Protect the 340B Drug Discount Program: Stop Pickpocketing

Prohibit for-profit middlemen from taking the 340B savings that FQHCs rely on to provide patients with affordable care

FQHCS & 340B

Under the 340B program, safety net providers such as Federally Qualified Health Centers (FQHCs) use savings from the program for the benefit of their patients, helping low-income, uninsured and underinsured patients afford their medications and enabling FQHCs to provide the community with the services they need. FQHCs are required by law, regulation, and mission to invest every penny of 340B savings into activities that expand access to care for our medically underserved patients.

FQHCs use the 340B savings to expand beyond medical care and provide dental, pharmacy, behavioral health and substance abuse disorder treatment services (MAT), or to further extend hours of operation. The ability to reinvest savings to support or expand primary care services ultimately increases patients' access to the care they need, when they need it and in the appropriate, most cost-effective setting, thus reducing costs elsewhere in the healthcare system.

Unlike many other states, Pennsylvania's FQHCs **DO NOT** receive state funding. The 340B program helps to cover that funding gap without needing to ask for access to scarce state resources.

ISSUE

As Pennsylvania continues to fight predatory practices by certain Pharmacy Benefit Managers (PBMs), another issue has emerged: PBMs in Pennsylvania and other states across the country are targeting 340B providers with "discriminatory contracts" (contracts that absorb all or part of the 340B savings intended for safety net providers). As a result, the PBMs are "pickpocketing" for their own for-profit the 340B savings intended for safety net providers to enhance access and care for vulnerable populations to their own for-profit coffers.

- **What are "pick-pocketing" and "discriminatory contracting"?**

These terms refer to a range of practices employed by Pharmaceutical Benefits Managers (PBMs), insurers, and other for-profit middlemen. While the details of these practices vary, they all result in the same outcome – the benefits of the 340B savings are taken away from the FQHC (and its medically-underserved patients) and instead boost the middleman's profits.

- **Are other states taking action to block 340B pickpocketing/ discrimination?**

Yes. As of June 2021, 21 states have enacted prohibitions on 340B discriminatory contracting, and at least half a dozen others are considering them.

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- **How does this pickpocketing (or discrimination against 340B providers) occur?**

There are many ways that PBMs and other middlemen "pickpocket" FQHCs 340B savings. A classic example is when a payer has a standard reimbursement rate for a drug but reimburses much less for that same drug if it is purchased under 340B. In this way, the payer deprives the FQHC of 340B savings on that drug, and instead reduces its own costs and therefore boost its profits.

- **How does pick-pocketing and discrimination impact FQHCs and their patients?**

For many FQHCs, 340B savings are essential to their financial sustainability. These savings enable FQHCs to provide affordable medication to uninsured and underinsured patients, and to support a wide range of other health services, which vary based on the specific needs of each community. Without 340B savings, most FQHCs would be unable to offer pharmacy services at all and would need to significantly reduce other types of services such as behavioral health and dentistry.

- **Why do FQHCs agree to discriminatory contracts?**

CHCs lack the market power to successfully push back against these huge, for-profit middlemen companies. If they refuse the terms offered, they will jeopardize their ability to provide medications to their patients and communities.

A Tale of Two Patients: Why the PROTECT 340B Act is needed.

Imagine two FQHC patients who take the same heart drug. The drug's regular price is $100, and the 340B price is $70.

Patient 1 is uninsured and can only pay $10 for the drug. Even with the 340B discount, the FQHC incurs a $60 shortfall. ($70 cost minus $10 copay.)

Patient 2 has insurance, which normally reimburses $100 for this drug. If the FQHC is treated the same as non-340B providers, it retains $30 in savings ($100 reimbursement less $70 cost.) These savings help cover the costs of Patient 1's drug, and/or other services.

But increasingly, middlemen like PBMs and insurers are discriminating against FQHCs and other 340B providers, taking the 340B savings for themselves. For example, if Patient 2's PBM learns his drug was bought under 340B, it drops reimbursement from $100 to $70. Thus, the $30 savings is taken from the CHC and its patients and is used to boost the PBM's profits.

By prohibiting pickpocketing and other discrimination, the PROTECT 340B Act will keep 340B savings where they belong – with FQHCs and their underserved patients.

The 340B savings earned by safety net providers enable them to serve more patients with more comprehensive services (the stated intention behind the original law). The Government Accountability Office (GAO) said, "Providers use 340B to offset losses incurred from treating some patients, continue providing existing pharmaceutical and clinical services, lower drug costs for low-income patients and serve more patients, and provide additional services."
To learn more about the 340B program visit https://www.hrsa.gov/opa/index.html.

SOLUTION:
Support HB 1319 that prohibits imposing fees or reducing reimbursement to Pennsylvania 340B providers by ensuring that 340B savings, as intended, are directed to our most vulnerable Pennsylvanians and providers and not PBMs or other outside entities.

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