PENNSYLVANIA MEDICAID SUPPLEMENTAL REBATE AGREEMENT

This Agreement is entered into by the following parties on the date last signed below:

Pharmaceutical Manufacturer ("Manufacturer")	**Commonwealth of Pennsylvania, Department of Human Services**
	Commonwealth of Pennsylvania, Department of Human Services
Manufacturer Primary Billing Address:	**Department Primary Billing Address:**
	Pennsylvania Department of Human Services P.O. Box 780634 Philadelphia, PA 19178-0634
Manufacturer Primary Contact Person:	**Department Primary Contact Person:**
Manufacturer Primary Contact Telephone:	**Department Primary Contact Telephone:**
Manufacturer Primary Contact e-mail:	**Department Primary Contact e-mail:**
	PBA_srcontracts@changehealthcare.com
Address for Notices required by Agreement ("Manufacturer Notice Address")	**Address for Notices required by Agreement ("Department Notice Address")**
Termination Date: ("Termination Date")	**Effective Date: ("Effective Date")**
12/31/2025	01/01/2025

General Supplemental Rebate Terms

1. PURPOSE

The Department and Manufacturer have entered into this Agreement for the purpose of establishing a State Supplemental Rebate for utilization of the Manufacturer's Preferred Product(s) by Pennsylvania Medicaid beneficiaries, which will be in addition to rebates received under the National Rebate Agreement, pursuant to 42 U.S.C. §1396r-8. The parties intend for this Agreement to meet the requirements of 42 U.S.C. §1396r-8.

2. DEFINITIONS

2.1. **AMP** shall mean the Average Manufacturer Price as set forth in 42 U.S.C. §1396r-8 and final regulations promulgated by CMS, if any, as such statute or regulations may be amended from time to time.

2.2. **Best Price** shall mean Best Price as set forth in 42 U.S.C. §1396r-8 and final regulations promulgated by CMS, if any, as such statute or regulations may be amended from time to time.

2.3. **CMS** shall mean the Centers for Medicare & Medicaid Services of the United States Department of Health and Human Services or any successor or renamed agency having the authority to administer the Medicaid program.

2.4. **Contracted Product** shall mean any product listed on Contracted Products Attachment of this Agreement.

2.5. **Medicaid Preferred Drug List (PDL) Utilization Data** shall mean the information on the quarterly utilization of the Manufacturer's Preferred Products subject to the Fee-for-Service (FFS) or Unified PDL. FFS Utilization Data is based on claims paid during a Quarter. Managed Care Plan Utilization Data is based on claims dispensed during a Quarter for Preferred Products subject to the Unified PDL. Medicaid Utilization Information to be supplied includes, for each NDC number: 1) Product name; 2) Units; 3) Number of prescriptions; and 4) Total amount reimbursed. Medicaid Utilization Information excludes data from covered entities identified in 42 U.S.C. §256b(a)(4) and 42 U.S.C. §1396r-8(a)(5)(B) in accordance with 42 U.S.C. §256b(a)(5)(A) and 42 U.S.C. §1396r-8(a)(5)(C).

2.6. **NDC** shall mean the National Drug Code, the numerical code maintained by the Food and Drug Administration (FDA) that includes the labeler code (which is assigned by the FDA and identifies the establishment), product code (which identifies the specific product or formulation), and package size code.

2.7. **National Rebate Agreement** shall mean the rebate agreement developed and entered into by CMS on behalf of the Secretary of the United States Department of Health and Human Services or his or her designee and a manufacturer to pursuant to 42 U.S.C. §1396r-8.

2.8. **National Unit Rebate Amount** shall mean the unit amount computed by CMS to which the Medicaid Utilization Information may be applied by States in invoicing Manufacturer for rebates in accordance with the National Rebate Agreement.

2.9. **Preferred Drug List or PDL** shall mean the list of drugs and products developed by the Pharmacy and Therapeutics Committee (P & T Committee) and adopted by the Department.

2.10. **Preferred Product** shall mean any Contracted Product included on the Preferred Drug List. No Preferred Product shall be discouraged or disadvantaged in any way relative to any other drug product in its therapeutic class unless specifically stated otherwise in the Contracted Products Attachment of this Agreement.

2.11. **Quarter** shall mean calendar quarter unless otherwise specified.

2.12. **Rebate Payment Due Date** shall mean the date that is 38 days following Manufacturer's receipt of Medicaid Utilization Information from the Department.

2.13. **State Supplemental Rebate** shall mean the quarterly amount invoiced by the Pennsylvania Department of Human Services as calculated in accordance with the Contracted Product Attachment of this Agreement.

