

HIV Care ValueSM (HIVCV) Program Terms & Conditions

Terms & Conditions only apply to Option 1

Definitions

- “HIVCV Program” means the Express Scripts HIV Care Value Program.
- “HIV Products” means those products listed on the HIVCV Program product list, which will be provided to Sponsor upon request. The HIVCV program product list may be updated from time to time by Express Scripts.
- “HIV Preferred Product” means those HIV Products that are eligible for HIVCV Pharma Value. The list of HIV Preferred Products are available to Sponsor upon request and may be updated from time to time by Express Scripts.
- Capitalized terms used but not defined herein will have the meanings given those terms in the PBM Agreement between Sponsor and Express Scripts

Program Terms

- Sponsor’s enrollment in the HIVCV Program will be effective on the date communicated to Sponsor by Express Scripts and will continue until: 1) Sponsor affirmatively disenrolls by sending written notice of Sponsor’s desire to disenroll to Express Scripts or 2) Express Scripts either: (a) no longer provides PBM Services to Sponsor or (b) discontinues the HIVCV Program. For sake of clarity, if Sponsor and ESI enter into a new PBM Agreement, Sponsor’s participation in the HIVCV Program will continue until such time as Sponsor affirmatively disenrolls by sending written notice to Express Scripts, notwithstanding any provision of the new PBM Agreement to the contrary. Any written disenrollment will be effective within 60 days after it is received by Express Scripts. If Sponsor’s PBM Agreement with ESI is terminated and is not renewed, Sponsor’s enrollment in the HIVCV Program will cease upon the termination date of the PBM Agreement.
- HIV Preferred Products must not be restricted or disadvantaged with respect to formulary status or step therapy. Sponsor’s prior authorization or other utilization management imposed on HIV Preferred Products shall be no more restrictive than the FDA-approved label for such HIV Preferred Product. If at any time Sponsor does not meet these requirements, Sponsor is not eligible for participation in the HIVCV Program and notwithstanding anything herein to the contrary, will be disenrolled as soon as reasonably practicable.
- Through December 31, 2020, if Sponsor participates in the program, Sponsor will be eligible for the trend cap (described below) which will be paid out on an annual basis (through 2020) if Sponsor’s trend exceeds the cap.
- Starting January 1, 2021, Express Scripts will provide Sponsor’s Members with the opportunity to utilize a patient engagement tool. The patient engagement tool is a pill bottle cap that will leverage digital capabilities to help members take medications on time with support through reminders and alerts.
- Sponsor agrees that Express Scripts may contact Sponsor’s members and/or providers including via electronic means to discuss the HIVCV Program and inform members about Express Scripts’ digital communication initiatives, including the Express Scripts’ patient engagement tool.
- Sponsor agrees that Express Scripts may share Sponsor’s member contact information (including electronic addresses) with vendor(s) that provide the Programs (as defined below), to allow the Programs vendors to contact Sponsor’s members regarding enrollment in Programs. Sponsor further agrees the Programs vendors may contact Sponsor’s members for any purposes related to the Programs.

Terms Specific to Trend Cap (only applicable through December 31, 2020)

- The HIVCV trend cap for 2020 will be communicated by Express Scripts to Sponsor.

