

# President's Report

**Board of Directors Meeting** 

August 24, 2020



# Advocacy and Health Policy

#### State:

No activity

### **Federal:**

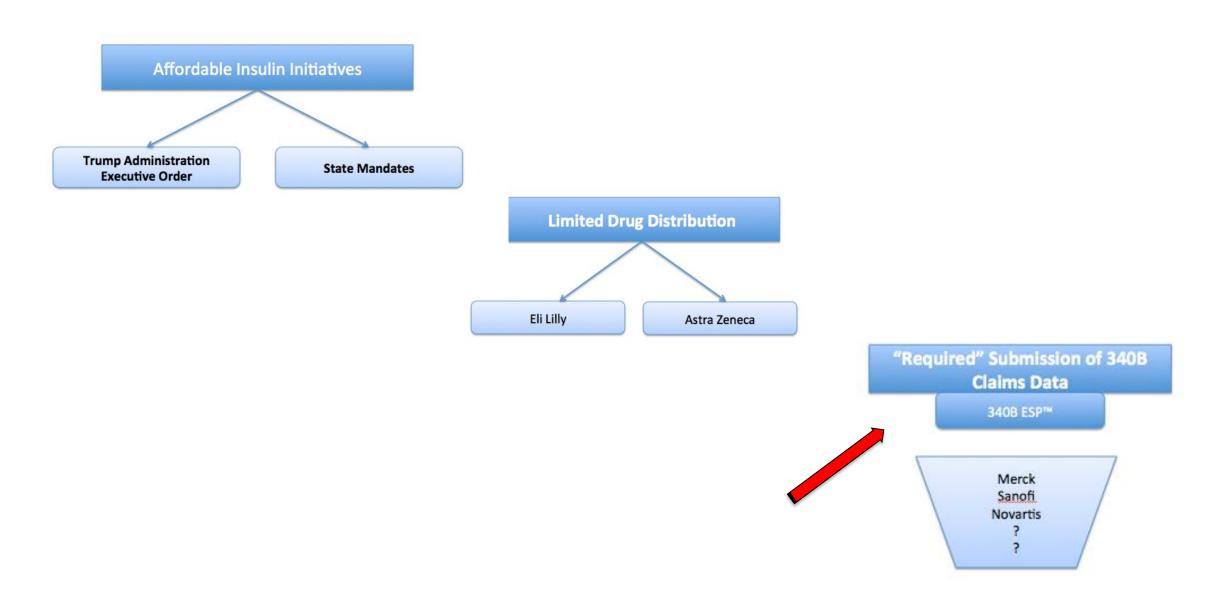
- Health Center funding
  - Sustained two-pronged focus on a) long-term, stable, and significantly increased funding; and b) Covid 19 emergency relief funding
- Primary focus of activity on 340B
  - Meetings of NACHC 340B Strategic Advisory Group
  - Briefing for multiple state PCAs
  - Response to calls and requests for TA via email
  - Draft position paper for use with legislators and media (attached to written report)
  - CHC retained as consultant for CHCACT work with state legislature

# 340B Erupts

- 340B erupted in July, with concerning new developments from the White House, HRSA, and drug manufacturers.
- These recent actions -- if allowed to expand as broadly as we expect -- will likely lead to the end of:
  - 340B pricing for drugs shipped to contract pharmacies
  - health centers' ability to retain 340B savings on any drugs dispensed to Medicare or privately-insured patients.
- The root of all policy issues is the 340B statute, which:
  - Lacks key programmatic details and protections
  - Gives HRSA very little enforcement authority.



### The current threat to the 340B Program falls in three categories:



### Required" Submission of 340B Claims Data

- Stated purpose is so they can ensure no duplicate discounts - not just under Medicaid, but also Medicare and private insurance
- 340B ESP™ trainer: "You have to remember that the manufacturer's view of duplicate discount is different than that of a Covered Entity."
  - Intent is not to harm CEs but to prevent ineligible rebates to 3<sup>rd</sup> party payers
  - That premise only works if coupled with statutory protection against discriminatory reimbursement practices

#### The 2020 Data Heist



2020

HOUSE BILL NO.

