

## State-Level Laws to Protect CHCs' 340B Savings

Updated November 2023

### Overview

#### 1. **Alabama**, [SB 227](#) (2021)

Highlights from this Law:

- Prohibit a pharmacy benefits manager from limiting or incentivizing a patient's choice in pharmacies; from denying a pharmacy from participating as a contract provider of pharmacy services for a health benefit plan if the pharmacy meets the terms and conditions of the pharmacy benefits manager's contract; from steering an insured to use a mail-order pharmacy or a pharmacy benefits manager affiliate, with certain exceptions; and from limiting certain powers of a pharmacy or pharmacist.

#### 2. **Arizona**, [SB 1176](#) (2022)

Highlights from the Law:

- A third party shall not do any of the following:
  - Discriminate in reimbursement on the basis that the pharmacy dispenses a 340B drug
  - Assess any fee, chargeback, clawback or adjustment on the basis that a pharmacy dispenses a 340B drug
  - Exclude a pharmacy from a third-party pharmacy network on the basis that the pharmacy dispenses a 340B drug
- Restrict the methods or pharmacies within a third-party network by which a 340B covered entity may dispense or deliver 340B drugs

#### 3. **Arkansas**, [HB 1881](#) (2021)

Highlights from this Law:

- Prohibit “discriminatory contracting”, defined as including numerous practices (e.g., differences in reimbursement, refusal to allow 340B pharmacies into networks, requirement to identify 340B drugs using a modifier.)
- Prohibits practices “transferring the benefit of 340B savings” away from 340B providers. Seeks to prohibit drug manufacturers from refusing to offer 340B-priced drugs to certain contract pharmacies.
- Addresses issues around patients being forced into mail-order pharmacy, and patient right to use the pharmacy of their choice.

#### 4. **California**, [SB 786](#) (2023)

Highlights from this Law:

- Prohibits a pharmacy benefit manager (PBM) from discriminating against a covered entity or its pharmacy in connection with dispensing a drug subject to federal pricing requirements or preventing a covered entity from retaining the benefit of discounted pricing for those drugs.
- Prohibits PBMs from refusing to contract with, terminate a contract with, or exclude a covered entity or specified pharmacy from a network simply because it is a covered entity or specified pharmacy.
- Prohibits retaliating against a covered entity or specified pharmacy for exercising its rights under the law.
- Prohibits interference with an individual's choice to receive a covered drug from a covered entity or specified pharmacy.
- PBMs cannot restrict or prohibit a covered entity from raising a grievance or speaking publicly about a PBM that violates the law.

5. **Colorado**, [HB 1122](#) (2022)

Highlights from the Law:

- Prohibits health insurers, PBMs, and other third-party payers from discriminating against entities including pharmacies, participating in the federal 340B drug pricing program (340B covered entity), including a pharmacy that contracts with a 340B covered entity to provide dispensing services to the 340B entity (contract pharmacy).

6. **Connecticut**, [HB 6669](#) (2023)

Highlights from the Law:

- After Jan. 1, 2024, a contract between a Connecticut 340B covered entity and a PBM may not contain:
  - A reimbursement rate for a prescription drug that is less than the reimbursement rate paid to pharmacies that are not 340B covered entities
  - A fee or adjustment that is not imposed on providers or pharmacies that are not 340B covered entities
  - A fee or adjustment amount that exceeds the fee or adjustment amount imposed on providers or pharmacies that are not 340B covered entities
  - Any provision that prevents or interferes with a patient's choice to receive a prescription drug from a 340B covered entity, including the administration of the drug
  - Any provision that excludes a 340B covered entity from pharmacy benefit manager networks based on the 340B covered entity's participation in the 340B program.

7. **Georgia**, [SB 313](#) (2020)

Highlights from the Law:

- A pharmacy benefits manager shall not:
  - Discriminate in reimbursement, assess any fees or adjustments, or exclude a pharmacy from the pharmacy benefit manager's network on the basis that the pharmacy dispenses drugs
- Engage in any practice that:
  - In any way bases pharmacy reimbursement for a drug on patient outcomes, scores, or metrics; provided, however, that nothing shall prohibit pharmacy reimbursement for pharmacy care, including dispensing fees from being based on patient outcomes, scores, or metrics so long as the patient outcomes, scores, or metrics are disclosed to and agreed to by the pharmacy in advance;
  - Includes imposing a point-of-sale fee or retroactive fee; or
  - Derives any revenue from a pharmacy or insured in connection with performing pharmacy benefits management services; provided, however, that this shall not be construed to prohibit pharmacy benefits managers from receiving deductibles or copayments.
  - Also applies to pharmacy benefits managers' reimbursements to dispensers

