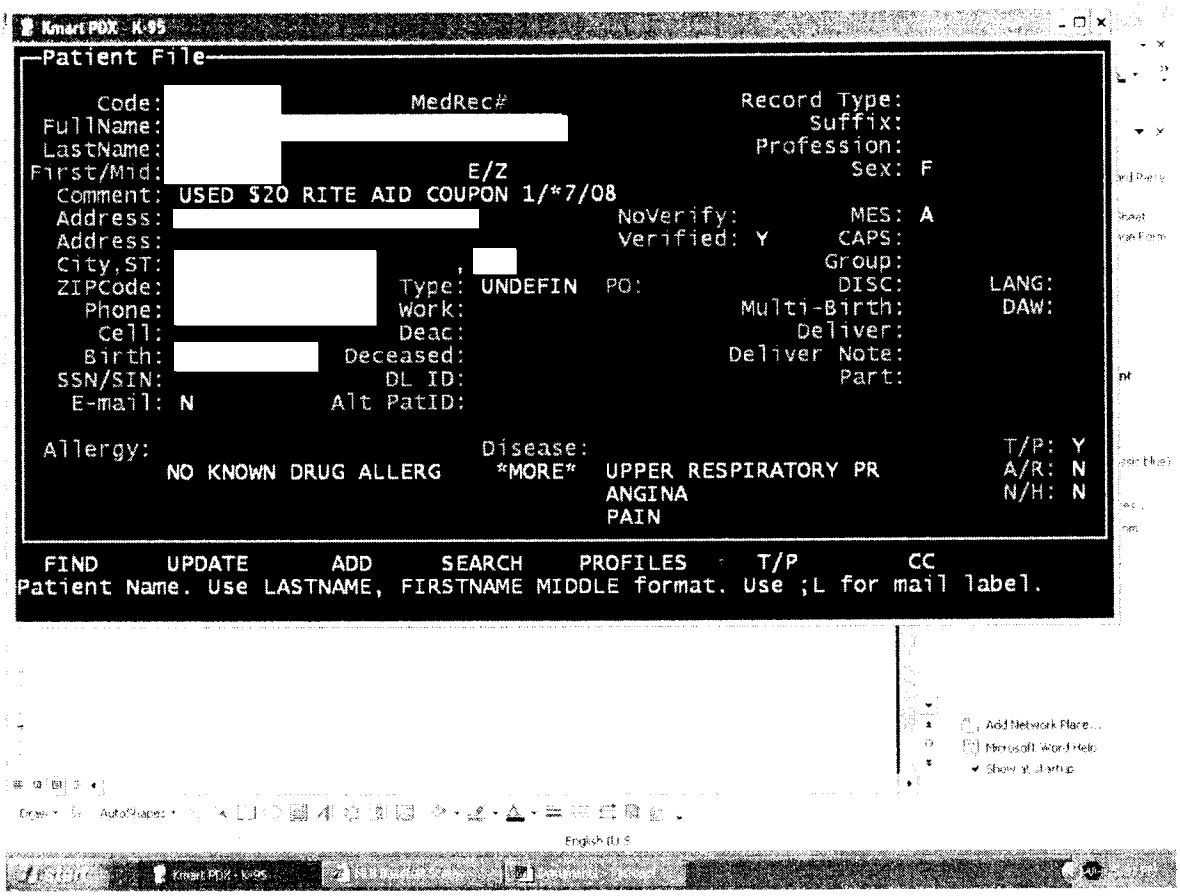
Kmart PDX - K-95
Patient File
Code:
MedRec#
Record Type:
FullName:
Suffix:
LastName:
Profession:
First/Mid:
E/Z
Sex: F
Comment: USED $20 RITE AID COUPON 1/*7/08
Address:
NoVerify:
MES: A
Address:
Verified: Y
CAPS:
City,ST:
Group:
ZIPCode:
Type: UNDEFIN
PO:
DISC:
LANG:
Phone:
Work:
Multi-Birth:
DAW:
Cell:
Deac:
Deliver:
Birth:
Deceased:
Deliver Note:
SSN/SIN:
DL ID:
Part:
E-mail: N
Alt PatID:
Allergy:
Disease:
T/P: Y
NO KNOWN DRUG ALLERG
*MORE*
UPPER RESPIRATORY PR
A/R: N
ANGINA
N/H: N
PAIN
FIND
UPDATE
ADD
SEARCH
PROFILES
T/P
CC
Patient Name. Use LASTNAME, FIRSTNAME MIDDLE format. Use ;L for mail label.

**Exhibit R**

This message was sent with high importance.
Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

**Yarberry, Michael W.**

**From:** Weber, Timothy **Sent:** Wed 11/24/2010 11:53 AM
**To:** Pharmacy Field; Rx-All Pharmacists
**Cc:** Brown, Victoria
**Subject:** Rx & SYWR Q4 offer_store communication
**Attachments:** Rx & SYWR Holiday Bonus Offers Transfer Flu Auto Refill pdf FINAL PROOF.PDF(130KB) Rx & SYWR Holiday Bonus Transfer offer pdf FINAL PROOF.PDF(82KB) RX & SYWR Q4 offers store communication.ppt (627KB)

Team –

I am pleased to announce the availability of 3 tremendous offers, utilizing SYWR points to drive pharmacy business in the 4th Quarter.

NOTE: **all** of these offers **exclude** scripts paid for in whole or part by a govt program, just like all other new / transfer offers.

