Ryan White Clinics 340B for 340B Access

GET THE FACTS

Duplicate Discounts and Common-Sense Solutions

Duplicate Discounts Explained

Manufacturers are required to pay rebates to state Medicaid programs on outpatient drug claims reimbursed by Medicaid. Federal law protects manufacturers from providing a Medicaid rebate and 340B discount on the same drug, known as a "duplicate discount."[6] Duplicate discounts occur more often on drug claims paid by a Medicaid managed care organization (MCO) than traditional Medicaid.[7]

Carve-Out of Pharmacy Benefit from Managed Care Threatens 340B & Public Health

Some states have implemented policies that are detrimental to 340B covered entities to avoid duplicate discounts. For example, California and New York recently carved out the pharmacy benefit from their Medicaid MCO programs to administer the benefit under traditional Medicaid. Because traditional Medicaid (unlike a Medicaid MCO plan) reimburses retail pharmacy drugs at the drug's acquisition cost, the pharmacy carve-out policy eliminates any financial benefit to covered entities for dispensing 340B drugs to Medicaid beneficiaries. Virginia and Louisiana prohibit contract pharmacies from dispensing 340B drugs to Medicaid MCO beneficiaries. These state carve-out strategies are particularly problematic for Ryan White clinics and the patients they serve. Individuals with HIV already face intense barriers to HIV care. In 2021, over a quarter of Medicaid enrollees with HIV did not receive one or more critical services – medical visits, viral load tests, and antiretroviral therapies. MCO carve-out policies will exacerbate these problems.

Solution is Clear and Achievable

RWC-340B agrees that measures are needed to protect manufacturers from duplicate discounts, but states or their MCO contractors should not be permitted to usurp the benefit of the 340B program. Neither the plain meaning nor the legislative history of the 340B statute indicates that Congress enacted the 340B program to save money for Medicaid. At the state level, RWC-340B supports the use of the *retrospective claims identification process* pioneered by the Oregon Medicaid program.[8] Under this model, covered entities and contract pharmacies submit 340B claims data to a Medicaid vendor so the vendor can remove 340B claims from the Medicaid agency's rebate requests to manufacturers. At the federal level, RWC-340B supports passage of the PROTECT 340B Act of 2023 (H.R. 2534). The PROTECT Act would require Health and Human Services to contract with a neutral third-party clearinghouse to identify and prevent duplicate discounts nationally. RWC-340B strongly supports these best practices to avoid duplicate discounts. Both address duplicate discounts while maximizing the 340B savings covered entities use to care for patients in their communities.

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[6] 42 U.S.C. § 256b(a)(5)(A)(i) (traditional Medicaid); 42 U.S.C. § 1396r-8(j)(1) (Medicaid MCOs).

[7] One mechanism for avoiding duplicate discounts is for a pharmacy to apply a modifier on a claim for drugs that were purchased with 340B discounts, thereby notifying the state Medicaid agency to forgo a rebate. But Medicaid MCO plans are often administered by payers that offer private insurance plans and the insurance cards for the Medicaid plan and private plan are virtually identical, making it difficult for a pharmacy to identify a Medicaid MCO beneficiary to apply the modifier.

[8] This Medicaid MCO identification model is one of the "best practices" recognized by the Centers for Medicare and Medicaid Services (CMS). CMS, Best Practices for Avoiding 340B Duplicate Discounts in Medicaid at 6 (Jan. 8, 2020).