8. **Illinois**, [HB 4595](#) (2022)

Highlights from this Law:

- Provides that a contract between a pharmacy benefit manager or third-party payer and a covered entity under Section 340B of the federal Public Health Service Act shall not contain specified provisions.
- Provides that a violation by a pharmacy benefit manager constitutes an unfair or deceptive act or practice in the business of insurance, and that a provision that violates the prohibition on certain provisions in a contract between a pharmacy benefit manager or a third-party payer and a 340B

covered entity that is entered into, amended, or renewed after July 1, 2022 shall be void and unenforceable.

9. **Indiana, [HB 1405](#)** (2021)

Highlights from this Law:

- Prohibits PBMs, including those serving Medicaid managed care plans, from reimbursing for 340B drugs at a level that “diminishes the 340B benefit to a 340B covered entity”, imposing different/additional fees, excluding 340B pharmacies from preferred networks, or “discriminating against a 340B covered entity.”

10. **Iowa [HF423](#)** (2023)

Highlights from this Law:

- Prohibits plans, carriers, TPAs and PBMs from providing discriminatory reimbursement amounts for prescription drugs or dispensing fees on the basis of a covered entity or a contract pharmacy’s status as a covered entity or contract pharmacy.
- Prohibits discrimination on the basis of participation in a 340B drug program, in addition to the status as a covered entity or a contract pharmacy,
- Permits the state Commissioner of Insurance to take enforcement action under the commissioner’s authority to enforce compliance. After notice and hearing, the commissioner may issue any order or impose any penalty pursuant to state law upon finding a violation of the bill.

11. **Kentucky, [SB 50](#)** (2020)

Highlights from this Law:

- Requires all Medicaid MCOs to contract with a single PBM and prohibits that PBM from discriminating against 340B providers.

12. **Louisiana, [HB 548](#)** (2023)

Highlights from this Law:

- Prohibits drug manufacturer limits on 340B contract relationships and PBM encroachment on health care providers’ 340B program revenues.
- prevents a health insurance issuer, pharmacy benefit manager (PBM), other third-party payor or its agent from reimbursing a 340B entity for 340B drugs at a rate lower than that paid for the same drug to entities that are not 340B entities
- impose terms/conditions on any 340B entity with respect to fees, dispensing fees, charges, clawbacks, restrictions, requirements, or other adjustments or assessments that differ from such terms or conditions applied to non-340B entities;
- require a 340B entity to reverse, resubmit or clarify a claim after the initial adjudication unless in the normal course of business.
- Discriminate against a 340B entity in a manner that interferes with patient choice; and
- Require or compel the submission of ingredient costs or pricing data pertaining to 340B drugs to any health insurance issuer, PBM, or third-party payor.
- Prevents a manufacture or distributor from denying, restricting, prohibiting, or interfering with the acquisition or delivery of a 340B drug by a pharmacy that is under contract with a 340B entity and is authorized under the contract to receive and dispense 340B drugs on behalf of the covered entity.
- A manufacturer or distributor shall not interfere with a pharmacy contracted with a 340B entity.

13. **Maryland, [HB 1274](#)** (2022)

Highlights from this Law:

- Establishes requirements and prohibitions on pharmacy benefits managers related to the federal 340B Program, including requirements related to coverage and reimbursement for drugs purchased under the Program.

14. **Michigan**, [HB 4348](#) (2022)

Highlights from this Law:

- A pharmacy benefit manager or carrier shall not prohibit a 340B Program entity or a pharmacy that has a license in good standing in this state under contract with a 340B Program entity from participating in the pharmacy benefit manager's or carrier's provider network solely because it is a 340B Program entity or a pharmacy under contract with a 340B Program entity. A pharmacy benefit manager or carrier shall not reimburse a 340B Program entity or a pharmacy under contract with a 340B Program entity differently than other similarly situated pharmacies. As used in this subsection, "340B Program entity" means an entity authorized to participate in the federal 340B Program under section 340B of the public health service act, 42 USC 256b.

15. **Minnesota**, [SF 278](#) (2019)

Highlights from this Law:

- Prohibits PBM from reimbursing an entity or pharmacy under contract with such entity differently than other similarly situated pharmacies.
- Does not apply to PBMs under contract with state for Medicaid MCO.