**10,000 Bonus Points for Enrolling in Autofill** – This is the ability for the pharmacist to talk to their top customers who are not to enrolled in autofill, and provide an incentive to do so, as well as a chance for underperforming autofill locations to offer and incentive to their customers for enrolling in autofill. The offer is simple. The pharmacy team talks to the patient about autofill (if they are not already enrolled) and the offer for them to enroll, if they agree, the pharmacist should initial and date the coupon (providing the coupon to the customer, if necessary). The barcode on the coupon is scanned during the transaction with their next prescription purchase. Where else can you essentially give $10 to the customer, just for enrolling in autofill?

**25,000 Bonus Point for a each transferred prescription (up to 4)**- Same as our traditional transfer offers. The pharmacy team should print the Rx & SYWR Holiday Bonus Transfer Offer pdf and keep near the register. The barcode will remain the same throughout Q4 despite the dates on the coupons changing. Depending on the number of scripts transferred, the pharmacy is to scan the appropriate barcode(not necessarily the barcode on the transfer coupon presented by the customer). Patient will be awarded 25,000 points for each transferred Rx, it will not be adjusted down based on rx value for this offer only.

**15,000 Bonus points for a flu shot purchase**! – When ringing up a flu shot, scan the barcode on the coupon to give the customer 15,000 bonus points. This is essentially giving them their flu shot for free! Combining this with the 10% off food and drug savings passes out there, and it is the best offer in the industry.

So, if a patient transfers in 4 rx, 1 or more are for an autofill eligible drug (and the customer is not already enrolled in autofill AND approves enrollment in autofill), and you give them a flu shot, they could receive 125,000 bonus points ($125)!!!

**Exhibit S**

That should make Christmas a little easier for customers!

Attached you will find 3 documents outlining Three SYWR – Rx initiatives that will be in place for Q4 in 2 week increments.

Transfer / Flu / Auto Refill PDF – This is a flyer containing all 3 offers. This can be used as a handout by your door greeters, at the pharmacy counter, by technicians visiting with customers waiting at layaway (when the business permits), and by pharmacists greeting customers in the pharmacy area on the sales floor (as business permits)

Transfer Offer PDF – THIS IS FOR PHARMACY TEAM USE ONLY AND MUST NOT BE GIVEN TO CUSTOMERS

Powerpoint – outlines each offer, and discusses marketing tactics for each offer.

New PDFs of coupons (flyer) will be posted to the SYWR folder on the pharmacy community page the Friday prior to the current coupons expiring.

Expectations:

Flyers are printed, and used in the ways mentioned above and in the powerpoint.

Pharmacy Staff is aware of all 3 offers, in addition to the on-going savings pass offer.

Pharmacy Staff understands which barcode to use on the transfer offer (the barcode on the coupon itself is the barcode for 1 transfer – if multiple transfers – use barcode on PHARMACY ONLY SHEET as appropriate)

The autofill discussion is being had with each person **not enrolled in autofill with an eligible rx**

100% execution on eligible scripts / opportunities – **NOTE GOVT scripts are excluded from bonus offers**

We must continue to ask for their SYWR card on every transaction, and enroll those not already enrolled!

-

**These are 3 powerful bonus offers to help drive your enrollment efforts!**

-

**Fight for Every Script / Enroll Every Customer in SYWR / Fight the Flu – Vaccinate!**

Tim Weber, RPh

Interim Director, Pharmacy Operations

Email: Timothy.Weber@searshc.com

This message was sent with high importance.

**Yarberry, Michael W.**

**From:** Cruser, Ryan **Sent:** Wed 12/1/2010 4:02 PM
**To:** Rx-District 826
**Cc:**
**Subject:** SYWR Performance Update
**Attachments:**

Pharmacy Team:

First off I would like to thank everyone for making a positive impact in our numbers. We are still not where we need to be, but we are moving the needle in the right direction. Some of you have truly taken ownership of this initiative, THANK YOU!! Those who have not yet, now is the time. Several of you are reporting numbers daily to me now, that trend will continue and potentially increase until we are all performing up to standard.

The information below is very telling of which stores are actively asking for a SYWR card and which are not.

- The first column titled "No Enroll" is the number of days that your pharmacy has not enrolled a customer in SYWR. (This is out of a total of 7 days)
- The next two columns show the number of days you were either in the Bottom 100 pharmacies in the country for enrolling customers or the Top 100 pharmacies in the country.
- The next column "Enrollment Goal/Week" shows your enrollment goal for each week. A few of you are close to this, THANK YOU, but far too many of you are not even close.
- The next column "Total trans Count" shows the total number of register transactions for the previous 7 days.
- The next column "Existing SYWR trans Count" shows the number of register transactions where a SYWR card was scanned.
- The next column "Missed Enrollment Opportunities" and most staggering is the number of register transactions where we had an opportunity to enroll a new SYWR customer and did not.
- The final columns "% of Trans where SYWR card scanned" is the current percentage your pharmacy is running at for scanned SYWR transactions.
    - Stores in yellow are under 30%
    - Stores in white are at 30-49%
    - Stores in green are 50% or higher OUTSTANDING!! Special thank you to 7255 at 70%!!!!

My expectations are the following and have not changed:

**Exhibit T**

- Every customer is asked for their SYWR card in every transaction.
    - If they do not have a SYWR card and have an email address/cell phone # enroll them to hit your weekly goal.
    - I do not want to hear the excuse of the customers not having email/cell phone information.
- At minimum 30% of your transactions are to be SYWR customers.
    - This is a goal I personally feel is far too low.
- Every Pharmacy Manager is to hold a meeting with their staff to review the importance and expectations of this program. Utilize your current performance data as a reference to show opportunities and praise for accomplishments that have been made.
    - Pharmacy Managers- hold your team accountable to these goals, as I will be holding you accountable for your pharmacy. ***This obviously has not occurred in all stores. If you haven't yet, conduct this meeting ASAP!***

One item I would like to mention is that our enrollment numbers are far too low. We left 4,545 potential SYWR customers on the table. Every store should hit at least 30 enrollments per week. That is only 4-5 per day. This is FREE MONEY that they are not taking. Speak to it like that and it will open their eyes.