- Only utilization of HIV Products while Sponsor is enrolled in the HIVCV program will count towards the trend cap. Only utilization of HIV Products while the member is covered by Sponsor's plan will count towards the trend cap. Only HIV Products that adjudicate through the pharmacy benefit will be included in the HIV Product spend calculation.
- ESI will provide Sponsor with a credit, dollar for dollar, to the extent that Sponsor's actual, aggregate HIV Product spend during the Measurement Period (as compared to the Baseline Period) exceeds the trend cap. For calendar year 2020, the Measurement Period shall be the time period from May 1, 2020 through December 31, 2020. ESI will determine if the trend cap is exceeded by comparing the actual aggregate HIV Products ingredient cost billed to Sponsor plus member cost sharing for the Measurement Period divided by the actual aggregate HIV Products ingredient cost billed to Sponsor plus member cost sharing for the 2019 Baseline Period. The 2019 Baseline Period is the period of time from May 1, 2019 through December 31, 2019. The HIVCV trend cap will not be offered after 2020.
- Any changes to Sponsor's plan, formulary, benefit design, discounts, or utilization may result in an adjustment to Sponsor's HIVCV trend cap, including but not limited to ineligibility for the HIVCV trend cap. The trend cap may be adjusted by ESI if there are significant changes to FDA approved label or guidelines for treatment for HIV Products. If Sponsor becomes ineligible for the HIVCV trend cap or disenrolls from the HIVCV Program (including by terminating the PBM Agreement) during the Measurement Period, the HIVCV trend cap will not apply for 2020 and Sponsor will not receive any proration of the HIVCV trend cap.
- If Sponsor had no utilization of HIV Products or was not an ESI client during the 2019 Baseline Period, Sponsor's HIVCV trend cap will be based on average utilizing member HIV Product spend for ESI's book of business.
- The total value to be paid to Sponsor under HIVCV Program trend cap will not exceed 1.25% of aggregate AWP of the HIV Products billed to Sponsor for the applicable measurement period.

General Terms

- Express Scripts reserves the right to terminate or modify the program at any time.
- As part of the HIV Care Value Program, Express Scripts will provide Sponsor with participation in clinical programs, including but not limited to, patient engagement tools and/or adherence outreach programs (the "Programs"). Express Scripts may receive additional discounts from pharmaceutical manufacturers in connection with the HIVCV Program (the "HIVCV Pharma Value"). As consideration for the administrative services rendered under the HIVCV Program (including the Programs), Express Scripts is entitled to an administrative fee paid by Sponsor not to exceed 2.75% of the Wholesale Acquisition Cost of the HIV Products covered under the HIVCV Program (the "HIVCV Admin Fee"). For convenience and ease of administration, Express Scripts may retain the HIVCV Admin Fee out of the HIVCV Pharma Value. If any additional HIVCV Pharma Value is remaining after subtraction of the HIVCV Admin Fee it will be distributed to Sponsor as part of the HIVCV Program.
- Payments under the program will be made annually, and Express Scripts will make reasonable efforts to provide payment by March 31 of the following year, to all clients that are in Express Scripts active status. Clients who disenroll during the applicable period are not eligible for reimbursement. No reimbursement will be made to any member.
- Sponsor agrees that nothing in this program is designed or intended to vest Express Scripts with discretionary authority over the control of Sponsor's plan assets or otherwise vest Express Scripts with fiduciary status with respect to Sponsor's plan(s).
- Sponsor may opt-out of the HIVCV Program at any time by communicating its decision in writing to Express Scripts. Disenrollment will be effective no later than 60 days after written notice is received by Express Scripts
- Medicare, Medicaid, and other government health care program claims will be excluded from the program.
- ESI has structured the terms of this program to comply with certain exceptions and safe harbors to the Federal Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)), including the discount exception (42 U.S.C. § 1320a-7b(b)(3)(A) and safe harbor (42 C.F.R. § 1001.952(h)). ESI will treat any reimbursement made to Sponsor hereunder as retrospective discounts on the price of the product paid by Sponsor. ESI will fully and accurately report such discounts on the payment advice submitted to Sponsor. ESI hereby informs Sponsor that it may be required by law to properly disclose and appropriately reflect (in any costs claimed or charges made) all such discounts. Further, ESI will refrain from taking any action that would impede or frustrate Sponsor in any such disclosure requirements. Sponsor may be required to provide information on the discount furnished to Sponsor to the Secretary of Health and Human Services, or any state or other governmental agency, upon request. ESI will comply with all applicable reporting and disclosure obligations.