

Bipartisan Group of U.S. Senators Release 340B Sustain Act Discussion Draft

Legislation would resolve contract pharmacy and PBM conflicts in exchange for new requirements on 340B providers

On Feb. 2, a group of six bipartisan U.S. Senators introduced long-awaited draft legislation proposing to update the federal 340B prescription drug discount program in response to a request for information (RFI) they sent out [last June](#).

WHA recommended in [its response to the RFI](#) that Congress should codify in federal law the long standing policy recognized by the federal Health Resources and Services Administration (HRSA) which requires drug companies to honor 340B discounts for drugs dispensed at community pharmacies that contract with hospitals (contract pharmacies). Unfortunately, many drug manufacturers have been denying discounts at these locations, resulting in massive cost increases for 340B drugs acquired and dispensed at such locations.

WHA also recommended federal legislation to prohibit pharmacy benefit managers (PBMs) and insurance companies from creating discriminatory reimbursement policies that attempt to pocket 340B savings intended for 340B hospitals. Lastly, WHA cautioned lawmakers against adding regulations on the program that would require providers to divert more time away from patient care and toward compliance if such regulations do not end up benefiting patients.

In a win for 340B providers, the draft legislation does propose to both codify the requirement that drug companies honor discounts at contract pharmacies (along with civil monetary penalties to enforce violations) and prohibit PBMs and health insurers from utilizing discriminatory reimbursement policies against 340B CEs. However, in exchange for these benefits to the program, 340B providers would be required to submit to a whole host of new requirements, including:

- Completing an addendum to their Medicare Cost Report that includes the number of patients who were dispensed 340B drugs (by type of insurance coverage), the cost incurred for charity care, patient demographics, a list of all contract pharmacies utilized, any contracts with state or local governments, and a description of how the provider utilized its 340B savings. Providers would have to post this information on a public website in a searchable format.
- Additional audits and additional record retention requirements in anticipation of such audits.
- An extension of patient financial assistance policies to a 340B covered entity's (CE) child sites and contract pharmacies as well as new requirements on how to make such policies more accessible to the public.
- CEs would have to submit data to a 3rd party clearinghouse to help reduce instances of duplicate discounts.
- New user fees of up to .01% to help fund new audits, reports and enforcement actions by HRSA.

WHA is continuing to review the legislation and intends to comment on it in advance of the April 1 comment deadline. Contact WHA Vice President of Federal and State Relations [Jon Hoelter](#) with questions.

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