

§7754. Prohibition of certain discriminatory actions with respect to reimbursement of 340B entities

With respect to reimbursement of a 340B entity for 340B drugs, a health insurance issuer, pharmacy benefits manager or other 3rd-party payor or agent may not: [PL 2025, c. 388, Pt. P, §5 (NEW).]

1. Reimbursement at lower rate prohibited. Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same drug to entities that are not 340B entities or lower the reimbursement amount for a claim on the basis that the claim is for a 340B drug; [PL 2025, c. 388, Pt. P, §5 (NEW).]

2. Imposition of different terms and conditions prohibited. Impose any terms or conditions on any 340B entity that differ from such terms or conditions applied to entities that are not 340B entities or pharmacies that are not 340B contract pharmacies because it is a 340B entity including, without limitation:

A. Fees, charges, clawbacks or other adjustments or assessments. For purposes of this paragraph, "other adjustment or assessment" includes, without limitation, placing any additional requirements, restrictions or burdens upon the 340B entity that result in administrative costs or fees to the 340B entity that are not placed upon entities that are not 340B entities, including affiliate pharmacies of the health insurance issuer, pharmacy benefits manager or other 3rd-party payor; [PL 2025, c. 388, Pt. P, §5 (NEW).]

B. Dispensing fees that are less than the dispensing fees for entities that are not 340B entities or pharmacies that are not 340B contract pharmacies; [PL 2025, c. 388, Pt. P, §5 (NEW).]

C. Restrictions or requirements regarding participation in standard or preferred pharmacy networks; [PL 2025, c. 388, Pt. P, §5 (NEW).]

D. Requirements relating to inventory management systems or to the frequency or scope of audits; [PL 2025, c. 388, Pt. P, §5 (NEW).]

E. Requirements that a claim for a drug dispensed by a pharmacy include any identification, billing modifier, attestation or other indication that a drug is a 340B drug in order to be processed or submitted or reimbursed unless it is required by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services or the Department of Health and Human Services for the administration of the MaineCare program; or [PL 2025, c. 388, Pt. P, §5 (NEW).]

F. Any other restrictions, conditions, practices or policies that are not imposed on entities that are not 340B entities; [PL 2025, c. 388, Pt. P, §5 (NEW).]
[PL 2025, c. 388, Pt. P, §5 (NEW).]

3. Reversal, resubmission or clarification of claims prohibited. Require a 340B entity to reverse, resubmit or clarify a claim after the initial adjudication unless these actions are in the normal course of pharmacy business and are not related to 340B drug pricing; [PL 2025, c. 388, Pt. P, §5 (NEW).]

4. Discrimination against 340B entity that interferes with patient choice. Discriminate against a 340B entity in a manner that prevents or interferes with a patient's choice to receive 340B drugs from the 340B entity, including the administration of the drugs. For purposes of this subsection, it is considered a discriminatory practice that prevents or interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer, pharmacy benefits manager or other 3rd-party payor places any additional requirements, restrictions or burdens upon the 340B entity that differ from the terms and conditions applied to entities that are not 340B entities that result in administrative costs or fees to the 340B entity, including, but not limited to, requiring a claim for a drug dispensed by a pharmacy to include any identification, billing modifier, attestation or other indication that a drug is a 340B drug in

order to be processed or resubmitted unless it is required by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services or the Department of Health and Human Services for the administration of the MaineCare program;
[PL 2025, c. 388, Pt. P, §5 (NEW).]

5. Discrimination against 340B entity that interferes with patient choice of delivery method. Include any other provision in a contract between a health insurance issuer, pharmacy benefits manager or other 3rd-party payor and a 340B entity that differs from the terms and conditions applied to entities that are not 340B entities that discriminates against the 340B entity that participates in the 340B program or prevents or interferes with a patient's choice to receive a 340B drug from a 340B entity, whether by direct administration, in-person dispensing, direct delivery, mail or other form of shipment;
[PL 2025, c. 388, Pt. P, §5 (NEW).]

6. Restrictions or additional charges prohibited. Place a restriction or additional charge on a patient who chooses to receive 340B drugs from a 340B entity if the restriction or additional charge differs from the terms and conditions applied when patients choose to receive drugs that are not 340B drugs from an entity that is not a 340B entity or from a pharmacy that is not a 340B contract pharmacy;
[PL 2025, c. 388, Pt. P, §5 (NEW).]

7. Submission of data pertaining to ingredient costs or pricing of 340B drugs prohibited. Require or compel the submission of ingredient costs or pricing data pertaining to 340B drugs from a 340B entity to any health insurance issuer, pharmacy benefits manager or other 3rd-party payor; or
[PL 2025, c. 388, Pt. P, §5 (NEW).]

8. Exclusion from pharmacy network prohibited. Exclude any 340B entity from the health insurance issuer, pharmacy benefits manager or other 3rd-party payor network on the basis that the 340B entity dispenses 340B drugs or refuse to contract with a 340B entity for reasons other than those that apply equally to entities that are not 340B entities.
[PL 2025, c. 388, Pt. P, §5 (NEW).]

This section may not be construed to limit a health insurance issuer's ability to use certain preferred pharmacies or develop networks of preferred pharmacies as long as a health insurance issuer's decision is not based on an entity's status as a 340B entity. [PL 2025, c. 388, Pt. P, §5 (NEW).]

SECTION HISTORY

PL 2025, c. 388, Pt. P, §5 (NEW).

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