

# Protect 340B Prescription Drug Discounts



## Highlights

- Congress created the 340B prescription drug discount program to help hospitals stretch scarce federal resources as far as possible.
- Hospitals have lost access to many of the 340B discounts they previously received due to illegal actions by drug companies and aggressive policies from pharmacy benefit managers.
- Additionally, fluctuations in patient mixes during the COVID pandemic could threaten 340B eligibility.

## Hospitals use Savings from 340B to Help Stretch Scarce Federal Resources

Since its inception in 1992, hospitals have used discounts for outpatient drugs obtained under Section 340B of the Public Health Service Act to help stretch scarce federal resources as far as possible, just as Congress intended when it created the program.

Wisconsin hospitals and health systems have used the savings provided by 340B discounts for a wide range of services, including:

- Providing free or low-cost dental care or medical care.
- Expanding access to behavioral health services which often run large deficits.
- Operating remote dispensing sites to help patients in rural communities get access to prescription medication without driving long distances.
- Offsetting double-digit increases in prescription drug costs faced by hospitals.
- Offsetting other losses hospitals face from Medicaid and Medicare, which typically pay only 66% and 73% of cost, respectively.

## Large Drug Companies Continue to Unlawfully Deny Required 340B Discounts

Since the summer of 2020, many large drug manufacturers have stopped honoring 340B discounts at community pharmacies that contract with hospitals. Despite the Trump Administration issuing an advisory opinion and the Biden Administration taking actions affirming the illegality of denying these discounts, drug companies continue to deny them and are litigating the issue in a series of separate court cases. A [recent survey of 510 hospitals across the country done by 340B Health](#) found that Critical Access Hospitals surveyed saw their savings from community contract pharmacies decrease by 39% on average – with the median reported loss being \$220,000 annually.

## Please Continue to Support and Protect the 340B Discount Drug Program

While the 340B program has been a lifeline for hospitals throughout its existence, hospitals have faced mounting barriers to 340B discounts at a time when they are also on the frontlines of fighting a global pandemic. In addition to the community contract pharmacy issue, legislation has been introduced to protect the 340B program from other challenges:

- **Protecting hospitals from losing eligibility due to patient fluctuations occurring as a result of COVID-19** – [S. 773/H.R. 3203](#). Some 340B hospitals must meet a certain threshold of Medicaid inpatient days to maintain DSH eligibility. This legislation introduced by Senators Thune (R-SD) and Baldwin (D-WI) and Reps. Doris Matsui (D-CA) and Chris Stewart (R-UT) would temporarily waive this requirement during the public health emergency. This would give hospitals one less thing to worry about as they attempt to return to normal.
- **The PROTECT 340B Act of 2021** – [HR 4390](#). Some pharmacy benefit managers (PBMs) have threatened hospitals with lower reimbursements for the drugs they obtain via the 340B program. This would essentially allow the PBMs to steal the savings Congress intended from this program to support hospitals. This legislation from Reps. David McKinley (R-WV) and Abigail Spanberger (D-VA) would prevent this type of discriminatory reimbursement.

## WHA Position

Hospitals have faced unprecedented challenges during the COVID-19 pandemic. Unfortunately, even 340B discounts were put in jeopardy.

- Currently, more than a dozen drug manufacturers are denying 340B discounts dispensed at community pharmacies hospitals contract with.
- Changes in patient mixes created by COVID-19 threatened hospital eligibility for 340B discounts.

## WHA Ask:

***Please continue to support the 340B discount drug program by cosponsoring S.773/H.R.3203 and H.R.4390 – legislation that would protect the 340B program.***

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February 2022