



# Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

December 2016

Dear Generic Drug Manufacturer:

**Re: Generic Consumer Price Index (CPI) Penalty**

Pursuant to Subdivision 7 of §367-a of the Social Services Law, the Department of Health (Department) can require manufacturers of drugs, other than single source drugs and innovator multiple source drugs, as such terms are defined in 42 U.S.C. §1396r-8(k), to provide rebates to the Department for a drug that has increased more than 300% of its State Maximum Acquisition Cost (SMAC), on or after April 1, 2016, in comparison to its SMAC at any time during the course of the preceding twelve months.

The purpose of this letter is to alert generic drug manufacturers that the New York State Medicaid Pharmacy Program intends to invoice for NDCs that meet the aforementioned criteria. Generic manufacturers should review the attached list of impacted drugs to confirm their liability exposure to this rebate. Invoices will be mailed in the second quarter of 2017 for the time period of 4/1/16 through 12/31/16.

The final methodology is as follows:

**Generic CPI Penalty Calculation**

$$\text{Current SMAC Price (per unit) - (Previous Year's SMAC price (per unit) + 300\%)} = \text{Generic CPI Penalty Unit Amount}$$

**Illustrative Example**

SMAC Unit Price 4/12/2016	\$4.50
SMAC Unit Price 4/12/2015	\$1.00
Difference/Percentage Increase	\$3.50/350%
Penalty Amount per unit	.50

Should you have any questions regarding the above information, please feel free to contact your assigned Medicaid Rebate Representative or email: [ppno@health.ny.gov](mailto:ppno@health.ny.gov) (with 'Medicaid Rebate Unit' and the five digit labeler code in the subject line).

Sincerely,

Donna Cater  
Deputy Director  
Office of Health Insurance Programs  
Division of Finance and Rate Setting

Enclosure