2.14. **Unit** shall mean drug unit in the lowest identifiable amount (e.g. tablet or capsule for solid dosage forms, milliliter for liquid forms, gram for ointments or creams) and shall be the same unit as specified by Manufacturer as part of the submission of data under 42 U.S.C. §1396r-8.

2.15. **Wholesale Acquisition Cost or WAC** shall mean the Manufacturer's list price for a drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates or reductions in price, for the last day of the Quarter as published in MediSpan or its successor publication, if any.

3. MANUFACTURER'S RESPONSIBILITIES

3.1. Manufacturer shall provide the Department with the National Unit Rebate Amount for the Contracted Product(s) in accordance with Manufacturer's National Rebate Agreement.

3.2. In addition to the National Unit Rebate Amount, Manufacturer shall remit to the Department a State Supplemental Rebate for Medicaid utilization of Contracted Product(s) that are designated as Preferred Products on the PDL during the Quarter, including prior Quarter adjustments. The Manufacturer shall pay to the Department the State Supplemental Rebate amount in accordance with the formula set forth in the Contracted Products Attachment of this Agreement.

3.3. Quarters shall be used in calculating the State Supplemental Rebate.

3.4. Absent a dispute raised pursuant to the Dispute Resolution section of this Agreement, Manufacturer shall make State Supplemental Rebate payments to the Department for each Quarter, including prior Quarter adjustments, no later than the Rebate Payment Due Date. The Manufacturer shall make timely payment of the rebate by the Rebate Payment Due Date following receipt of, at a minimum, information on the number of units paid, by NDC number.

3.5. Manufacturer shall pay the State Supplemental Rebate, including any applicable interest. Interest on the State Supplemental Rebates payable under Section 3.2 of this Agreement is calculated in the same manner as interest is calculated on the National Rebate:

1. Obtain yield rates of weekly auction of 13-Week Treasury bills under Investment Rate % or in the DDR.

2. Determine the date range for which interest is owed beginning with the 38th day from the invoice postmark date.

3. Total the yield rates of each weekly auction for the period during which interest applies.

4. Divide that total by the number of yield rates (i.e., the number of weeks) to determine the average interest rate.

5. Multiply the average interest rate by the amount of unpaid rebate to determine the amount of interest due.

6. Divide the amount of interest by 365 days to determine the daily interest amount due.

7. Multiply the daily interest amount by the number of days for which interest is owed. This amount represents the total interest owed.

3.6 Nothing in this Agreement shall be construed as prohibiting Manufacturer from discontinuing production, marketing, or distribution of any Contracted Product, or from transferring or licensing any Contracted Product to a third party. If Manufacturer elects to discontinue production, marketing, or distribution of any Contracted Product or to transfer or license any Contracted Product to a third party, Manufacturer shall notify the Department of such action as soon as commercially reasonable. Upon such notification, the Department may remove the Contracted Product from the definition of "Contracted Products" without cause. Manufacturer shall continue to be responsible for all State Supplemental Rebates until such notification is given.

3.7 Unless notified otherwise, Manufacturer shall send State Supplemental Rebate payments to the Department Primary Billing Address identified on the first page of this Agreement.

4. DEPARTMENT RESPONSIBILITIES

4.1. Preferred Drug List: The Department will maintain and publish a Preferred Drug List that will be applicable to FFS and managed care delivery systems. Preferred Products will not be disadvantaged to any other product in its therapeutic class. The Department may apply clinical edits, prior authorization, step therapy or similar utilization management controls to a Preferred Product. The Department may also apply other clinical edits, prior authorization, step therapy or similar utilization management controls equally to all products in a therapeutic class.

4.2. Medicaid Utilization Information: The Department will provide Medicaid Utilization Information for FFS claims paid during a Quarter, including prior Quarter adjustments, and managed care organization claims dispensed during a Quarter, including prior Quarter adjustments, within ninety (90) days of the last day of each Quarter. The Department will complete this reporting in a manner consistent with the National Medicaid Drug Rebate Program.

4.3. The Department will maintain electronic claims records for the most recent seven years that will permit Manufacturer to verify the Medicaid Utilization Information provided by the Department. If needed, the Department will work with the Manufacturer to develop mutually agreeable audit procedures, should such an audit be required to resolve disputes regarding Medicaid Utilization Information.

4.4. In the event material discrepancies are discovered by the Manufacturer, the Department will make available supporting data that is then in existence concerning the claimed utilization, which may include an adjustment to the amount of the State Supplemental Rebates. Supporting data shall not include claim level detail or medical exception information for competitor products.. The Department will include any such adjustment on the next quarterly invoice.

4.5. The Department will obtain CMS authorization to receive State Supplemental Rebates as provided under this Agreement.