16. **Montana**, [SB 395](#) (2021)

Highlights from this Law:

- A pharmacy benefit manager or health carrier may not:(1) prohibit a federally certified health entity or a pharmacy under contract with an entity to provide pharmacy services from participating in the pharmacy benefit manager's or health carrier's provider network;(2) reimburse a federally certified health entity or a pharmacy under contract with an entity differently than it reimburses other similarly situated pharmacies;(3) require a claim for a drug to include a modifier to indicate that the drug is a 340B drug unless the claim is for payment, directly or indirectly, by the Medicaid program provided for in Title 53, chapter 6, part 1; or(4) create a restriction or an additional charge on a patient who chooses to receive drugs from a federally certified health entity or a pharmacy under contract with an entity, including but not limited to a patient's inability to fully pay a copayment.

[SB335](#) (2019)

Highlights from this Law:

- A PBM cannot pay less than the state-surveyed average drug acquisition cost or WAC for 340B dispenses.

17. **Nebraska**, [LB 767](#) (2022)

Highlights from this Law:

- A pharmacy benefit manager that reimburses a 340B entity or a 340B contract pharmacy for a drug that is subject to an agreement under 42 U.S.C. 256b shall not reimburse the 340B entity or the 340B contract pharmacy for the pharmacy-dispensed drug at a rate lower than that paid for the same drug to similarly situated pharmacies that are not 340B entities or 340B contract pharmacies, and shall not assess any fee, chargeback, or other adjustment upon the 340B entity or 340B contract pharmacy on the basis that the 340B entity or 340B contract pharmacy participates in the program set forth in 42 U.S.C. 256b.

- Shall not discriminate against a 340B entity or 340B contract pharmacy in a manner that prevents or interferes with a covered individual's choice to receive such drug from the corresponding 340B entity or 340B contract pharmacy.

18. **Nevada**, [AB434](#) (2023)

Highlights from this Law:

- A pharmacy benefit manager or health insurer shall not:
- Discriminate against a covered entity, a contract pharmacy or a 340B drug in the amount of reimbursement for any item or service or the procedures for obtaining such reimbursement;
- Assess any fee, chargeback, clawback or adjustment against a covered entity or contract pharmacy on the basis that the covered entity or contract pharmacy dispenses a 340B drug or otherwise limit the ability of a covered entity or contract pharmacy to receive the full benefit of purchasing the 340B drug at or below the ceiling price
- Exclude a covered entity or contract pharmacy from any network because the covered entity or contract pharmacy dispenses a 340B drug;
- Restrict the ability of a person to receive a 340B drug;
- Restrict the methods by which a covered entity or contract pharmacy may dispense or deliver a 340B drug or the entity through which a covered entity may dispense or deliver such a drug in a manner that does not apply to drugs that are not 340B drugs; or
- Prohibit a covered entity or contract pharmacy from purchasing a 340B drug or interfere with the ability of a covered entity or contract pharmacy to purchase a 340B drug.

19. **New Mexico**, [SB 540](#) (2023)

Highlights from this Law:

- PBMs may not:
  - Reimburse a covered entity less for a 340B drug for the same drug sold to non-covered entities
  - Assess a fee, chargeback or other adjustment to the covered entity that is not assessed to noncovered entities
  - Impose a provision that prevents/interferes with a person's choice to receive 340B drugs from a covered entity
  - Impose terms/conditions that differ from terms/conditions imposed on a non-covered entity, including:
    - restricting or requiring participation in a pharmacy network,
    - requiring more frequent auditing/a broader scope of auditing,
    - requiring a covered entity to reverse, resubmit or clarify a claim after the initial adjudication, unless these actions are in the normal course of pharmacy business and not related to the 340B program, or
    - charging an additional fee or provision that prevents or interferes with an individual's choice to receive a 340B drug from a covered entity.

20. **North Carolina**, [SB 257](#) (2021)

Highlights from this Law:

- A contract entered into between a pharmacy benefits manager and a 340B covered entity's pharmacy or between a pharmacy benefits manager and a 340B contract pharmacy shall not do any of the following:
  - Restrict access to a pharmacy network or adjust 340B drug reimbursement rates based on whether a pharmacy dispenses drugs under the 340B drug discount program.

