



AMERICA'S ESSENTIAL HOSPITALS

October 30, 2020

The Honorable Lamar Alexander
Chair
Committee on Health, Education, Labor
and Pensions
United States Senate
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Alexander and Ranking Member Walden:

Thank you for your request to provide comment on the 340B Drug Pricing Program. As the leading champion for hospitals and health systems providing high-quality care for all, including the vulnerable, America's Essential Hospitals recognizes the critical importance of the 340B program to the health care safety net and advocates for its continued stability and success. The 340B program remains a vital resource for safety-net providers and their patients, as Congress intended, and fundamental reforms to the program are unnecessary—particularly amid the COVID-19 public health emergency. We appreciate the opportunity to illustrate how this crucial program supports our member hospitals in achieving their community-driven mission and encourage Congress to use its oversight authority to ensure the program continues to work as devised.

Our more than 300 member hospitals are cornerstones of health care and economic activity in their communities. Essential hospitals provide state-of-the-art, patient-centered care to a diverse patient mix while training the next generation of health care providers. They are leading sources of jobs and public health services that improve collective social, economic, and environmental circumstances in the regions they anchor.

Because of their commitment to care for all people, essential hospitals provide a disproportionate share of the nation's uncompensated care, and three-quarters of their patients are uninsured or covered by Medicare or Medicaid. Further, many essential hospital patients face sociodemographic challenges to accessing health care, including poverty, homelessness, language barriers, and low health literacy. Ten million people in essential hospital communities have limited access to healthy food, and nearly 24 million live below the poverty line.¹

Essential hospitals are uniquely situated to address these social determinants of health. They hold a mission-driven commitment to serving vulnerable patients; but their dedication comes at a cost. Our members perform their vital roles in the communities they serve while operating on margins one-third that of other hospitals—2.5 percent on average compared with 7.6 percent

¹ Clark D, Roberson B, Ramiah K. *Essential Data: Our Hospitals, Our Patients—Results of America's Essential Hospitals 2018 Annual Member Characteristics Survey*. America's Essential Hospitals. May 2020. <https://essentialdata.info/>. Accessed September 12, 2020.

for all hospitals nationwide.² As such, essential hospitals rely on a patchwork of federal financial resources to fulfill their mission. 340B discounts are an indispensable component of this federal support.

Congress established the 340B program in 1992 to enable covered entities, including essential hospitals, “to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services.”³ Our association played a formative role in the creation of 340B, and the program is intrinsically linked to the identity and mission of essential hospitals. The 340B program is structured to provide hospitals treating a disproportionate share of low-income patients with discounts for covered outpatient drugs for patients of the entity. The program reflects the unique role of essential hospitals in caring for vulnerable populations, as well as their inherent financial challenges, and thereby offers our members the flexibility to tailor services and programs to their community’s needs at virtually no cost to taxpayers.

Nearly 30 years after its inception, the 340B program’s framework remains solid and functions as Congress intended. As prescription drug prices continue to increase, the 340B program is one of the few effective tools remaining to protect vulnerable people from inflated drug list prices. By purchasing discounted drugs, hospitals are able to realize savings they can then pass on to vulnerable patients in the form of no-cost or heavily discounted drugs and expanded access to other services crucial to improving their health, such as non-emergency transportation, nutrition counseling, and interpretation services. Our members across the country have used 340B savings to expand access to care and services by:

- offsetting the costs of outpatient medications for low-income residents in states where the public health insurance program may not cover the drugs these patients need;
- operating school-based health centers in multiple low-income communities;
- offering housing assistance and care managers for chronically homeless emergency department users, ultimately reducing care costs;
- keeping out-of-pocket prescription drug costs for uninsured patients at \$5 or less;
- maintaining a medication program that provides patients with post-discharge counseling, reduces barriers to care, and educates patients;
- supporting a medical home program for low-income and uninsured individuals, ultimately helping to reduce emergency department utilization and expanding access to medications for patients without prescription drug coverage; and
- supporting a pharmacist and important pharmacy services in primary care clinics in a community experiencing barriers to care, including high rates of homelessness.

