Centers for Medicare & Medicaid Services, HHS § 447.53

charges, it must ensure that lower income individuals are charged less than individuals with higher income.

(h) Services furnished by a managed care organization (MCO). Contracts with MCOs must provide that any cost-sharing charges the MCO imposes on Medicaid enrollees are in accordance with the cost sharing specified in the state plan and the requirements set forth in §§447.50 through 447.57.

(i) State Plan Specifications. For each cost sharing charge imposed under this part, the state plan must specify—

(1) The service for which the charge is made;
(2) The group or groups of individuals that may be subject to the charge;
(3) The amount of the charge;
(4) The process used by the state to—
   (i) Ensure individuals exempt from cost sharing are not charged,
   (ii) Identify for providers whether cost sharing for a specific item or service may be imposed on an individual and whether the provider may require the individual, as a condition for receiving the item or service, to pay the cost sharing charge; and

(5) If the agency imposes cost sharing under §447.54, the process by which hosp-
ital emergency room services are identified as non-emergency service.

§ 447.53 Cost sharing for drugs.

(a) The agency may establish differential cost sharing for preferred and non-preferred drugs. The provisions in §447.56(a) shall apply except as the agency exercises the option under paragraph (d) of this section. All drugs will be considered preferred drugs if so identified or if the agency does not differentiate between preferred and non-preferred drugs.

(b) At state option, cost sharing for drugs may be established at or below the amounts shown in the following table (except that the maximum allowable cost sharing shall be increased each year, beginning October 1, 2015, by the percentage increase in the medical care component of the CPI-U for the period of September to September of the preceding calendar year, rounded to the next higher 5-cent increment. Such increase shall not be applied to any cost sharing that is based on the amount the agency pays for the service):

<table>
<thead>
<tr>
<th>Services</th>
<th>Maximum allowable cost sharing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Individuals with family income</td>
</tr>
<tr>
<td>Preferred Drugs</td>
<td>$4</td>
</tr>
<tr>
<td>Non-Preferred Drugs</td>
<td>8</td>
</tr>
</tbody>
</table>

(c) In states that do not have fee-for-service payment rates, cost sharing for prescription drugs imposed on individuals at any income level may not exceed the maximum amount established for individuals with income at or below 150 percent of the FPL in paragraph (b) of this section.

(d) For individuals otherwise exempt from cost sharing under §447.56(a), the agency may impose cost sharing for non-preferred drugs, not to exceed the maximum amount established in paragraph (b) of this section.

(e) In the case of a drug that is identified by the agency as a non-preferred drug within a therapeutically equivalent or therapeutically similar class of drugs, the agency must have a timely process in place so that cost sharing is limited to the amount imposed for a preferred drug if the individual’s prescribing provider determines that a preferred drug for treatment of the same condition either will be less effective for the individual, will have adverse effects for the individual, or both. In such cases the agency must ensure that reimbursement to the pharmacy is based on the appropriate cost sharing amount.