

Senate Bill 939 (Pan) Prescription Drug Pricing

April 11, 2022



OVERVIEW

Today, more than 1,300 community health centers (CHCs) in California provide high-quality, comprehensive care to 7.2 million people in California each year – that is roughly 1 in 5 Californians. For decades, community health centers have provided care to everyone, regardless of their ability to pay, their immigration status, or their individual circumstances. Community health centers provide the full spectrum of care, from primary care to dental to behavioral health care and a variety of enabling and wraparound services.

Adopted by Congress in 1992, the 340B drug discount program requires pharmaceutical manufacturers to enter into an agreement, called a pharmaceutical pricing agreement (PPA), with the Federal HHS Secretary in exchange for having their drugs covered by Medicaid and Medicare Part B. Under the PPA, the manufacturer agrees to provide front-end discounts on covered outpatient drugs purchased by specified providers, called “covered entities,” (CEs) that serve the nation’s most diverse patients. According to congressional report language, the purpose of the 340B program is to enable CEs “to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services.”

The 340B Drug Pricing Program is an essential source of support for CHCs. Allowing CEs to purchase outpatient drugs at significantly reduced costs, facilitates the ability for the health centers to pass the savings on to their patients through reduced drug prices and invest additional savings to expand access and improve health outcomes.

THE PROBLEM

In recent years, CHCs have grown increasingly concerned about actions by pharmacy benefit managers (PBMs), manufacturers and others who are taking 340B savings from CEs while also threatening patient access to critical medicines available through the federal 340B Program.

Protecting 340B Discounts

A new proposed platform allows manufacturers the ability to remove up-front 340B discounts and instead provide a rebate on the back end. Left unaddressed, CHCs would have to pay full price for its drugs on the front end and submit a request to be provided the 340B discount without guarantee that the manufacturer would approve this request. Given the high price of drugs, this action by manufacturers will exacerbate cash-flow issues already presented at the health centers due to the COVID-19 pandemic, which could lead to patients paying higher prices for 340B drugs or going without necessary medication. While the federal government has pushed back on this proposal, preventing this from moving forward in California is imperative.

Limiting 340B Drugs at Contract Pharmacies

In the last couple of years manufacturers have taken actions to limit 340B drugs at contract pharmacies, which limits pharmacy access for CE patients, especially for those who are privately insured. The Health Resources and Services Administration (HRSA) put out a guidance requiring manufacturers to send 340B drugs to contract pharmacies, but that is now under litigation. As a result, State action to protect this program will ensure that patients most in need get access to these drugs.

Mail in Order Requirements

Some manufacturers have discussed plans to only allow their drugs to be provided to patients via mail in orders only. This concerns CHCs since it would remove the ability for patients to choose how they acquire drugs. These concerns are particularly salient for LGBTQ individuals, who may not be out to friends and family and could face stigma, discrimination, rejection, and violence should their sexual orientation and/or gender identity be revealed. This legislation will prevent these requirements from becoming implemented.

THE SOLUTION

Senate Bill 939 would prohibit discriminatory actions by PBMs and drug manufacturers when providing 340B drugs to CEs and their patients. These important consumer protections are necessary to protect the remaining 340B savings for CHCs and their patients.

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FOR MORE INFORMATION

Meagan Subers: (916) 248-8075

Kathy Mossburg: (916) 769-2207