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## WHA, Others File Amicus Brief Opposing Pharmaceutical Companies' Unlawful 340B Drug Rebate Model

WHA together with 36 other state hospital associations filed an amicus brief on August 8 in the U.S. Court of Appeals, D.C. Circuit, urging the court to uphold the U.S. Department of Health and Human Services' decision to reject rebate proposals for distribution of 340B program drugs by four of the largest pharmaceutical companies in the nation. Bristol Myers Squibb Company, Eli Lilly and Company, Johnson & Johnson Health Care Systems and Novartis Pharmaceuticals Corporation (the "pharmaceutical plaintiffs"), filed suit against the Department of Health and Human Services (HHS) challenging HHS's decision to block the pharmaceutical companies' 340B rebate proposals as arbitrary and capricious.

"The rebate proposals put forward by [the pharmaceutical plaintiffs] are an unlawful attempt to self-police the 340B Program and increase costs for 340B Program providers," WHA and the 36 other state hospital associations wrote.

"Allowing manufacturers to unilaterally implement 340B rebate models would transfer enforcement power from [HHS] to drug companies, permitting them to make their own determinations about whether covered entities are entitled to 340B pricing," states the association brief. "[P]roviding 340B pricing through rebates would increase covered entity costs, in contradiction of the purpose of the 340B Program, and require covered entities to advance millions of dollars to cover increased drug costs while waiting for the manufacturer to decide in its sole discretion whether to grant a 340B rebate."

The joint state hospital association brief follows an amicus brief by the American Hospital Association and others on August 5.

A link to the WHA and other state hospital association amicus brief is [here](#). A link to the AHA amicus brief is [here](#).

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