If I can help in any way please let me know.

| Store | Location | No Enroll | Bot 100 | Top 100 | Total Enrollments | Total trans Count | Existing SYWR trans Count | Missed Enrollment Opportunities | % of Trans where SYWR card scanned |
|---|---|---|---|---|---|---|---|---|---|
| 7174 | PIKEVILLE KY | 1 | 0 | 3 | 70 | 379 | 132 | 177 | 35 |
| 7354 | LONDON KY | 2 | 0 | 4 | 56 | 333 | 135 | 142 | 41 |
| 3103 | PADUCAH KY | 0 | 0 | 1 | 48 | 498 | 198 | 252 | 40 |
| 3688 | HENDERSON KY | 2 | 0 | 1 | 34 | 428 | 183 | 211 | 43 |
| 7288 | LOUISVILLE KY | 2 | 0 | 2 | 33 | 561 | 336 | 192 | 60 |
| 7255 | SOMERSET KY | 0 | 1 | 2 | 32 | 659 | 462 | 165 | 70 |
| 3057 | LOUISVILLE KY | 1 | 0 | 1 | 28 | 271 | 100 | 143 | 37 |
| 3420 | NEW BOSTON | 1 | 1 | 2 | 25 | 251 | 68 | 158 | 27 |
| 4232 | LEXINGTON KY | 1 | 0 | 1 | 24 | 336 | 131 | 181 | 39 |
| 3941 | RUSSELL SP KY | 0 | 0 | 3 | 20 | 222 | 118 | 84 | 53 |
| 9749 | WINCHESTER KY | 1 | 1 | 1 | 17 | 227 | 81 | 129 | 36 |
| 4830 | FLORENCE KY | 0 | 0 | 1 | 17 | 162 | 49 | 96 | 30 |
| 4847 | GEORGETOWN | 4 | 0 | 2 | 15 | 304 | 168 | 121 | 55 |
| 4006 | LOUISVILLE KY | 4 | 0 | 0 | 15 | 329 | 75 | 239 | 23 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 3822 | GLASGOW KY | 2 | 0 | 2 | 14 | 301 | 149 | 138 | 50 |
| 9503 | FRANKFORT KY | 3 | 0 | 2 | 13 | 368 | 237 | 118 | 64 |
| 3029 | ERLANGER KY | 2 | 1 | 0 | 13 | 285 | 70 | 202 | 25 |
| 4753 | ELIZABETHT KY | 2 | 0 | 1 | 13 | 209 | 114 | 82 | 55 |
| 3646 | BOWLING GREEN | 3 | 0 | 0 | 12 | 247 | 129 | 106 | 52 |
| 9538 | GALLIPOLIS OH | 3 | 1 | 0 | 11 | 428 | 164 | 253 | 38 |
| 3850 | VERSAILLES KY | 3 | 1 | 0 | 11 | 419 | 195 | 213 | 47 |
| 9513 | CORBIN KY | 0 | 0 | 0 | 7 | 167 | 49 | 111 | 29 |
| 9684 | MAYSVILLE KY | 4 | 2 | 0 | 4 | 407 | 94 | 309 | 23 |
| 7229 | GRAYSON KY | 5 | 2 | 0 | 2 | 576 | 156 | 418 | 27 |
| 4827 | PAINTSVILL KY | 6 | 1 | 0 | 1 | 413 | 107 | 305 | 26 |

Ryan Cruser

Kmart Pharmacy District Manager KY/OH

Fax# 847-747-1522

**Yarberry, Michael W.**

**From:** Guzik, Cheryl **Sent:** Fri 10/22/2010 9:52 AM
**To:** Pharmacy Field; Rx-All Pharmacists
**Cc:**
**Subject:** FW: Shop Your Way Rewards - Important Updates
**Attachments:**

**FYI**

**To: Store Managers**

**From: *Shop Your Way Rewards* Support Team**

**Re: *Shop Your Way Rewards* Important Updates**

The Shop Your Way Rewards (SYWR) program launched less than one year ago and has quickly become one of the fastest growing loyalty programs of all time with over 23 million members! The program was created to connect with our customers, to drive sales and facilitate personalized digital relationships. SYWR members tend to spend more money, visit more often and cross-shop departments more frequently. This program would simply not be as successful without the great efforts from our associates.

**Enrollment Cards and Brochures**

With the holidays quickly approaching, it is important that all stores have an adequate supply of enrollment cards and brochures. To assist with the task of ensuring enough are on hand to take care of the holiday traffic, we will be sending out a holiday inventory push. The number of boxes will be determined based on enrollment history and estimated on hand inventory. The orders have been placed and will arrive via the normal shipping process in your IMS shipment via your DC delivery. The quantity of cards and brochures shipped to each store has been posted to MyKmart.com / Store Manager (tab) / Store Operations / Shop Your Way Rewards Update / Program Information. We will monitor card usage during the holiday season and send another round of cards in December. It is still critical to perform your normal inventory and place an order if you feel you are getting low. Review inventory of cards and brochures each Monday while completing your RES sign stock inventory.

If your store inventory is running low on SYWR card or brochure inventory, there are two options that may be used to order additional inventory. First, examine your current inventory of cards and brochures. If you have enough inventory to last at least 4 weeks, use Option 1: Standard Process. If it appears that your store will be out of stock on either cards or brochures within 4 weeks use Option 2: Expedited Order Process.

