
Prescribed Drugs

4.207 Prescribed Drugs (11/1/2019, GCR 19-021)

4.207.1 Definitions

For the purposes of this rule, the term:

- (a) **“Good cause and hardship”** means an instance where the lack of coverage cannot reasonably be considered the fault of the individual, and includes circumstances where alternative means for the coverage at issue are not reasonably available and will likely result in irreparable loss or serious harm to the individual.
- (b) **“Maintenance drug”** means a drug approved by the federal Food and Drug Administration (FDA) for use longer than 30 days and prescribed to treat a chronic condition. Coverage of maintenance drugs is subject to the Preferred Drug List and limited to the current list of covered drugs designated by Medicaid as maintenance. A list of maintenance drugs is posted on the DVHA website.

4.207.2 Covered Services

Coverage for prescribed drugs is provided in accordance with section 1927 of the Social Security Act, Covered Outpatient Drugs.

(a) Preferred Drug List

Coverage of all drugs is subject to the requirements of the Preferred Drug List (PDL), which is available on the DVHA website.

(b) Non-Drug Items

Coverage is provided for vaccines, diabetic supplies, spacers, and peak flow meters, subject to the requirements of the PDL.

(c) Over-the-Counter Drugs

Over-the-counter (OTC) drug coverage is subject to the requirements of the PDL and must be prescribed as part of the medical treatment of a specific disease.

(d) Prescription Vitamins and Minerals

The following vitamins and minerals for which the FDA requires a prescription are covered:

- (1) Select prenatal vitamins for pregnant and lactating women, and
- (2) Single vitamins or minerals when prescribed for the treatment of a specific vitamin deficiency or disease related to a vitamin deficiency.

(e) Compounded Drugs

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Some ingredients and excipients used in extemporaneously compounded prescriptions are covered when dispensed by a participating pharmacy and issued by a licensed prescriber following state and federal laws. Bulk powders, also known as Active Pharmaceutical Ingredients (APIs), are used for compounding drugs and are subject to prior authorization. A list of covered APIs and excipients is available on the DVHA website.

4.207.3 Eligibility for Care

- (a) Beneficiaries enrolled in Vermont Medicaid are eligible for prescribed drug coverage as described in this rule.
- (b) The following applies to individuals who are eligible for both a Medicare prescription drug benefit and Medicaid (i.e. “dual eligible”):
 - (1) Dual eligible individuals are not eligible for Medicaid prescribed drug coverage as described in this rule, except for those drug classes below for which Medicare drug coverage is not available.
 - (A) Drugs for anorexia or weight gain, subject to the PDL,
 - (B) Single vitamins or minerals if the conditions described in rule 4.207.2(d)(2) are met, and
 - (C) Over-the-counter drugs if the conditions described in rule 4.207.2(c) are met.
 - (2) Dual eligible individuals may request coverage of a prescribed drug when an individual has exhausted the appeal process under the Medicare prescription drug benefit.
- (c) For Medicaid beneficiaries who are eligible for and have applied for the Medicare prescription drug benefit but have not yet received coverage due to an operational problem with Medicare, or who otherwise have not received coverage for a needed drug: Vermont Medicaid will cover the drug if medically necessary and if it finds that good cause and hardship exist. Coverage will continue until the operational problem and good cause and hardship ends. The individual must have made every reasonable effort with Medicare, given the individual's circumstances, to obtain coverage.

4.207.4 Qualified Providers

Payment for prescribed drugs is limited to Vermont Medicaid enrolled providers who are:

- (a) Licensed Vermont pharmacies, including outpatient hospital pharmacies, operating within their scope of practice;
or
- (b) Pharmacies appropriately licensed in another state, operating within their scope of practice; or
- (c) A licensed physician serving a rural area without an available pharmacy, who has been granted special approval prior to July 1, 2019 to bill these items directly and is operating within their scope of practice.

4.207.5 Conditions for Coverage

- (a) Payment is limited to covered items with a valid prescription from a medical professional licensed by the state of Vermont to prescribe within the scope of their practice and enrolled in Vermont Medicaid. The prescription must

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be dispensed by a qualified provider in accordance with applicable federal and state statutes and regulations and must be for the Medicaid member only.

(b) Up to eleven refills are permitted if allowed by federal and state statutes and regulations.

(c) Supply Limits

(1) Maintenance drugs must be prescribed and dispensed for not less than 30 days and not more than 102 days. Select drugs used for maintenance treatment must be prescribed and dispensed for a minimum of a 90-day supply. This limit shall not apply for the first two fills of the prescription. If there are extenuating circumstances in an individual case which, in the judgment of the prescriber, dictate a shorter prescribing period, a prior authorization for waiver of the 90-day supply requirement may be filed. A list of select maintenance drugs that require a minimum 90-day supply can be found on the DVHA website.

(2) Contraceptives, at the discretion of the prescriber, may be dispensed by a pharmacist in an amount intended to last up to a 12-month duration.

(3) A pharmacist shall not fill a prescription in a quantity greater than that prescribed, except in an individual case when the quantity has been changed on the prescription in consultation with the prescriber.

(d) Unused Drugs

(1) Except for controlled substances, unused or unit-dose medication that is in reusable condition, and which may be returned to a pharmacy pursuant to state laws, rules or regulations, shall be returned from long-term care facilities to the provider pharmacy.

(2) When the primary payer is Vermont Medicaid, all returned medications must be credited to Vermont Medicaid.

4.207.6 Prior Authorization Requirements

(a) Vermont Medicaid maintains a PDL, which is available on the DVHA website. All drugs and non-drug items are subject to the requirements of the PDL. Some preferred and all non-preferred drugs are subject to prior authorization as described in the PDL.

(b) An emergency fill can be dispensed when a required prior authorization has not been secured and the need to fill the prescription is determined to be a medical emergency. If the prescriber or covering prescriber cannot be reached to obtain the required prior authorization, the pharmacist may dispense an emergency supply to last up to 72 hours. A prior authorization will still be needed for further dispensing. 72-hour emergency fills do not qualify as “started and stabilized” on the Medicaid PDL.

(c) Supply limits in excess of those described in 4.207.5(c) require prior authorization and are subject to approval by the DVHA Medical Director.