340B Program

THE SOLUTION

Protect the 340B Program.

Section 340B of the U.S. Public Health Service Act provides that pharmaceutical manufacturers that choose to participate in Medicare and Medicaid sell certain outpatient drugs to safety-net providers at a discount.

WHY IS 340B IMPORTANT?

Every American uses the health care system in one way or another. For many people who are elderly or who live in poverty, the U.S. government helps pay for their health care costs through the Medicare and Medicaid programs. Most hospitals, clinics, doctors and pharmaceutical companies participate in both programs because they cover such a high percentage of Americans.

The 340B benefit helps hospitals and other providers that serve high numbers of uninsured and underinsured procure discounts on medications from drugmakers. The savings on medications through the 340B benefit enables hospitals and other safety net providers to stretch scarce federal dollars to help Kansans in need of care. We must protect the 340B program to protect vulnerable Kansans' access to care.

WHAT ARE DRUGMAKERS DOING TO AVOID THEIR RESPONSIBILITIES?

Drugmakers make an end run around 340B in many different ways. They include:

- Dictating that a hospital use only one contract pharmacy to process 340B claims, thus undermining local pharmacies and confusing patients who now have to figure out which pharmacy they should visit.
- Requiring hospitals to submit onerous amounts of paperwork to process 340B claims.
- Asking for excessive amounts of records from hospitals to verify that they meet their standards (not the federal government's) for receiving 340B discounts.

FEDERAL: 340B Program ...

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THE SOLUTION:

Protect the 340B Program.

MAINTAIN 340B ELIGIBILITY IN NON-EXPANSION STATES

The DSH Exclusion Rule, implemented in 2023, would prohibit hospitals in 1115 waiver states from counting uninsured patients whose care is funded by state uncompensated care pools in their Medicaid DSH population. In non-expansion states like Kansas, hospitals' 340B eligibility is at risk because the rule lowers the hospital's DSH percentage, which is necessary to qualify for 340B. The exclusion rule unfairly penalizes hospitals in non-expansion states.

A CONGRESSIONAL SOLUTION

KHA supports legislation that would give HHS more enforcement mechanisms to crack down on pharmaceutical companies that aim to undermine the 340B Program. Hospitals, especially those that operate in the red, should not have increased reporting requirements in order to remain participants in the program. Legislation is necessary to fully address imbalances that both drugmakers and HHS are unwilling to challenge. In general, any Congressional solution should do the following:

- Give either HHS-HRSA or CMS complete enforcement authority over 340B non-compliance.
- Prohibit drugmakers from limiting which pharmacies hospitals can contract with for 340B purposes.
- Prohibit discriminatory actions by Pharmacy Benefit Managers against 340B entities and their pharmacy partners.
- Allow hospitals that are not operating with negative margins to use common documents for 340B reporting purposes like their S-10s and IRS Form 990s.
- Maintain 340B eligibility in non-expansion states.

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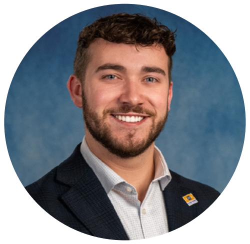

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