**Option 1: Standard Process (preferred)**

The standard ordering process can take up to 4 weeks for the store to receive. Cards and brochures are now ordered separately from each other (Kmart Brochure #: KC0410017, Kmart Card #: KF08090001-C). Kmart orders must be submitted by 2PM on Monday to make the following week's truck. Orders can be placed in a variety of ways: online via the IMS website, calling 1.800.519.7446, or by emailing the order to shcpmos@imsfastpak.com.

***IMPORTANT – If you order more than the maximum quantity for the month, your order will be cancelled.**

**Option 2: Expedited Order Process:**

The expedited order process should only be used if your store is running low or is out of enrollment brochures and cards. The store can either call 1.800.519.7446 or email shcpmos@imsfastpak.com to place an order and

Exhibit U

specify expedited shipping. UPS orders take 2 business days to process and typically arrive to most locations within 3-5 business days. Please note that if you choose expedited UPS shipping, your store will be charged.

**Fall Enhancements**

As the retail marketplace and customer evolves, so will the SYWR program. This month we have many enhancements going into place. A training packet will be arriving in all stores this week through consolidated mail containing explanation of the changes. On November 1st our terms and conditions will change to include what is detailed below. This will require the current brochures to be changed out. An initial shipment of updated brochures will be sent to all stores. Stores will be notified of the in-store date once it has been finalized.

The enhancements include:

- Membership is now open to anyone 13 years of age and older. This gives all of our associates the opportunity to become members of our great program

- We can now offer "cardless redemption", the ability to redeem rewards with a member's phone number or email address and a PIN

- Points have become "real time", which means that members can earn points and immediately use them on their next purchase. An example of how to drive sales with real time points is to inform the member they can use their Points on cables for their new TV. In addition the point balance reflected on a customers purchase receipt will include points earned on that purchase.

- Point value will be deducted from customer returns if the points earned from that purchase have been redeemed. For example, if a member purchases a TV for $200 and earns 10,000 points ($10 value), spends the points (account now has a balance of zero), then the member returns the TV, the customer will receive $190 back for their return. If a member has enough points in their account to cover the amount earned for an item, the return will not be reduced or only be reduced for the difference between what was earned and what was redeemed.

- Earn points for things other than purchases, such as online product reviews

- In our Pharmacy departments throughout Kmart and select Sears stores members can now earn 500 Points for prescription purchases. Also with a prescription purchase the member can earn up to 5,000 points on their next private label brand over the counter / healthcare purchase (via coupon valid for 30 days). Member benefits are even greater once the customer has filled a 5th prescription filled!

Lastly, we know the most effective communication with our members is through email. We are developing a more direct digital relationship and creating offers that target their individual interests. **Effective Monday November 1st there will be two tiers of membership; Base Members and Bonus Members.**

- **Base Members** are those who enroll with only a mobile phone number (does not provide valid email address) and the member opts-in and agrees to receive mobile texts. They receive the 10 points for every dollar spent on qualifying purchases and qualify for text only offers.

- **Bonus Members** are those who enroll with a valid email address able to receive communication. They receive the 10 points per dollar, bonus offers you see in the store, circular, online and sent to them through email.

- An overview showing benefits for each is included in the materials arriving in stores this week.

**IMPORTANT:** Members who have previously joined the program without a valid email address will have the opportunity to become a Bonus Member by providing it at checkout (second chance email enrollment). You will

be prompted for anyone who does not have a valid email address on file. The prompt will appear in every transaction where the email is blank or invalid. New scripting will go into the prompt to be consistent with encouraging members to become Bonus Members. The updated second chance prompt will begin rolling out to stores the week of 10/24 and will be in all stores by 11/15.

Members can also update their information by going online to Shopyourwayrewards.com or by calling the Rewards call center. For now they qualify for all bonus offers, however beginning in 2011 they will automatically become Base Members. In addition, if a member has a valid email address on file, and they unsubscribe from receiving communications, they will automatically become a Base Member.

Be sure to ask EVERYONE for an email address so they can take full advantage of the program.

**Associate Profiles and Email Address Updates**

Associates are some of our best customers. It is important that every associate be reminded to update their profile with an email address if needed so they are earning rewards as a Bonus Member. The member profile can be updated by following the steps below at POS:

1. Press Loyalty
2. Press Edit Profile
3. Scan SYWR Membership Card
4. Edit Info
5. Save

.As a reminder, the update is similar to a transaction and must be performed by an associate who is not the member being updated.

**Action Steps**

1. Notify your receiving Lead that a shipment of SYWR cards and brochures is expected through the DC. Upon receipt ensure a supply is available at all registers including perimeter, layaway and the service desk.

2. Review SYWR card inventory and ordering procedures with your RES Associate or associate completing the RES sign stock inventory each Monday.

3. Review the program materials received in this week's store mail packet. Ensure the entire management team and Front End Lead associates are knowledgeable on the upcoming changes.

4. Program changes and associate profile updating should be reviewed at all store huddles daily to ensure all associates are educated on these important enhancements and upcoming changes.

**Questions**

Help Ticket> Marketing> Shop Your Way Rewards

**Yarberry, Michael W.**

**From:** Guzik, Cheryl **Sent:** Fri 3/25/2011 6:27 PM
**To:** Rx-All Pharmacists
**Cc:** Curry, Ken; Holm, Denny; Ayshford, Robbert; Stokes, Marissa; Brown, Victoria; Avallone, Curt
**Subject:** FW: Shop Your Way Rewards Pharmacy Update
**Attachments:**

**To: Pharmacy Team**

**From: *Shop Your Way Rewards* - Sales Support Team**

**Re: *Shop Your Way Rewards* Pharmacy Update**

Beginning **Sunday, March 27**, *Shop Your Way Rewards* Members will no longer earn points for any government assisted prescriptions (new, refill or transfer).

Members who fill their prescriptions with no government assistance will have any outstanding points batch processed at the end of the quarter.

