

## **ABBOTT NUTRITION'S CHARGEBACK POLICY**

Abbott Nutrition's Chargeback Policy ("Chargeback Policy") as set forth herein establishes the terms and conditions upon which Abbott Nutrition, a division of Abbott Laboratories Inc. ("Abbott Nutrition" or "AN") will provide Chargeback Distributor with Chargeback Rebates on purchases of products on a Chargeback Pricing Contract, as all terms are defined herein. Any terms and conditions not set forth herein shall be governed by the applicable written agreement in place between Abbott Nutrition and Chargeback Distributor ("Agreement") or Abbott Nutrition's Distributor Terms and Conditions ("Distributor Terms and Conditions"). In the event of a conflict between Distributor Terms and Conditions and the Agreement, the Agreement will control.

**Definitions.** The following ascribed definitions shall apply to this Chargeback Policy:

**"Acquisition Price"**: The applicable prices as reflected on Chargeback Distributor's invoices from AN for product purchases under any Agreement between AN and Chargeback Distributor. AN Products not covered by an Agreement shall be invoiced at the applicable list pricing and Distributor Terms and Conditions.

**"AN Products"**: All products available from Abbott Nutrition as published on e-Abbott.

**"Chargeback Claim"**: Chargeback Distributor's request for the payment of a Chargeback Rebate submitted to AN in accordance with the provisions set forth in the Agreement and Chargeback Policy.

**"Chargeback Distributor"**: An entity and its locations that is authorized by AN in writing or through a written agreement executed by both parties to distribute its products and submit Chargeback Claims.

**"Chargeback Price"**: The 30 case bracket price on a Chargeback Pricing Contract in effect as of the Transaction Date for the End-User participating on such Chargeback Pricing Contract. In the event the Chargeback Pricing Contract does not have a 30 case bracket price, then the next lower case bracket shall be used.

**"Chargeback Pricing Contract"**: A pricing contract in effect for an End-User as of the Transaction Date as determined by Abbott Nutrition.

**"Chargeback Rebate"**: The amount calculated as the difference between Chargeback Distributor's 125 case bracket Acquisition Price for AN Products covered by an Agreement between AN and Chargeback Distributor and the Chargeback Price. For any products not covered by an AN Agreement, the Chargeback Rebate shall be the difference between the 60 case list bracket price and the Chargeback Price. In the event the 125 case Acquisition Price changes in an Agreement or the applicable list price bracket to be used in calculating Chargeback Rebates changes, AN shall notify Chargeback Distributor of the correct Acquisition Price bracket to be used for calculation of the Chargeback Rebate. Any applicable Chargeback Rebates are paid by AN to Chargeback Distributor in accordance with the Agreement and Chargeback Policy.

**"e-Abbott"**: AN's web-based system for electronic data exchange between AN and its Chargeback Distributors located at [www.e-Abbott.com](http://www.e-Abbott.com).

**"End-User"**: An entity which purchases from Distributor and meets the requirements as defined in the "Own Use" section of Distributor Terms and Conditions located on e-Abbott, or as otherwise defined in the Agreement.

**"End-User Pricing Contract"**: Chargeback Pricing Contract that is an agreement between AN and an End-User or an entity authorized to contract on behalf of End-Users, such as a group purchasing organization.

**"Membership"**: End-Users' access to Chargeback Pricing Contract(s) including the effective dates of End-Users' access to any such Chargeback Pricing Contract as determined by AN.

**"Price Notification"**: AN's notification to its Chargeback Distributors of the information relating to Chargeback Pricing Contracts, including the products, pricing, pricing effective dates, and Membership which may also be called a "Bid Award".

**"Transaction Date"**: Chargeback Distributor's date of invoice for Abbott Nutrition products shipped to its End-User(s), the date of invoice provided to patients or End-Users and invoiced to another End-User, or the third-party payor claim date for AN Products provided to a patient and billed to a third-party payor using Chargeback Distributor's own provider number.

**"Transaction Number"**: Chargeback Distributor's invoice number for AN Products shipped to its End-User(s), the invoice number for AN Products provided to patients or End-Users and invoiced to another End-User, or the third-party payor claim identification number for AN Products provided to a patient and billed to a third-party payor using Chargeback Distributor's own provider number.

