

Connecticut Places Checks on PBM Contracts in Support of 340B Covered Entities

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On June 27, 2023, Connecticut Governor Ned Lamont signed into law [Public Act 23-171](#) “An Act Protecting Patients and Prohibiting Unnecessary Health Care Costs” (Act), which includes changes to the state’s implementation of the federal 340B Drug Pricing Program. The Act: (a) requires the Commissioner of Social Services to convene a working group to evaluate the myriad issues affecting the 340B Program and opportunities for the state to support the 340B Program; and (b) prevents pharmacy benefit managers (PBMs) from incorporating certain contract provisions in agreements with qualifying Covered Entities under the 340B Program that lower reimbursement to such Covered Entities, among other restrictions.

Under the 340B Program, drug manufacturers that participate in Medicaid must sell certain outpatient prescription drugs at discounted rates to Covered Entities that serve those patient populations, including without limitation, federally qualified health centers, children’s hospitals, and safety net providers. Covered Entities dispense the 340B drugs to their patients at pharmacies owned by the Covered Entities, or contract with pharmacies to dispense 340B drugs to eligible patients on their behalf.

Provisions in the Act prohibit certain contract provisions between Covered Entities, including their contracted pharmacies, and PBMs. **Effective January 1, 2024, the following contract provisions between Covered Entities and PBMs will be prohibited:**

1. A lower reimbursement rate for a prescription drug than the rate paid to non-340B pharmacies;
2. A fee or adjustment that is imposed only on Covered Entities, including their contracted pharmacies, and not on other providers or pharmacies;
3. A higher fee or adjustment amount for Covered Entities, including their contracted pharmacies, than for other pharmacies or providers;
4. Any provision that prevents or interferes with a patient’s choice to receive a drug from a Covered Entity, including its contracted pharmacy; and
5. Any provision that excludes a Covered Entity, including its contracted pharmacy, from a PBM’s network based on their status as a Covered Entity.

The Act further provides that:

1. PBMs may not consider an entity's status under the 340B Program when determining reimbursement rates;
2. PBMs are expressly prohibited from retaliating against Covered Entities, including their contract pharmacies, if they exercise a right or remedy under the aforementioned provisions; and
3. Any contract between a PBM and a Covered Entity (including its contract pharmacy) entered into, amended, or renewed after January 1, 2024, that violates any of the aforementioned provisions, will be void and unenforceable.

The Act's subsequent provision to convene a working group to evaluate the 340B Program further demonstrates the state's keen interest in supporting the 340B Program, including by evaluating "opportunities for state action to protect 340B revenues of federally qualified health centers from unfair administrative barriers or unnecessary conditions based on such centers' status as a 340B covered entity." In particular, this working group shall consider opportunities to support patient access to, and the establishment of, on-site pharmacies at federally qualified health centers.

We will continue to monitor the Act's impacts on the 340B Program and Covered Entities.

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