

340B PROTECTION BILL FACT SHEET

Purpose

Protect 340B funded programs by prohibiting pharmacy benefit managers or health insurers from treating 340B pharmacies different simply because they offer 340B pharmaceuticals.

History

As a condition of participating in Medicare and Medicaid, Congress required pharmaceutical manufacturers to sell outpatient drugs at discounted prices to health care organizations that care for many uninsured and low-income patients (Section 340B of the Public Health Service Act). Participation in the 340B program stretches limited federal resources to make medications and services affordable for those in need.

Organizations (also called 340B “covered entities”) include:

- Community Health Centers
- Ryan White Centers
- Hemophilia Treatment Centers
- Tribal & Urban Indian Health Centers
- Children’s Hospitals
- Critical Access Hospitals
- Sole Community Hospitals
- Public & Nonprofit Disproportionate Share Hospitals (DSH)

The 340B program allows organizations to:

- Make drugs affordable for low-income uninsured and underinsured patients
- Provide pharmaceutical access in rural areas
- Support other key services to expand access to medically vulnerable patients, such as:
 - Affordable dental services
 - Diabetes testing and education
 - Substance Abuse Treatment programs
 - Sliding fee scale & copay assistance for medical and mental services
 - Hepatitis C screening, diagnoses, & management

Threat

The 340B funded programs risk being reduced or eliminated as organizations are being forced to hand over their 340B funds to private, for-profit entities who were never intended to benefit from the program and have found creative ways to boost their profits at the expense of CHCs’ underserved patients. Pharmacy benefit managers or health insurers discriminate against organizations serving those in need by:

- Forcing acceptance of contracts offering lower reimbursement (“Pickpocketing”)
- Requiring additional fees, audits, and information
- Limiting participation in standard or preferred pharmacy networks
- Treating 340B covered entities different because of participation in the 340B Program

Draft Bill

Limits placed on:

- Health Insurers
- Pharmacy Benefit Managers

Actions prohibited:

- Reimbursing 340B covered entities at rates lower than rates reimbursed to non-340B entities for the same drug and the same pharmacy prescription volume
- Assessing any fee, chargeback, clawback, adjustment or other assessment on the 340B covered entity on the basis that it participates in the 340B Program
- Restricting access to pharmacy networks on the basis of participation in the 340B Program
- Requiring the 340B covered entity to enter into contract with a specific pharmacy or health care plan
- Establishing restrictions or additional charges on patients who choose to receive drugs from a 340B covered entity
- Restricting the methods or pharmacies by which a 340B covered entity may dispense or deliver 340B drugs
- Refusing to provide reimbursement or coverage for 340B drugs
- Establishing additional requirements or restrictions on the 340B covered entity
- Requiring additional reporting requirements (except as required for Medicaid)
- Discriminating against a 340B covered entity in a manner preventing or interfering with an eligible patient's choice to receive the drugs from the 340B covered entity
- Discriminating against a 340B covered entity in a manner interfering with the ability of a covered entity to maximize the value of discounts provided in the 340B Drug Discount Program

Authorizes the Department of Insurance & Financial Institutions to impose penalties, including monetary penalties, for violations

Makes a violation an unfair or deceptive act or practice in the business of insurance and void and unenforceable

Does not apply to AHCCCS or Medicaid