By law, Government assisted prescriptions will **NOT** be eligible to earn points

Non-government assisted prescriptions are eligible for base and bonus points

Base points and $50 toward VIP status for non-government assisted prescriptions will **NOT** be awarded at the time of the transaction and will be applied quarterly (Tentatively beginning July 2011)

Eligible Member's point balances and account history will not update until the batch process is complete

Please communicate these changes to all associates who work in the pharmacy. All associate and customer facing collateral regarding base and bonus points should be removed and destroyed.

- Blade signs
- Bottle Hangers
- Counter Mat insert

**Members with questions may be directed to the SYWR website (shopyourwayrewards.com) or call center 1-800-991-8708.**

Associates assisting customers may use the Store Use Hotline 1-800-991-9312. The call center will be unable

**Exhibit V**

to manually add points for prescriptions.

Cheryl Guzik

Pharmacy Operations Manager - Kmart Pharmacy

Sears Holding Corporation

3333 Beverly Road, AC-369-B **(NEW)**

Hoffman Estates, IL 60179

PH-847-286-1967

Cell-815-409-8166

FAX-847-747-1519

**Cheryl.Guzik@searshc.com**

kmart pharmacy
your home for family health™

# Changes to Kmart Pharmacy *Shop Your Way Rewards*℠

## Effective 3/27/11:

- By law, government assisted prescriptions* will NOT be eligible to earn points or contribute to VIP status
- Non-government assisted prescriptions will continue to earn 500 points per prescription and $50 toward VIP status
- Points earned and VIP spend for non-government assisted prescriptions will be applied to your account quarterly (First quarterly payout in July 2011)

Exhibit W

*Government assisted prescriptions include those paid for in whole or in part by state and/or federal healthcare programs and prescriptions purchased in AR, MA, NJ and NY and controlled substances prescriptions in LA and sales taxes and other fees.

Points will be awarded quarterly. Timing subject to change. Points not valid to redeem on any prescription purchase. Members earn Points on Qualifying Purchases. Subject to full program terms available at shopyourwayrewards.com.

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

**Yarberry, Michael W.**

**From:** Guzik, Cheryl **Sent:** Fri 3/25/2011 7:16 PM
**To:** Rx-All Pharmacists
**Cc:** Curry, Ken; Holm, Denny; Ayshford, Robbert; Stokes, Marissa; Brown, Victoria; Avallone, Curt
**Subject:** RE: Shop Your Way Rewards Pharmacy Update
**Attachments:** KMT_Pharm_Counter_Mat_ISF.pdf(48KB)

I am sorry but I forgot to attach the pdf. Please print this out and placed under your counter mat. If you do not have a counter mat, you should ask the store operations manager for one.

Cheryl Guzik

Pharmacy Operations Manager - Kmart Pharmacy

Sears Holding Corporation

3333 Beverly Road, AC-369-B **(NEW)**

Hoffman Estates, IL 60179

PH-847-286-1967

Cell-815-409-8166

FAX-847-747-1519

Cheryl.Guzik@searshc.com

-----Original Message-----
**From:** Guzik, Cheryl
**Sent:** Friday, March 25, 2011 5:27 PM
**To:** Rx-All Pharmacists
**Cc:** Curry, Ken; Holm, Denny; Ayshford, Robbert; Stokes, Marissa; Brown, Victoria; Avallone, Curt
**Subject:** FW: Shop Your Way Rewards Pharmacy Update

**To: Pharmacy Team**

**From: *Shop Your Way Rewards* - Sales Support Team**

**Re: *Shop Your Way Rewards* Pharmacy Update**

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- Non-government assisted prescriptions are eligible for base and bonus points
- Base points and $50 toward VIP status for non-government assisted prescriptions will **NOT** be awarded at the time of the transaction and will be applied quarterly (Tentatively beginning July 2011)
- Eligible Member's point balances and account history will not update until the batch process is complete

Please communicate these changes to all associates who work in the pharmacy. All associate and customer facing collateral regarding base and bonus points should be removed and destroyed.

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- Bottle Hangers
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Associates assisting customers may use the Store Use Hotline 1-800-991-9312. The call center will be unable to manually add points for prescriptions.

Cheryl Guzik

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3333 Beverly Road, AC-369-B **(NEW)**

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FAX-847-747-1519

**Cheryl.Guzik@searshc.com**

Development Funds, Foster Care Title IV–E Maintenance payments, and Adoption Assistance payments. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Programs under title XIX of the Act existing each jurisdiction. Programs under titles I, X, and XIV operate only in Guam and the Virgin Islands, while a program under the title XVI (Aid to the Aged, Blind, or Disabled) operates only in Puerto Rico.

Programs under title XXI began operating in fiscal year 1998. The percentages in this notice apply to State expenditures for most medical services and medical insurance services, and assistance payments for certain social services. The statute provides separately for Federal matching of administrative costs.

Sections 1905(b) and 1101(a)(8)(B) of the Act require the Secretary, HHS to publish the Federal Medical Assistance Percentages each year. The Secretary is to calculate the percentages, using formulas in sections 1905(b) and 1101(a)(8)(B), from the Department of Commerce's statistics of average income per person in each State and for the Nation as a whole. The percentages are within the upper and lower limits given in section 1905(b) of the Act. The percentages to be applied to the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 states.

The ''Federal Medical Assistance Percentages'' are for Medicaid. Section 1905(b) of the Act specifies the formula for calculating Federal Medical Assistance Percentages as follows:

''Federal medical assistance percentage'' for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands; Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum. * * *

Section 4725(b) of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the Federal Medical Assistance Percentage for the District of Columbia for purposes of titles XIX, and for the purpose of calculating the enhanced FMAP under title XXI, shall be 70 percent. For the District of Columbia, we note under the table of Federal Medical Assistance Percentages the rate that applies in certain other programs calculated using the formula otherwise applicable, and the rate that applies in certain other programs pursuant to section 1118 of the Social Security Act.