20rs2594

AN ACT concerning insurance; relating to pharmacy benefits managers; the federal 340B drug pricing program; prohibiting disparate treatment of certain pharmacies and pharmaceutical services providers.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:

- (1) "340B covered entity" means an entity participating in the federal 340B drug pricing program authorized by 42 U.S.C. § 256b, including such entity's pharmacy or pharmacies, or any pharmacy or pharmacies contracted for the purpose of dispensing drugs purchased through such program.
- (2) "Covered drug" means the same as defined in 42 U.S.C. § 256b(b)(2) as in effect on July 1, 2020.
- (3) "Covered person" means the same as defined in K.S.A. 2019 Supp. 40-3822, and amendments thereto.
- (4) "PBM Affiliate" means a pharmacy, pharmacist or pharmacy technician that directly or indirectly through one or more intermediaries owns or controls, is owned or controlled by or is under common ownership or control with a pharmacy benefits manager.
- (5) "Pharmacy benefits manager" or "PBM" means the same as defined in K.S.A. 2019 Supp. 40-3822, and amendments thereto.
- (b) (1) A pharmacy benefits manager shall not disparately treat any pharmacy or pharmaceutical services provider by imposing or requiring terms of such pharmacy or pharmaceutical services provider that differ from those imposed or required of other pharmacies or pharmaceutical services providers based solely on such pharmacy's or pharmaceutical services

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provider's eligibility or designation as a 340B covered entity.

- (2) Disparate terms include, but are not limited to:
- (A) The exclusion of 340B-eligible or 340B covered entities from provider networks;
- (B) reimbursing 340B-eligible or 340B covered entities less than the amount that the prescription drug coverage reimburses a PBM affiliate for providing the same pharmacist services: and
- (C) assessing any fee, chargeback, participation requirement or other adjustment upon a 340B covered entity solely on the basis that the 340B covered entity participates in the federal 340B drug pricing program.
- (c) A PBM shall not discriminate against a 340B covered entity in a manner that prevents or interferes with a covered person's choice to receive a covered drug from the 340B covered entity.
- (d) A PBM shall not collect from or require a pharmacy or pharmacist to collect from a covered person any cost-share amount for a prescription drug at the point of sale that exceeds the lesser of:
  - The contracted co-payment amount;
- (2) the amount the covered person would pay for a prescription drug if such covered person did not have prescription drug coverage; or
  - the contracted amount for the drug.
- (e) The commissioner of insurance shall adopt all necessary rules and regulations to oversee, administer and enforce the provisions of this section, including penalties for noncompliance. Such rules and regulations shall be adopted not later than July 1, 2021.

# Recommendation from the 340B Workgroup to Health Policy Committee (HPC)

The Health Policy Committee recommends that the Legislative Committee make the following recommendation to the full Board:

"NACHC should prioritize the enactment of a legislative solution to prevent discriminatory contracting under 340B and preserve the integrity of the contract pharmacy model. These actions are intended to ensure that the benefit of 340B savings accrues to medically-underserved patients and the health centers who serve them, as Congress intended."

## Required" Submission of 340B Claims Data

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- 340B ESP™ trainer: "You have to remember that the manufacturer's view of duplicate discount is different than that of a Covered Entity."
  - Intent is not to harm CEs but to prevent ineligible rebates to 3<sup>rd</sup> party payers
  - That premise only works if coupled with statutory protection against discriminatory reimbursement practices
- Concerns about Terms of Use
- Interesting question: Is it extortion?
- Potentially powerful legislative argument: 340B is not a federally funded program. If savings vanish, Congress will have to make up the loss if they want to keel the Community Health Center Program whole!

#### The 2020 Data Heist



# Strategic and Operational Updates

- Covid 19 Response
  - Update on community testing Miriam Ferguson
  - Summary of testing and results to date Dr. Locke Simons
  - Message to Educational Community
- Leadership and Staff Development:
  - Investigating modified evaluation tool and process for senior leadership

# External Partnership Updates

Community Integrated Management Services (CIMS)
South Carolina Primary Health Care Association (SCPHCA)
National Association of Community Health Centers (NACHC)
OCHIN CEO Steering Committee
NO CHANGE SINCE LAST MONTH

- Regular meeting are all proceeding in virtual format
- CIMS Focus on contract performance and staff "lunch and learns"
- NACHC increased meeting frequency and targeted focus by committee
- OCHIN CEO Steering Committee evaluation of system enhancements
- All provide valuable source of information for ongoing adaptation

# Consulting Activities

- 340B Coalition Summer Conference completed, invoiced, and paid. Fee = \$6,875
- 340B Health has issued a contract for 2021 Winter Conference with billable hours increased to 80 @ \$125 per hour.
- Retained by the Community Health Center Association of Connecticut to assist with response to manufacturer assault on 340B:
  - Health Center CEO briefing completed
  - 4 PCA Staff Learning Sessions over next 30 days
  - Assistance with communications strategy and messaging
  - Available for meetings and testimony to state legislature and Congressional delegation.
  - Fee: \$500 retainer, \$250 per 60 minute session, and \$125 per hour for consultant time

## SV Personal Leave Time

July 28<sup>th</sup> – August 24<sup>th</sup>

No leave taken during this reporting period