1. **Chargeback Requirements.** Chargeback Distributor must comply with the following provisions:
  - 1.1. Chargeback Distributor must be authorized in writing by AN to participate under this policy.
  - 1.2. Chargeback Claims must be submitted in a format that complies with all of the data requirements set forth in this Chargeback Policy within 60 days of the Transaction Date.
  - 1.3. Chargeback Distributor will not submit any transaction data on Chargeback Claims that includes future-dated End-User shipments.

- 1.4. Chargeback Distributor shall not submit End- User shipments on Chargeback Claims as summary-level transaction data. AN will only accept Chargeback Claims with complete line item detail for End-User transaction data.
- 1.5. Chargeback Distributor must submit Chargeback Claims electronically through: (a) Electronic Data Interchange ("EDI") ASC X12 844 ("Product Transfer Account Adjustment"), (b) EDI ASC X12 867 ("Product Transfer and Resale Report"), or (c) e-Abbott.
- 1.6. Chargeback Distributor shall not submit any Chargeback Claims for AN Products that have not been purchased from and delivered by AN to its distribution locations which Chargeback Distributor then ships to End Users.
- 1.7. Chargeback Claims must not relate to a distribution and/or resale of Products to an entity which is also authorized by AN to submit Chargeback Claims.
- 1.8. If Chargeback Distributor has been paid a Chargeback Rebate for saleable AN Product that is later returned to Chargeback Distributor which Chargeback Distributor returns to inventory for future distribution to other End-Users, then Chargeback Distributor must report such return to AN within 60 days as a negative Chargeback Claim, which shall reverse any prior Chargeback Rebate paid to Chargeback Distributor.
- 1.9. Chargeback Distributor must provide a request for End-User pricing at least fifteen (15) days in advance of Chargeback Distributor extending a price to such End-User. Approved pricing will be confirmed by AN through the electronic price notification bid award process. Failure to provide request may result in denial of Chargeback Claim. AN reserves the right of final approval of all End-User contract pricing access including retroactive pricing.

2. **Price Notifications.**

- 2.1. AN will provide Price Notifications on each business day, through EDI or via an email notification from e-Abbott. Chargeback Distributor may also review Price Notification information at any time on e-Abbott.
- 2.2. Information contained in Price Notifications must be applied by Chargeback Distributor to any future Chargeback Claims.
- 2.3. Abbott Nutrition will make every effort to provide 30 days advance notice of changes to Chargeback Pricing Contracts. However, if requested by End-User and agreed to by AN, AN reserves the right to change Chargeback Pricing Contracts within one day's notice.

3. **Chargeback Claim Data.** Chargeback Distributor shall include the following information on each Chargeback Claim:

- 3.1. Chargeback Distributor's name, address, and either its AN 8-digit account number, DEA/HIN number, or its AN approved alternate identification number.
- 3.2. End-User's ship-to name, ship-to address, and either their AN 8-digit account number, DEA/HIN number, or the AN approved alternate identifier for Chargeback Distributor's End-Users ("End-User Identification Number" or "EIN").
- 3.3. End-User's bill-to name, bill-to address and either their AN 8-digit account number, DEA/HIN number, or the AN approved EIN.
- 3.4. Chargeback Distributor's Transaction Date and Transaction Number.
- 3.5. Product UPC, NDC or AN item number.
- 3.6. The number of units of AN Product in each transaction.
- 3.7. Unit of measure (each, carton or case) of each transaction.
- 3.8. A transaction type identifier to indicate a sale or return.
- 3.9. The Chargeback Pricing Contract identification number against which Chargeback Distributor is submitting its Chargeback Claim.
- 3.10. The Acquisition Price for each AN Product as of the Transaction Date.
- 3.11. The Chargeback Price for each AN Product as identified on the Price Notification as of the shipment date.
- 3.12. The calculation of the Chargeback Rebate for each AN Product and the total dollar amount being requested. A sample calculation follows:

$$(\text{Acquisition Price} - \text{Chargeback Price}) \times (\text{Total Units}) = \text{Chargeback Rebate}$$

- 3.13. Chargeback Distributor's assigned debit memo number for the Chargeback Claim.