Section 2105(b) of the Act specifies the formula for calculating the Enhanced Federal Medical Assistance Percentages as follows:

The ''enhanced FMAP'', for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a State exceed 85 percent.

The ''Enhanced Federal Medical Assistance Percentages'' are for use in the State Children's Health Insurance Program under Title XXI, and in the Medicaid program for certain children for expenditures for medical assistance described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the Enhanced Federal Medical Assistance Percentages. We include them in this notice for the convenience of the States.

**DATES:** *Effective Dates:* The percentages listed will be effective for each of the 4 quarter-year periods in the period beginning October 1, 2008 and ending September 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Thomas Musco or Carrie Shelton, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D-Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93–596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment; 93.778: Medical Assistance Program; 93.767: State Children's Health Insurance Program)

Dated: November 19, 2007.

**Michael O. Leavitt,**

*Secretary of Health and Human Services.*

FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2008–SEPTEMBER 30, 2009 (FISCAL YEAR 2009)

| State | Federal medical assistance percentages | Enhanced federal medical assistance percentages |
|---|---|---|
| Alabama | 67.98 | 77.59 |
| Alaska | 50.53 | 65.37 |
| American Samoa* | 50.00 | 65.00 |
| Arizona | 65.77 | 76.04 |
| Arkansas | 72.81 | 80.97 |
| California | 50.00 | 65.00 |
| Colorado | 50.00 | 65.00 |
| Connecticut | 50.00 | 65.00 |
| Delaware | 50.00 | 65.00 |
| District of Columbia** | 70.00 | 79.00 |
| Florida | 55.40 | 68.78 |
| Georgia | 64.49 | 75.14 |
| Guam* | 50.00 | 65.00 |
| Hawaii | 55.11 | 68.58 |
| Idaho | 69.77 | 78.84 |
| Illinois | 50.32 | 65.22 |
| Indiana | 64.26 | 74.98 |

Exhibit X

FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2008–SEPTEMBER 30, 2009 (FISCAL YEAR 2009)—Continued

| State | Federal medical assistance percentages | Enhanced federal medical assistance percentages |
|---|---|---|
| Iowa | 62.62 | 73.83 |
| Kansas | 60.08 | 72.06 |
| Kentucky | 70.13 | 79.09 |
| Louisiana | 71.31 | 79.92 |
| Maine | 64.41 | 75.09 |
| Maryland | 50.00 | 65.00 |
| Massachusetts | 50.00 | 65.00 |
| Michigan | 60.27 | 72.19 |
| Minnesota | 50.00 | 65.00 |
| Mississippi | 75.84 | 83.09 |
| Missouri | 63.19 | 74.23 |
| Montana | 68.04 | 77.63 |
| Nebraska | 59.54 | 71.68 |
| Nevada | 50.00 | 65.00 |
| New Hampshire | 50.00 | 65.00 |
| New Jersey | 50.00 | 65.00 |
| New Mexico | 70.88 | 79.62 |
| New York | 50.00 | 65.00 |
| North Carolina | 64.00 | 75.22 |
| North Dakota | 63.15 | 74.21 |
| Northern Mariana Islands* | 50.00 | 65.00 |
| Ohio | 62.14 | 73.50 |
| Oklahoma | 65.90 | 76.13 |
| Oregon | 62.45 | 73.72 |
| Pennsylvania | 54.52 | 68.16 |
| Puerto Rico* | 50.00 | 65.00 |
| Rhode Island | 52.59 | 66.81 |
| South Carolina | 70.07 | 79.05 |
| South Dakota | 62.55 | 73.79 |
| Tennessee | 64.28 | 75.00 |
| Texas | 59.44 | 71.61 |
| Utah | 70.71 | 79.50 |
| Vermont | 59.45 | 71.62 |
| Virgin Islands* | 50.00 | 65.00 |
| Virginia | 50.00 | 65.00 |
| Washington | 50.94 | 65.66 |
| West Virginia | 73.73 | 81.61 |
| Wisconsin | 59.38 | 71.57 |
| Wyoming | 50.00 | 65.00 |

* For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI will be 75 per centum.
** The values for the District of Columbia in the table were set for the state plan under titles XIX and XXI and for capitation payments and DSH allotments under those titles. For other purposes, including program remaining in Title IV of the Act, the percentage for D.C. is 50.00.

[FR Doc. 07–5847 Filed 11–27–07; 8:45 am]
BILLING CODE 4150–24–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Assistant Secretary for Administration and Management; Program Support Center; Statement of Organization, Functions, and Delegations of Authority

Part P, Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Office of the Assistant Secretary for Administration and Management (AJ), Program Support Center (P), as last amended at 68 FR 69411–12, dated December 12, 2003 is being amended to reflect changes in Chapter PG, ''Federal Occupational Health Service (FOHS).'' This amendment realigns FOHS functions to increase efficiency, effectiveness, and management controls.

I. Under Chapter PG, ''Federal Occupational Health Service'' (PG), delete the functions entirely and replace with the following:

Section PEK.00 Mission. The mission of the Federal Occupational Health Service (FOHS) is to improve the health, safety, and productivity of the Federal workforce through the provision of comprehensive, high-quality, customer-focused occupational health services in strategic partnership with Federal agencies nation-wide. The services provided include health and wellness programs, employee assistance, work/life, and environmental health and safety services. The services that FOHS provided include consultations to agency management, program design to meet customer needs, service provider selection, direct provision of services, and program oversight and evaluation.