- Assess any additional, or vary the amount of any, fees, chargebacks, or other adjustments on the basis of a drug being dispensed under the 340B drug discount program or a pharmacy's status as a 340B covered entity or a 340B contract pharmacy.
- This section does not prevent adjustments to correct errors or overpayments resulting from an adjudicated claim.
  - No pharmacy benefits manager making payments pursuant to a health benefit plan shall discriminate against a 340B covered entity or a 340B contract pharmacy in a manner that prevents or interferes with an enrollee's choice to receive a prescription drug from an in-network 340B covered entity or an in-network 340B contract pharmacy.

21. **North Dakota**, [HB 1492](#) (2021)

Highlights from this Law:

- PBMs may not:
  - Reimburse less for a drug on the basis that it was purchased under 340B;
  - Refuse to contract with a pharmacy because it dispenses 340B drugs;
  - Otherwise “discriminate against or interfere with” 340B providers or their contract pharmacies.

22. **Ohio**, [SB 263](#) (2021)

Highlights from this Law:

- MCOs must reimburse 340B providers at NADAC and cannot impose different or additional fees or requirements on 340B providers.
- Private payers, PBMs, and contract pharmacies cannot pick-pocket.

23. **Oregon**, [HB 2185](#) (2019)

Highlights from this Law:

- PBMs registered under ORS 735.532 cannot reimburse a 340B pharmacy differently than another network pharmacy based on its 340B pharmacy status.

24. **South Dakota**, [HB 1137](#) (2019)

Highlights from this Law:

- No PBM can discriminate against a pharmacy participating in a health plan as an entity authorized to participate in 340B program.

25. **Tennessee**, [HB 1398](#) (2021)

Highlights from this Law:

- Reimburse a 340B entity for pharmacy-dispensed drugs at a rate lower than the rate paid for the same drug by national drug code number to pharmacies that are not 340B entities
- Assess a fee, chargeback, or adjustment upon a 340B entity that is not equally assessed on non-340B entities
- Exclude 340B entities from its network of participating pharmacies based on criteria that is not applied to non-340B entities; or
- Require a claim for a drug by national drug code number to include a modifier to identify that the drug is a 340B drug. With respect to a patient eligible to receive drugs, a pharmacy benefits manager, or third party that makes payment for those drugs, shall not discriminate against a 340B entity in a manner that violates § 56-7-2359 or otherwise prevents or interferes with the patient's choice to receive those drugs from the 340B entity.

26. **Utah**, [SB 140](#) (2021)

Highlights from this Law:

- defines terms
- prohibits certain actions by a pharmacy benefit manager or third party with respect to a federally qualified health center that participates in the 340B discount drug program.

[SB138](#) (passed March 28, 2020)

Highlights from this Law:

- Prohibits PBMs from reimbursing 340B entities at rates lower than non-340B entities; also contains broadly worded prohibitions on ways PBMs discriminate against 340B pharmacies or block them from participating in the program.
- This language was **broad enough to block Express Scripts'** efforts in spring 2021.

27. **Vermont**, [H 439](#) (2021)

Highlights from this Law:

- A pharmacy benefit manager shall not: (1) require a claim for a drug to include a modifier or supplemental transmission, or both, to indicate that the drug is a 340B drug unless the claim is for payment, directly or indirectly, by Medicaid; or (2) restrict access to a pharmacy network or adjust reimbursement rates based on a pharmacy's participation in a 340B contract pharmacy arrangement.

28. **Virginia**, [HB 1162](#) (2022)

Highlights from this Law:

- Prohibits carriers and pharmacy benefits managers from discriminating in the requirements, exclusions, terms, or other conditions imposed on a covered entity or contract pharmacy on the basis that the entity or pharmacy is operating under the 340B Program of the federal Public Health Service Act. Such prohibition does not (i) apply to drugs with an annual estimated per-patient cost exceeding \$250,000 or (ii) prohibit the identification of a 340B reimbursement request. The bill also prohibits a carrier or pharmacy benefits manager from interfering in a covered individual's right to choose a contract pharmacy or covered entity.

29. **West Virginia**, [HB 4112](#) (2022)

Amends 2019 legislation to prohibits use of modifiers on 340B drugs

[H 2263](#) (2021)

Highlights from this Law:

- Prohibits a broader range of "pick-pocketing" practices (blocking 340B pharmacies from preferred networks, interfering with a patient's choice to receive a drug from a 340B pharmacy).
- Requires that all pharmacies (not just 340B) be reimbursed a drug's National Average Drug Acquisition Cost (NADAC) plus a \$10.49 dispensing fee.

[SB489](#) (passed March 1, 2019, effective February 26, 2019)

Highlights from this Law:

- Prohibits PBMs from imposing lower reimbursement rates or higher fees on 340B drugs.