***Failure to provide timely, complete and accurate data as required by the Chargeback Policy or otherwise defined in Chargeback Distributor's Agreement with AN may result in denial of all or part of the Chargeback Claim, and any applicable allowances, fees or rebates due Chargeback Distributor. AN***

***will notify Chargeback Distributor of any denied Chargeback Claims, allowances, fees or rebates via an electronic chargeback claim acknowledgement or other written communication. Failure to comply with formatting and data requirements will not release the Chargeback Distributor from the time frames outlined within the Chargeback Policy.***

4. **Initial Chargeback Claim Processing.**

- 4.1. Chargeback Rebates shall be paid solely in the form of a credit memo after the appropriate documentation has been accepted and approved by AN.
- 4.2. AN will provide confirmation of Chargeback Rebates and a reconciliation of Chargeback Distributor's Chargeback Claims electronically through EDI or e-Abbott.
- 4.3. Chargeback Distributor shall not take deductions to offset Chargeback Claim amounts against any payments due AN. Upon receipt of the chargeback claim acknowledgement from AN, Chargeback Distributor agrees to reconcile the information with Chargeback Distributor's records and resolve all discrepancies including but not limited to unit of measure, Acquisition Cost, Membership, End-User identifier, End-User pricing, and any allowances, fees, or rebates paid as part of the Chargeback Claim.

5. **Resubmitted Chargeback Claim Processing.**

- 5.1. For Chargeback Claims where Chargeback Distributor has not been paid the full amount originally requested, then Chargeback Distributor may resubmit a Chargeback Claim to request additional credit.
- 5.2. Chargeback Claims resubmitted for additional credit must be received by AN within one year from the Transaction Date.
- 5.3. Chargeback Distributor must provide appropriate written documentation verifying End-User's election of the requested Chargeback Pricing Contract to support the Chargeback Claim resubmitted for additional credit. Upon AN's approval of the documentation, AN will credit the Chargeback Distributor the amount of the resubmitted Chargeback Claim.
- 5.4. If Chargeback Distributor resubmits a Chargeback Claim where the original Chargeback Claim was not submitted within 60 days of the Transaction Date, then the resubmitted Chargeback Claim is subject to denial by AN including any applicable allowances, fees or rebates due Chargeback Distributor from such Chargeback Claims.
- 5.5. Shipments to End-Users originally submitted in a Sales Tracings Report (as hereinafter defined) where no Chargeback Rebate has been requested are not considered part of a Chargeback Claim. If Chargeback Distributor subsequently elects to submit a Sales Tracings Report transaction to request a Chargeback Rebate as part of a Chargeback Claim, then such transactions are required to meet all Chargeback Claim requirements including the timing requirement that Chargeback Claims be submitted within 60 days of the Transaction Date.

6. **Sales Tracing Reports.** In addition to Chargeback Claims, Distributor shall provide AN on at least a monthly basis a report of all AN Products purchased and subsequently distributed that indicates: **(a) AN Item Number;** (b) AN Item Description; **(c) End-User Identification Number ("EIN");** or Distributor's name, address and zip code of each End-User; **(d) UOM;** **(e) Quantity;** **(f) Transaction Date;** **(g) Transaction Number;** (h) Distributor distribution center identifier; **and (i) transaction type (sales or return)** ("Tracings"). If Tracings includes AN Product shipped directly to Distributor's patients, or Distributor is contractually or otherwise obligated to "blind" the End-User, then (c) above may be limited to the zip code of the point of delivery. Tracings shall be transmitted electronically to AN, by the end of the calendar week immediately following the month of the Transaction Date, through: (a) Electronic Data Interchange ("EDI") ASC X12 867, or (b) e-Abbott. If Chargeback Distributor receives products returns from End-Users which is placed back into inventory by Chargeback Distributor for distribution to other End-Users, then Chargeback Distributor must report such return to AN within 60 days as a negative Tracings to reverse the original Tracings transaction.