Section PEK.10 Organization. FOHS is headed by a Director who reports to the Deputy Assistant Secretary for Program Support, and includes the following components:

1. Office of the Director (PGA).
2. Division of Clinical Services (PGB).
3. Division of Employee Assistance Program Services (PGC).
4. Division of Environmental Health Services (PGE).
5. Division of Administration and Resource Management (PGF).
6. Division of Business Development (PGG).

Section PEK.20 Functions.

ONC–ATCB RETENTION OF TESTING AND CERTIFICATION RECORDS AND THE SUBMISSION OF COPIES OF RECORDS TO ONC

| Type of respondent | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ONC–ATCB Testing and Certification Records | 5 | 1 | 8 | 40 |

**Seleda Perryman,**

*Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2010–28334 Filed 11–9–10; 8:45 am]

**BILLING CODE 4150–45–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2011 through September 30, 2012

**AGENCY:** Office of the Secretary, DHHS.

**ACTION:** Notice.

**SUMMARY:** The Federal Medical Assistance Percentages (FMAP) and Enhanced Federal Medical Assistance Percentages (eFMAP) for Fiscal Year 2012 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 2011 through September 30, 2012. This notice announces the calculated FMAP and eFMAP rates that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of Federal matching for state medical assistance (Medicaid) and Children's Health Insurance Program (CHIP) expenditures, Temporary Assistance for Needy Families (TANF) Contingency Funds, Child Support Enforcement collections, Child Care Mandatory and Matching Funds of the Child Care and Development Fund, Foster Care Title IV–E Maintenance payments, and Adoption Assistance payments. The table gives figures for each of the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Programs under title XIX of the Act exist in each jurisdiction. Programs under titles I, X, and XIV operate only in Guam and the Virgin Islands, while a program under title XVI (Aid to the Aged, Blind, or Disabled) operates only in Puerto Rico. The percentages in this notice apply to state expenditures for most medical assistance and child health assistance, and assistance payments for certain social services. The Act provides separately for Federal matching of administrative costs.

Sections 1905(b) and 1101(a)(8)(B) of the Act require the Secretary of HHS to publish the FMAP rates each year. The Secretary calculates the percentages, using formulas in sections 1905(b) and 1101(a)(8)(B), and calculations by the Department of Commerce of average income per person in each state and for the Nation as a whole. The percentages must fall within the upper and lower limits given in section 1905(b) of the Act. The percentages for the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 states.

Section 1905(b) of the Act specifies the formula for calculating FMAPs as follows:

> "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum.

Section 4725(b) of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia for purposes of titles XIX and XXI shall be 70 percent. For the District of Columbia, we note under the table of FMAPs that other rates may apply in certain other programs. In addition, we note the rate that applies for Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands in certain other programs pursuant to section 1118 of the Act.

Section 2105(b) of the Act specifies the formula for calculating the eFMAP rates as follows:

> The "enhanced FMAP", for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a state exceed 85 percent.

The eFMAP rates are used in the Children's Health Insurance Program under Title XXI, and in the Medicaid program for certain children for expenditures for medical assistance described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the eFMAP rates. We include them in this notice for the convenience of the states.

**DATES:** *Effective Dates:* The percentages listed will be effective for each of the four quarter-year periods beginning October 1, 2011 and ending September 30, 2012.

**FOR FURTHER INFORMATION CONTACT:** Carrie Shelton, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93.596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment; 93.778: Medical Assistance Program; 93.767: Children's Health Insurance Program)

Dated: October 12, 2010.

**Kathleen Sebelius,**

*Secretary.*

FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2011–SEPTEMBER 30, 2012 (FISCAL YEAR 2012)

| State | Federal medical assistance percentages | Enhanced federal medical assistance percentages |
|---|---|---|
| Alabama | 68.62 | 78.03 |
| Alaska | 50.00 | 65.00 |
| American Samoa* | 50.00 | 65.00 |
| Arizona | 67.30 | 77.11 |
| Arkansas | 70.71 | 79.50 |
| California | 50.00 | 65.00 |
| Colorado | 50.00 | 65.00 |
| Connecticut | 50.00 | 65.00 |
| Delaware | 54.17 | 67.92 |
| District of Columbia** | 70.00 | 79.00 |
| Florida | 56.04 | 69.23 |
| Georgia | 66.16 | 76.31 |
| Guam* | 50.00 | 65.00 |
| Hawaii | 50.48 | 65.34 |
| Idaho | 70.23 | 79.16 |
| Illinois | 50.00 | 65.00 |
| Indiana | 66.96 | 76.87 |
| Iowa | 60.71 | 72.50 |
| Kansas | 56.91 | 69.84 |
| Kentucky | 71.18 | 79.83 |
| Louisiana | 61.09 | 72.76 |
| Maine | 63.27 | 74.29 |
| Maryland | 50.00 | 65.00 |
| Massachusetts | 50.00 | 65.00 |
| Michigan | 66.14 | 76.30 |
| Minnesota | 50.00 | 65.00 |
| Mississippi | 74.18 | 81.93 |
| Missouri | 63.45 | 74.42 |
| Montana | 66.11 | 76.28 |
| Nebraska | 56.64 | 69.65 |
| Nevada | 56.20 | 69.34 |
| New Hampshire | 50.00 | 65.00 |
| New Jersey | 50.00 | 65.00 |
| New Mexico | 69.36 | 78.55 |
| New York | 50.00 | 65.00 |
| North Carolina | 65.28 | 75.70 |
| North Dakota | 55.40 | 68.78 |
| Northern Mariana Islands* | 50.00 | 65.00 |
| Ohio | 64.15 | 74.91 |
| Oklahoma | 63.88 | 74.72 |
| Oregon | 62.91 | 74.04 |
| Pennsylvania | 55.07 | 68.55 |
| Puerto Rico* | 50.00 | 65.00 |
| Rhode Island | 52.12 | 66.48 |
| South Carolina | 70.24 | 79.17 |
| South Dakota | 59.13 | 71.39 |
| Tennessee | 66.36 | 76.45 |
| Texas | 58.22 | 70.75 |
| Utah | 70.99 | 79.69 |
| Vermont | 57.58 | 70.31 |
| Virgin Islands* | 50.00 | 65.00 |
| Virginia | 50.00 | 65.00 |
| Washington | 50.00 | 65.00 |
| West Virginia | 72.62 | 80.83 |
| Wisconsin | 60.53 | 72.37 |
| Wyoming | 50.00 | 65.00 |