The benefits of 340B are especially evident now, when essential hospitals’ thin operating margins are further constrained by financial pressures related to the current COVID-19 public health emergency. Essential hospitals nationwide face lost revenue and increased expenses directly attributable to COVID-19. Many essential hospitals are in COVID-19 hotspots and treat high volumes of patients disproportionately impacted by COVID-19, including communities of color. Racial and ethnic minorities made up more than half of essential hospital discharges in 2018.⁴ Because of pervasive societal and economic inequality, communities of color are more likely to experience morbidity and mortality from COVID-19.

² Ibid.

³ H.R. REP. No. 102-384, pt. 2 (1992).

⁴ Clark D, Roberson B, Ramiah K. *Essential Data: Our Hospitals, Our Patients—Results of America’s Essential Hospitals 2018 Annual Member Characteristics Survey*. America’s Essential Hospitals. May 2020. <https://essentialdata.info/>. Accessed September 12, 2020.

Several essential hospitals have shared anecdotally how 340B savings have been a lifeline during the financial hardships of COVID-19. 340B savings allow them to maintain important services for vulnerable patients, including patients experiencing adverse health effects resulting from barriers to health and health care. Furthermore, the structure of the 340B program helps to mitigate negative consequences to health of social determinants and improve outcomes.

For example, many hospitals in the 340B program use contract pharmacy arrangements approved by the Health Resources and Services Administration (HRSA) to expand access as widely as possible so patients maintain access to prescriptions despite living in an underserved area. This is particularly true in the case of health systems that do not have expansive in-house pharmacy networks or that have patients facing barriers to access, making it impractical for them to come to the hospital to replenish their supplies of needed medications. These patients include individuals living in rural areas and those facing various social risk factors, such as lack of transportation or inflexible employment hours. Contract pharmacies enable these patients to more readily access medications to help them manage their health while concurrently holding down health care costs. Recent decisions by pharmaceutical manufacturers to withhold 340B-priced drugs from contract pharmacies threaten a valuable tool for essential hospitals to expand their reach into vulnerable populations.

The association has similar concerns with manufacturers that, via third-party vendors, are unilaterally acting to shift the 340B benefit for some outpatient drugs away from the upfront discount model toward a rebate model. This extralegal action, taken without any rulemaking or guidance from HRSA with the opportunity for public comment, would cause essential hospitals to spend more of their limited resources on 340B-acquired drugs without the guarantee of timely, much-needed savings. If HRSA allows this effort to proceed, drug manufacturers may continue to take unabated steps to diminish the 340B benefit for essential hospitals and other safety-net providers that rely upon it to care for vulnerable populations.

These unlawful manufacturer actions represent the latest examples in a concerning erosion of the 340B benefit. Over the years, some 340B stakeholders have taken steps to undermine the intent of the 340B program. For four consecutive years, the Centers for Medicare & Medicaid Services cut Medicare Part B drug payments to 340B hospitals, with cuts ranging from 27 to 33 percent. These harmful cuts, which America's Essential Hospitals opposes, disproportionately affect essential hospitals: Although they represent just 12 percent of 340B hospitals paid under the Outpatient Prospective Payment System, essential hospitals would receive 25 percent of the payment cut. Continued implementation of these payment reductions not only will hamstring essential hospitals' ability to execute the 340B program as Congress intended but will restrict patient access to needed therapeutics and cost taxpayers more over time.

Despite these challenges, essential hospitals continue to rely on the 340B program because of the care and support it allows them to offer their patients and communities.

As providers represented by an association with a seminal role in the creation of the 340B program, essential hospitals are committed to being good stewards of the program and ensuring program integrity. These hospitals take painstaking steps, often at their own expense, to ensure adherence to the requirements of the 340B program so as not to jeopardize their participation. They perform frequent internal audits and engage in other activities to remain compliant. The risk of not doing so is too great for our members and the patients they serve.

With the backdrop of rising prescription drug prices, a global pandemic, and a nation working to rectify historic racial disparities in health and inequities, the 340B program is as important

now as ever. Congress must preserve the 340B program and use its oversight capabilities to ensure essential hospitals can continue to use their limited resources to develop programs that improve care and enhance services for vulnerable populations.

America's Essential Hospitals appreciates the opportunity to submit these comments. If you have questions, please contact Vice President of Legislative Affairs Carlos Jackson at 202-585-0112 or cjackson@essentialhospitals.org.

Sincerely,

Bruce Siegel, MD, MPH
President and CEO
America's Essential Hospitals