

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-13-15
Baltimore, Maryland 21244-1850

Center for Medicaid and State Operations

November 17, 2009

TO: Drug Rebate Technical Contacts
FROM: Medicaid Drug Rebate Program
SUBJECT: Deleted Products--Immediate Action Required

The following NDCs do not meet the definition of a covered outpatient drug as set forth in Section 1927(k)(2) of the Social Security Act (the Act). As a result, they are no longer eligible for inclusion in the Medicaid Drug Rebate Program. The products that are no longer rebate eligible are:

00536-0004	ORALYTE SOLUTION UNFLAVORED
00536-0935	ORALYTE SOLUTION-FRUIT FLAVOR
00536-0936	ORALYTE SOLUTION-BUBBLE GUM
00536-1385	ORALYTE SOL-GRAPE 33 OZ

Consequently, these NDCs should be deleted from your state Medicaid Drug Rebate system as of the date of this notice. The labeler of these products is responsible for paying rebates on these NDCs if they were dispensed prior to the date of this notice. In addition, states should be aware that the fourth quarter 2009 tape to states will be the last quarterly tape that will include these NDCs in order to facilitate rebate billing for any utilization that occurred in good faith prior to the date of this notice. However, states are reminded that no Federal Financial Participation will be available for these NDCs after the date of this notice.

The decision in this response is limited to and based upon the facts described in this response and our understanding of the facts as described in the submission. This response cannot be considered an advisory opinion under section 1128D(b) of the Social Security Act, since only the Department's Inspector General has been authorized to issue advisory opinions relating to health care fraud and abuse under that section. This response is not a release of liability.