* For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI will be 75 per centum.
** The values for the District of Columbia in the table were set for the state plan under titles XIX and XXI and for capitation payments and DSH allotments under those titles. For other purposes, the percentage D.C. is 50.00, unless otherwise specified by law.

[FR Doc. 2010–28319 Filed 11–9–10; 8:45 am]
BILLING CODE 4150–05–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Public Meeting To Solicit Input for a Strategic Plan for Federal Youth Policy

**AGENCY:** Office of the Assistant Secretary for Planning and Evaluation, DHHS.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Department of Health and Human Services, in its role as the Chair of the Interagency Working Group on Youth Programs, is announcing a meeting to solicit input from the public that will inform the development of a strategic plan for Federal youth policy.

**DATES:** November 12, 2010, from 9 a.m. to 1 p.m.

**ADDRESSES:** The meeting will take place at the Thomas P. O'Neill, Jr., Federal Building at 10 Causeway Street, Suite 108, Boston, MA 02222–1001.

**FOR FURTHER INFORMATION CONTACT:** Visit the Web site for the Interagency Working Group on Youth Programs at *http://www.FindYouthInfo.gov* for information on how to register, or contact the Interagency Working Group on Youth Programs help desk, by telephone at 1–877–231–7843 [**Note:** this is a toll-free telephone number], or by e-mail at *FindYouthInfo@air.org.*

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On March 11, 2009, the Congress passed the Omnibus Appropriations Act, 2009 (Pub. L. 111–8). The House Appropriations Committee Print, Division F—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations included language directing the Interagency Working Group on Youth Programs to solicit input from young people, State children's cabinet directors, and non-profit organizations on youth programs and policies; develop an overarching strategic plan for Federal youth policy; and prepare recommendations to improve the coordination, effectiveness, and efficiency of programs affecting youth.

The Interagency Working Group on Youth Programs is comprised of staff from twelve Federal agencies that support programs and services that focus on youth: The U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Defense; U.S. Department of Education; U.S. Department of Health and Human Services (Chair); U.S. Department of Housing and Urban Development; U.S. Department of Justice (Vice-Chair); U.S. Department of Labor; U.S. Department of the Interior; U.S. Department of Transportation; Corporation for National and Community Service; and Office of National Drug Control Policy.

The Working Group seeks to promote achievement of positive results for at-risk youth through the following activities:

- Promoting enhanced collaboration at the Federal, state, and local levels, including with faith-based and other community organizations, as well as among families, schools and communities, in order to leverage existing resources and improve outcomes;
- Disseminating information about critical resources, including evidence-based programs, to assist interested citizens and decision-makers, particularly at the community level, to plan, implement, and participate in effective strategies for at-risk youth;
- Developing an overarching strategic plan for Federal youth policy, as well as recommendations for improving the coordination, effectiveness and efficiency of youth programs, using input from community stakeholders, including youth; and
- Producing a Federal Web site, *FindYouthInfo.gov,* to promote effective community-based efforts to reduce the factors that put youth at risk and to provide high-quality services to at-risk youth.

#### II. Registration, Security, Building, and Parking Guidelines

For security purposes, members of the public who wish to attend the meeting must pre-register online at *http://www.findyouthinfo.gov* no later than November 5, 2010. Should problems arise with Web registration, call the help desk at 1–877–231–7843 or send a request to register for the meeting to *FindYouthInfo@air.org.* To register, complete the online registration form, which will ask for your name, title, organization or other affiliation, full address and phone, fax, and e-mail information or e-mail this information to *FindYouthInfo@air.org.* Additional identification documents may be required.

The meetings are held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. Space is limited. In order to gain access to the building and grounds, participants must bring government-issued photo identification as well as their pre-registration confirmation.

**Authority:** Division F, Pub. L. 111–8; E.O. 13459, 73 FR 8003, February 12, 2008.

Dated: October 21, 2010.

**Sherry Glied,**

*Assistant Secretary for Planning and Evaluation.*

[FR Doc. 2010–28318 Filed 11–9–10; 8:45 am]
BILLING CODE 4154–05–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Public Meeting To Solicit Input for a Strategic Plan for Federal Youth Policy

**AGENCY:** Office of the Assistant Secretary for Planning and Evaluation, DHHS.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Department of Health and Human Services, in its role as the Chair of the Interagency Working Group on Youth Programs, is announcing a meeting to solicit input from the public that will inform the development of a strategic plan for federal youth policy.

**DATES:** November 16, 2010, from 9 a.m. to 1 p.m.

**ADDRESSES:** The meeting will take place at the Educational Leadership Center at 445 W. Amelia Street, Orlando, FL 32801.

**FOR FURTHER INFORMATION CONTACT:** Visit the Web site for the Interagency Working Group on Youth Programs at *http://www.FindYouthInfo.gov* for information on how to register, or contact the Interagency Working Group on Youth Programs help desk, by telephone at 1–877–231–7843 [**Note:** this is a toll-free telephone number], or by e-mail at *FindYouthInfo@air.org.*

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