7. **Inventory Adjustments.** In anticipation of AN Acquisition Price changes, Chargeback Distributor shall not: (i) purchase excess AN Product for the express purpose of revaluing such excess inventory at higher pricing, nor (ii) knowingly support any End-User from drawing excess inventory for the purpose of revaluing such inventory at higher pricing and (iii) take any inventory adjustments due to Acquisition Price changes submitted as invoices or deductions to AN outside of the terms contained herein. AN in its sole discretion, reserves the right to request validation and limit order quantities for any purchase orders in excess of the monthly order average for the prior 12 months. In instances of wholesale changes by AN where AN communicates a new Acquisition Price schedule to its Chargeback Distributors, and provides advance written notice, the following "Inventory Revaluation

Process" shall apply: (i). AN will assume Chargeback Distributor carries a 30 day inventory of AN Products to facilitate the ongoing exchange of Chargeback Claims. AN will pay Chargeback Rebates for Chargeback Claims submitted with Transaction Dates for the 30 days following the effective date of an Acquisition Price change using the Acquisition Price in effect the day prior to the effective date of the Acquisition Price change; or (ii). alternatively, Chargeback Distributor may elect to provide actual inventory levels for AN Products at the close of business the day prior to the Acquisition Price change. If Chargeback Distributor elects to provide inventory levels to AN, Chargeback Distributor must notify AN in writing at least 10 business days prior to the effective date of the Acquisition Price change. Upon such notification, AN will provide Chargeback Distributor an electronic template containing the data elements required. Upon receipt of the actual inventory levels from Chargeback Distributor, AN will complete an inventory revaluation and notify Chargeback Distributor of the resulting net debit or credit amount. If the resulting amount is a debit due AN, payment in full is due within 30 days from the date of invoice, otherwise the Limitations on Payment section of this Agreement shall apply. The above requirements notwithstanding, Acquisition Price changes of individual AN Products are not subject to the Inventory Revaluation Process unless Chargeback Distributor is notified by AN. Any other deviations to the Inventory Revaluation Process shall require prior written agreement of both parties. AN may change the Inventory Revaluation Process at any time with 60 days advance written notice to Chargeback Distributor.

8. **Audit**. Chargeback Distributor shall maintain accurate books, records and files with respect to AN Products sold to and by Chargeback Distributor as required by law. Upon 30 days advance written notice from AN, an officer with financial oversight responsibility shall certify that Chargeback Distributor is in compliance with the Agreement and the Chargeback Policy, Chargeback Distributor will permit AN or a third party designated by AN to audit Chargeback Distributor's records during normal business hours to verify compliance for a time period no less than 3 years from Chargeback Distributor's date of sale to the End-User except when diversion and/or chargeback fraud is suspected. In the case of diversion or chargeback fraud, any relevant transactions are subject to audit. Upon AN's request, Chargeback Distributor shall identify AN Products and its customer shipments to AN's satisfaction. Chargeback Distributor shall, in a timely manner, provide AN or its third-party designee, with all records necessary to perform such audit and shall take all steps necessary to ensure that such records are provided to AN in compliance with all applicable federal and state laws, including but not limited to, the HIPAA Privacy and Security Standards. AN will take all reasonable steps to maintain the confidentiality of the information provided. In addition, any third-party designee will be required to hold price, cost, fee or other confidential financial information of Chargeback Distributor observed during such review in confidence and refrain from sharing it with any persons other than representatives from AN who have a need to know for purposes of determining compliance and resolving issues relating to transactions. If Chargeback Distributor refuses to provide such information in a timely manner to enable AN or its representative to conduct such audit, then AN may immediately: (a) terminate the Agreement including Distributor's eligibility to submit Chargeback Claims; (b) withhold shipments of AN Products to Chargeback Distributor; and (c) seek reimbursement for any Chargeback Rebates paid, and payment for the difference between Chargeback Distributor's Acquisition Price and AN's trade price in effect at the time of purchase, plus a 15% administrative charge.
9. **Limitations on Payment**. Any and all amounts payable by AN are subject to Chargeback Distributor being in good financial standing with AN. Chargeback Distributor shall not deduct or invoice AN for any discounts, allowances, fees, or rebates payable to Chargeback Distributor in advance of any payment by AN without prior written approval from AN. In the event Chargeback Distributor owes past due balances to AN on any account for any reason, then AN, at its sole discretion, may deduct the amount of such past due balance from any amount payable to Chargeback Distributor including, but not limited to Chargeback Rebates, allowances, fees, rebates, or Inventory Revaluations. Any such amount shall be communicated in writing to Chargeback Distributor, credited towards Chargeback Distributor's outstanding balance, and updated in Chargeback Distributor's account record.