Vol. 14, Issue 12
Tuesday, August 18, 2026

Bipartisan Group of Senators Releases Long-Awaited SUSTAIN 340B Act

On Aug. 5, a bipartisan group of Senators, led by Senator Tammy Baldwin (D-WI) and Senator Jerry Moran (R-KS), introduced the SUSTAIN 340B Act, long-awaited legislation intended to address many of the negative actions imposed by drug manufacturers and pharmacy benefit managers on 340B-covered entities. Among the positive reforms included in the legislation are:

- Requiring that drug manufacturers honor discounts at community pharmacies, hospitals or other contracted 340B covered entities (CEs).
- Prohibiting pharmacy benefit managers (PBMs) from discriminating against 340B CEs by imposing lower reimbursement or other terms or conditions just because they participate in 340B.
- Sunsetting HRSA's 340B rebate pilot after one year.
- Creating a third-party clearinghouse to prevent duplicate discounts.

In exchange for these reforms, covered entities would also be required to:

- Report on the percentage of outpatient drugs and revenue derived from 340B.
- Adhere to a new definition of what constitutes a patient eligible to receive a drug under 340B.
- Follow new restrictions on what constitutes a 340B child site.
- Pay a new user fee for participating in 340B.
- Establish standard and transparent patient financial assistance policies for patients at or below 200% of the federal poverty level (FPL).
- Submit to new audits of their contract pharmacies, 340B program savings, vendors and other aspects of the 340B program.

The Government Accountability Office would also be required to do a study on hospital debt collection practices, while the Department of Health and Human Services would be required to do a study on dispensing fees at 340B hospitals. The Assistant Secretary for Planning and Evaluation would also be required to analyze the effectiveness of the third-party clearinghouse in reducing duplicate discounts.

In response to the legislation being introduced, the American Hospital Association (AHA) released a brief statement saying, "The AHA appreciates the leadership of the Senate 340B Bipartisan Working Group. We look forward to reviewing their legislation in detail, discussing it with our 340B hospitals, and working with them and other policymakers to ensure the 340B program remains strong for patients, communities, and providers across the country."

The bipartisan 340B Senate working group introduced a draft version of the SUSTAIN 340B Act in 2024, and WHA submitted comments in response. Overall, WHA has been supportive of this legislation primarily due to its aim of fixing the issues with drug manufacturers denying discounts at contract pharmacies and PBMs attempting to steal the savings intended for 340B hospitals. WHA will continue to analyze this legislation and advocate for reforms that address these and other issues created by drug manufacturers trying to undermine the 340B program.

Contact WHA Vice President of Federal Affairs and Advocacy Jon Hoelter with questions.

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