

Frequently Asked Questions about Average Wholesale Price (AWP)

Q: What is AWP?

A: AWP is a “benchmark” used to determine how much pharmacies and health plans pay for prescription drugs. AWP’s are determined primarily by drug manufacturers self-reporting them to publishers such as First Databank. First Databank lists these AWP’s in publications used by pharmacies, health plans and others in paying for drugs.

Usually, pharmacies buy drugs from a wholesaler and then sell them to consumers. Since most consumers pay only part of a prescription via a fixed co-payment, the bulk of the cost of a prescription is paid by an insurance company (such as an HMO) or a government program (such as Medicaid or Medicare Part D). This payment to the pharmacy is called a “reimbursement.” Nearly every insurance company that pays for drugs uses the AWP as the basis for reimbursement. For example, a health plan’s contract with a pharmacy chain might specify that it will pay the pharmacy the AWP minus 8% for each prescription, plus a fixed dispensing fee. However, pharmacies typically purchase drugs based on another benchmark, the Wholesale Acquisition Cost (WAC). The difference between what the pharmacy paid (based on WAC) and what insurers reimburse the pharmacy (based on AWP), is known as the “spread.” The larger that difference, the larger the pharmacy’s profit. This lawsuit uncovered an alleged scheme to manipulate that spread.

A common joke in the field is that AWP stands for “Ain’t What’s Paid.” Certain aspects of the AWP system make ripe for abuse and the type of fraud allegedly perpetuated by First Databank and McKesson. There is a need for greater oversight and monitoring of AWP and of the drug reimbursement system generally.

Q: Who profits from inflated AWP’s?

A: Pharmacies profit from the difference between what they pay to the wholesaler and what they are paid by the insurance company or government as reimbursement. Effectively, the wider the gap between AWP and what the pharmacy actually paid for the medication, the larger their profit. In another class action lawsuit, *In re Pharmaceutical Industry Average Wholesale Price Litigation*, as well as lawsuits brought by more than 20 state Attorneys General, dozens of drug companies are alleged to have manipulated this “spread” in order to increase sales of their drugs. First Databank, as the largest and essentially only publisher of AWP data, enables this broken system to continue and thrive. Today’s settlement helps put an end to that.

Q: How did First Databank and McKesson benefit from this alleged scheme?

A: The lawsuit alleges that McKesson and First Databank conspired to artificially increase the markup between AWP and Wholesale Acquisition Cost (WAC) on hundreds of drugs, which would increase the “spread.” The case alleges that this benefited McKesson because it benefited McKesson’s customers (pharmacies and large institutional buyers), who would thus be more likely to purchase their drugs from McKesson than from a competing wholesaler. The case alleges that the scheme benefited First Databank because it encouraged pharmacies and others to purchase and use First Databank’s publications, which listed higher AWP’s, than publications of First Databank’s competitors.

Q: Who is affected by AWP?

A: Private health plans (including Medicare Part D plans), which provide prescription drug coverage for a majority of Americans, still overwhelmingly use AWP to pay pharmacies for the prescriptions their members fill. The manipulation of AWP increases their drug costs by billions of dollars every year. This, in turn, hurts consumers, as health plans pass on these expenses to their members, in the form of higher premiums and higher copayments. Higher premiums make it harder for employers to offer health insurance, and for lower income workers to pay for health insurance even when it is offered. This in turn increases the number of uninsured people and the burden on public health programs such as Medicaid. AWP inflation thus has a ripple effect throughout the entire health care system.

Q: Will consumers be eligible to receive money from this settlement?

A: No. This settlement achieves a massive rollback in drug prices. It does not involve a payment by First Databank of money damages. Although consumers and health plans will not receive cash as part of this settlement, they will get the benefits of \$4 billion in savings from the rollback, and the enormous long-term savings that will come from First Databank's ending the publishing of AWP.

Q: Has anyone discontinued the use of AWP?

A: After a number of government reports over several years documented massive overcharging of government health programs due to AWP inflation, both Medicare Part B (which pays for drugs administered in a doctor's office) and Medicaid are phasing out the use of AWP and adopting other, more transparent benchmarks to decide how much to pay for drugs. Several states, such as Texas, try to force drug companies to verify the accuracy of their published AWP.

Q: Are PAL members involved in other cases concerning AWP?

A: This agreement falls on the heels of a \$70 million settlement by drug maker GlaxoSmithKline (GSK) over claims in the *In re Pharmaceutical Industry Average Wholesale Price* litigation brought by PAL members and others. That case alleged that GSK had defrauded cancer patients by illegally inflating the AWP for two cancer drugs to increase their own sales. That case continues against dozens of other major drug companies.

Q: What is the future of AWP?

A: First Databank, the main publisher of AWP data, has agreed to go out of the business of publishing AWP, as long as its competitors do likewise. Following the settlement, private health plans are likely to shift over time to more accurate and transparent benchmarks as AWP data becomes unavailable. They may shift to using Wholesale Acquisition Cost (WAC), which is based on what wholesalers pay drug manufacturers, or to Average Manufacturers' Price (AMP), which Medicaid is slated to begin using in 2007.

Q: Will eliminating AWP mean the end of the manipulation of drug prices?

A: No. Unscrupulous industry players will always try to manipulate whatever system is in place. The other available benchmarks are more transparent, and thus less susceptible to manipulation. Although no system is fraud-proof, the greater the transparency and accuracy, the harder it will be to manipulate prices. The end of AWP should mean a massive reduction in the manipulation of drug prices through illegal tactics. However, aggressive monitoring and oversight by state and federal governments is necessary to ensure that drug industry players do not engage in this kind of fraud.