5. DISPUTE RESOLUTION

5.1. Utilization disputes will be handled in the same manner as the National Medicaid Rebate dispute resolution process.

6. CONFIDENTIALITY PROVISIONS

6.1. Consistent to 42 U.S.C. §1396r-8(3)(D) and this Agreement, information disclosed by Manufacturer in connection with this Agreement is confidential and, not withstanding other laws, will not be disclosed by the Department to anyone except those of its employees, consultants, contractors and agents who need to know the information provided that such persons and/or entities are notified of all confidentiality provisions as stated herein and expressly warrant and represent that they shall abide by such. In the event that the Department is required by law to disclose any provision of this Agreement or rebate information to any person other than as provided above, the Department will provide written notice to Manufacturer sufficiently in advance of the proposed disclosure to allow Manufacturer to seek a protective order or other relief. This Section shall survive termination or expiration of this Agreement.

6.2. Manufacturer shall ensure that all information, records and data pertaining to applicants for and beneficiaries of medical assistance shall be protected from unauthorized disclosure by Manufacturer, its employees, consultants, contractors and agents and corporate affiliates and their employees pursuant to 42 CFR Part 431, Subpart F and any other applicable federal or state law.

7. NONRENEWAL OR TERMINATION

7.1. This Agreement shall be effective on the Effective Date as indicated on page one of this Agreement and, absent early termination pursuant to the terms of this Agreement, shall continue in force until the Termination Date as indicated on page one of this Agreement.

7.2. This Agreement may be terminated by the Department, in whole or as to any Contracted Product(s) or NDC(s) without cause upon thirty (30) days written notice to Manufacturer.

7.3. This Agreement may be immediately terminated by either party upon the occurrence of any one of the following events:

(a) A determination by any court of competent jurisdiction or any authorized governmental authority that the arrangements and transactions under this Agreement constitute a violation of

any law or regulation including without limitation 42 U.S.C. §1320a-7b(b) prohibiting illegal remuneration. (For the purposes of this Section, "authorized governmental authority" shall mean any officer or agency of the Federal Government (e.g., Office of Inspector General, Department of Justice, Department of Health and Human Services) or the State of Pennsylvania having substantive jurisdiction over the subject matter of this Agreement; any state or federal program with which this Agreement is connected; any actions which must be taken by either party hereto in order to perform its obligations under this Agreement or any laws or regulations affecting the legality of this Agreement); or

(b) A modification to 42 C.F.R. §447.504(c) removing or limiting the exclusion of the State Supplemental Rebate from AMP and/or to 42 C.F.R. §447.505(c) removing or limiting the exclusion of the State Supplemental Rebate from best price.

7.4. Termination of this Agreement shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination including, without limitation, State Supplemental Rebates accrued but not yet paid and/or invoiced.

8. GENERAL PROVISIONS

This Agreement will be governed and construed in accordance with 42 U.S.C. §1396r-8, and all other applicable federal law and regulations.

8.1. Any notice required to be given pursuant to the terms and provisions of this Agreement will be in writing. Notice to the Department will be sent to the Department Notice Address and the Department Primary Contact E-mail identified on the first page of this Agreement. Notice to Manufacturer will be sent to the Manufacturer Notice Address identified on the first page of this Agreement.

8.2. Manufacturer agrees to be bound by the laws of the Commonwealth of Pennsylvania and this Agreement shall be construed, governed, interpreted and enforced in accordance with the laws and regulations of the Commonwealth of Pennsylvania, without regard to any conflict of laws provisions, and the decisions of the Pennsylvania courts. The Manufacturer consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Manufacturer agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law. This provision does not supersede federal law to the extent federal law is applicable and controlling.

8.3. Nothing herein shall be construed or interpreted as limiting or otherwise affecting the Department's or Manufacturer's ability to pursue its rights arising out of the terms and conditions of the Agreement in the event that a dispute between the parties is not otherwise resolved.

8.4. Manufacturer and the agents and employees of Manufacturer in the performance of this Agreement will act in an independent capacity and not as officers, employees or agents of the Commonwealth of Pennsylvania.

8.5. In the event of a transfer of ownership of a Contracted Product or of Manufacturer, the Agreement shall be automatically assigned to the new owner subject to the conditions of this Agreement. If a Contracted Product or this Agreement is assigned by Manufacturer, Manufacturer shall notify the Department of the new contact information and assignee shall be fully responsible for compliance with all terms and conditions of this Agreement applicable to Manufacturer.

8.6. Nothing in this Agreement will be construed so as to require the commission of any act contrary to law. If any provision of this Agreement is found to be invalid or illegal by a court of law, or inconsistent with federal requirements, this Agreement will be construed in all respects as if any invalid, unenforceable, or inconsistent provision were eliminated, and without any effect on any other provision. The parties agree to negotiate replacement provisions, to afford the parties as much of the benefit of their original bargain as is possible.

