

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

DATE: March 30, 2010

TO: Drug Rebate State Technical Contacts

FROM: Medicaid Drug Rebate Program

SUBJECT: Product Deletions--Immediate Action Required

The NDCs listed below are dietary supplements; therefore, the NDCs do not meet the definition of a covered outpatient drug as defined in Section 1927(k) of the Social Security Act and are subsequently no longer eligible for inclusion in the rebate program. **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 any of these NDCs that were dispensed prior to the date of this notice. In addition, states should be aware that the first quarter 2010 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 (FFP) will be available for these drugs after the date of this notice for purposes of the Medicaid Drug Rebate Program. Please note that while these products are not eligible for coverage or FFP under the Medicaid Drug Rebate Program, they may be eligible for Medicaid coverage or FFP as part of home health services, EPSDT services as defined in section 1905(r)(5) of the Social Security Act, or elsewhere to the extent that such coverage is consistent with the approved state plan. In other words, notice of non-coverage of these products as covered outpatient drugs does not necessarily exclude them from appropriate coverage elsewhere in the Medicaid program.

NDC	PRODUCT NAME
63717-0099	ICAR-C Tablets
63717-0102	ICAR Pediatric Suspension
63717-0103	ICAR Pediatric Chewable Tablet

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.