

House Study Bill 137 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
HEALTH AND HUMAN SERVICES
BILL BY CHAIRPERSON MEYER)

A BILL FOR

1 An Act relating to contract pharmacies and covered entities
2 that participate in the 340B drug program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 507B.4, subsection 3, Code 2023, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *u. 340B drug program.* Any violation of
4 chapter 510D by a group health plan, a health carrier that
5 offers group or individual health insurance coverage, a
6 third-party administrator, or a pharmacy benefits manager.

7 Sec. 2. NEW SECTION. **510D.1 Definitions.**

8 As used in this chapter, unless the context otherwise
9 requires:

10 1. "*340B program*" means the program created pursuant to
11 the Veterans Health Care Act of 1992, Pub. L. No. 102-585,
12 §602, and codified as section 340B of the federal Public Health
13 Services Act.

14 2. "*Commissioner*" means the commissioner of insurance.

15 3. "*Contract pharmacy*" means a pharmacy that has executed a
16 contract with a covered entity to dispense covered outpatient
17 drugs, purchased by the covered entity through the 340B
18 program, to eligible patients of the covered entity.

19 4. "*Covered entity*" means the same as defined in 42 U.S.C.
20 §256b(a)(4).

21 5. "*Group health plan*" means the same as defined in section
22 513B.2.

23 6. "*Medicaid managed care organization*" means an entity
24 acting pursuant to a contract with the department of health and
25 human services to administer the medical assistance program
26 under chapter 249A, and that meets the definition of "*health*
27 *maintenance organization*" under section 514B.1.

28 7. "*Pharmacy benefits manager*" means the same as defined in
29 section 510B.1.

30 8. "*Similarly situated entity or pharmacy*" means an entity
31 or pharmacy located in Iowa that is of a generally comparable
32 size, and that operates in a market with similar demographic
33 characteristics, including population size, density,
34 distribution, and vital statistics, and reasonably similar
35 economic and geographic conditions.

1 9. "Third-party administrator" means the same as defined in
2 section 510.11.

3 Sec. 3. NEW SECTION. 510D.2 340B drug program — contract
4 pharmacies and covered entities.

5 1. Group health plans, health carriers that offer
6 group or individual health insurance coverage, third-party
7 administrators, and pharmacy benefits managers shall not
8 discriminate against a covered entity or a contract pharmacy
9 by reimbursing the covered entity or the contract pharmacy
10 for a prescription drug or a dispensing fee in an amount
11 less than the group health plan, health carrier, third-party
12 administrator, or pharmacy benefits manager reimburses a
13 similarly situated entity or pharmacy that is not a covered
14 entity or a contract pharmacy.

15 2. a. Group health plans, health carriers that offer
16 group or individual health insurance coverage, third-party
17 administrators, and pharmacy benefits managers shall not,
18 on the basis that an entity is a covered entity or that a
19 pharmacy is a contract pharmacy, or that a covered entity or
20 contract pharmacy participate in the 340B program, impose
21 any of the following contractual terms and conditions on the
22 covered entity or the contract pharmacy that differ from those
23 imposed on a similarly situated entity or pharmacy that is not
24 a covered entity or a contract pharmacy:

25 (1) Fees or other assessments that are not required by state
26 law or the Iowa administrative code.

27 (2) Chargebacks, clawbacks, or other reimbursement
28 adjustments that are not required by state law or the Iowa
29 administrative code.

30 (3) Professional dispensing fees that are not required by
31 state law or the Iowa administrative code.

32 (4) Restrictions or requirements related to participation
33 in standard or preferred pharmacy networks.

34 (5) Requirements related to the frequency or scope of
35 audits.

1 (6) Requirements related to inventory management systems
2 that utilize generally accepted accounting principles.

3 (7) Requirements related to mandatory disclosure either
4 directly or through a third party, except disclosures required
5 by federal law, of prescription orders that are filled with
6 covered outpatient drugs obtained through the 340B program.

7 *b.* Paragraph "a", subparagraphs (1) and (2), shall not be
8 construed to prohibit adjustments for overpayments or other
9 errors associated with an adjudicated claim.

10 *c.* Paragraph "a", subparagraph (7), shall not be construed
11 to prohibit requirements related to statutorily required
12 modifiers or other identifiers on claims submitted for drugs
13 purchased through the 340B program.

14 3. Group health plans, health carriers that offer
15 group or individual health insurance coverage, third-party
16 administrators, and pharmacy benefits managers shall not do any
17 of the following:

18 *a.* Place any restrictions or impose any requirements on
19 an individual that chooses to obtain a covered outpatient
20 drug from a covered entity or a contract pharmacy, whether in
21 person, via courier or the United States post office, or any
22 other form of delivery.

23 *b.* Refuse to contract with a covered entity or a contract
24 pharmacy based on any criteria that is not applied equally to a
25 contract with a similarly situated entity or pharmacy that does
26 not participate in the 340B drug program.