8.7. The Department and Manufacturer declare that this Agreement, including attachments, contains a total integration of all rights and obligations of both parties. There are no extrinsic conditions, collateral agreements or undertakings of any kind. In regarding this Agreement as the full and final expression of their contract, it is the express intention of both parties that any and all prior or contemporaneous agreements, promises, negotiations or representations, either oral or written, relating to the subject matter and period of time governed by this Agreement which are not expressly set forth herein are to have no force, effect, or legal consequences of any kind.

8.8 The following provisions of this Agreement may be altered by an amendment in writing and signed by both parties:

- Effective Date identified on the first page of this Agreement
- Contracted Products Attachment

The remainder of this Agreement will not be altered except by an amendment in writing signed by both parties and approved by CMS and the appropriate State control agencies.

8.9 Neither party contemplates any circumstances under which indemnification of the other party would arise. Nevertheless, should such circumstances arise, Manufacturer shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Manufacturer and its employees and agents under this Agreement, provided the Commonwealth gives the Manufacturer prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act,* Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P.S. § 732-101—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Manufacturer, the Commonwealth will cooperate with all reasonable requests of Manufacturer made in the defense of such suits.

Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Manufacturer to control the defense and any related settlement negotiations.

No provision of this Contract may be construed to waive or limit the sovereign immunity of the Commonwealth of Pennsylvania or its governmental sub-units.

8.10 With the exception of a transfer of ownership of a Contracted Product or of Manufacturer as described in 8.5, this Agreement is not assignable by Manufacturer either in whole or in part without the written consent of the Department, which will not unreasonably be withheld. This Agreement is not assignable by the Department either in whole or in part without the written consent of Manufacturer, which will not unreasonably be withheld.

8.11 Performance under this Agreement shall be contingent on CMS's valid authorization of the Pennsylvania State Supplemental Drug Rebate Program of which this Agreement forms a part.

8.12 The Department currently provides CMS full access to all information held by the Department regarding its delivery and reimbursement policies and the Pennsylvania Medicaid State Supplemental Rebate Program and shall continue to do so.

8.13 Noncompliance with any obligations hereunder due to force majeure, such as acts of God, laws or regulations of any government, war, terrorism, civil commotion, destruction of production facilities and materials, fire, earthquake, storm, labor disturbances, shortage of materials, failure of public utilities or common carriers, and any other causes beyond the reasonable control of the parties, shall not constitute breach of this Agreement.

8.14 Right to Know Law. This Agreement is subject to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-.3104.

[SIGNATURE PAGE FOLLOWS]

In consideration of the mutual covenants in this Agreement, including the General Supplemental Rebate Terms, the Contracted Products Attachment to this Agreement, and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties have entered into this Agreement and have caused their duly authorized representatives to execute this Agreement below.

MANUFACTURER

Signature / Title Date	Signature / Title Date
PRINT OR TYPE NAME AND TITLE	PRINT OR TYPE NAME AND TITLE

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES

DEPUTY SECRETARY	**SECRETARY OR DESIGNEE**
Signature Date	Signature Date

COMPTROLLER OPERATIONS

N/A

Signature Date

Approved as to Legality and Form:

OFFICE OF GENERAL COUNSEL DEPARTMENT OF HUMAN SERVICES	**DEPUTY ATTRONEY GENERAL OFFICE OF ATTORNEY GENERAL**	**DEPUTY GENERAL COUNSEL OFFICE OF GENERAL COUNSEL**

CONTRACTED PRODUCTS ATTACHMENT

Manufacturer	NDC	Product Description	Tier[1]	Formula[2]	Contracted Rate	Comments

[1] Tier

The Tier represents the number of brand drugs that may be preferred in the Contracted Product PDL category. Manufacturers may submit offers for any or all Tiers.

- Tier 1 - The Contracted Product will be the only preferred brand product in the PDL category.
- Tier 2 - The Contracted Product will be one of no more than two preferred brand products in the PDL category.
- Tier 3 - The Contracted Product will be one of no more than three preferred brand products in the PDL category.
- Tier 4 - The Contracted Product will be preferred (offer places no limitation on the number of preferred brand products in the PDL category).

[2] Formula

Formula 1: Percentage of WAC.

- Formula for Supplemental Rebate calculation: WAC*% of WAC =Supplemental Rebate Amount per unit

Formula 2: Guaranteed Net Price.

- Formula for Supplemental Rebate calculation: WAC-National Rebate-Guaranteed Net Price=Supplemental Rebate Amount per Unit.