27 *c.* Impose any restriction or condition on a covered entity
28 that interferes with the covered entity's ability to maximize
29 the value of the discounts obtained by the covered entity
30 through the covered entity's participation in the 340B drug
31 program.

32 **Sec. 4. NEW SECTION. 510D.3 Enforcement.**

33 1. The commissioner may take any enforcement action under
34 the commissioner's authority to enforce compliance with this
35 chapter.

1 2. After notice and hearing, the commissioner may issue any
2 order or impose any penalty pursuant to section 507B.7 upon a
3 finding that a group health plan, a health carrier that offers
4 group or individual health insurance coverage, a third-party
5 administrator, or a pharmacy benefits manager violated this
6 chapter.

7 3. A violation of this chapter shall be an unfair or
8 deceptive act or practice in the business of insurance pursuant
9 to section 507B.4, subsection 3.

10 Sec. 5. NEW SECTION. 510D.4 Rules.

11 The commissioner of insurance may adopt rules as necessary
12 to implement the chapter.

13 Sec. 6. NEW SECTION. 510D.5 Conflict of laws.

14 If any provision of this chapter is inconsistent or in
15 conflict with applicable state or federal law or rule, or the
16 state Medicaid plan, the applicable state or federal law or
17 rule, or the state Medicaid plan, shall prevail to the extent
18 necessary to eliminate the inconsistency or conflict.

19 Sec. 7. NEW SECTION. 510D.6 Applicability.

20 This chapter shall apply to covered entities, contract
21 pharmacies, group health plans, health carriers that offer
22 group or individual health insurance coverage, third-party
23 administrators, and pharmacy benefits managers, but shall not
24 apply to their operations under a contract with the state
25 Medicaid agency or a Medicaid managed care organization,
26 regardless of whether the covered entity or contract pharmacy
27 is eligible to retain the 340B discounts generated by the
28 covered entities and contract pharmacies.

29 EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill relates to contract pharmacies and covered
33 entities that participate in the 340B program. The bill
34 defines "340B program", "contract pharmacy", and "covered
35 entity".

1 Group health plans (plans), health carriers that offer group
2 or individual health insurance coverage (carriers), third-party
3 administrators (administrators), and pharmacy benefits managers
4 (PBM) are prohibited from discriminating against a covered
5 entity or a contract pharmacy by reimbursing the covered
6 entity or the contract pharmacy for a prescription drug or
7 a dispensing fee in an amount less than the plan, carrier,
8 administrator, or PBM reimburses a similarly situated entity or
9 pharmacy that is not a covered entity or a contract pharmacy.

10 "Similarly situated entity or pharmacy" is defined in the bill.

11 Plans, carriers, administrators, and PBMs shall not, on the
12 basis that an entity is a covered entity or that a pharmacy
13 is a contract pharmacy, or that a covered entity or contract
14 pharmacy participates in the 340B program, impose certain
15 contractual terms and conditions, as described in the bill,
16 on the covered entity or contract pharmacy that differ from
17 those imposed on a similarly situated entity or pharmacy
18 that is not a covered entity or a contract pharmacy. Plans,
19 carriers, administrators, and PBMs are also prohibited from
20 placing restrictions or imposing requirements on individuals
21 that choose to obtain a covered outpatient drug from a
22 covered entity or a contract pharmacy, whether in person, via
23 courier or the United States post office, or any other form
24 of delivery; refusing to contract with a covered entity or a
25 contract pharmacy based on any criteria that is not applied
26 equally to a contract with a similarly situated entity or
27 pharmacy that does not participate in the 340B program; or
28 imposing any restriction or condition on a covered entity that
29 interferes with the covered entity's ability to maximize the
30 value of the discounts obtained by the covered entity through
31 the covered entity's participation in the 340B program.

32 "Group health plan" and "third-party administrator" are
33 defined in the bill.

34 The commissioner of insurance (commissioner) may take any
35 enforcement action under the commissioner's authority to

1 enforce compliance with the bill. After notice and hearing,
2 the commissioner may issue any order or impose any penalty
3 pursuant to Code section 507B.7 upon a finding that a plan, a
4 carrier, an administrator, or a PBM violated any provision of
5 the bill.

6 A violation of the bill shall be an unfair or deceptive
7 act or practice in the business of insurance pursuant to Code
8 section 507B.4(3).

9 The commissioner may adopt rules as necessary to implement
10 the bill.

11 If any provision of the bill is inconsistent or in conflict
12 with applicable state or federal law or rule, or the state
13 Medicaid plan, the state or federal law or rule, or the
14 state Medicaid plan, shall prevail to the extent necessary to
15 eliminate the inconsistency or conflict.

16 The bill applies to covered entities, contract pharmacies,
17 plans, carriers, administrators, and PBM, but shall not apply
18 to their operations under a contract with the state Medicaid
19 agency or a Medicaid managed care organization, regardless of
20 whether the covered entity or contract pharmacy is eligible to
21 retain the 340B discounts generated by the covered entities and
22 contract pharmacies. "Medicaid managed care organization" is
23 defined in the bill.