



MEMORANDUM OF SUPPORT

340B Prescription Drug Anti-Discrimination Act

A.7789 (Paulin)

April 30, 2024

As the sole-statewide primary care association for New York’s federally qualified health centers (FQHCs), also known as community health centers (CHCs), the Community Health Care Association of New York State (CHCANYS) advocates for our members’ continued access to pharmaceutical products through the Federal Public Health Service Act 340B drug discount program. For more than 30 years, the 340B program has allowed safety net providers like CHCs, known as “covered entities,” to purchase pharmaceutical drugs at steep discounts. In turn, CHCs reinvest savings to expand access to care, as required by the Health Resources and Services Administration (HRSA). Although New York State has carved the Medicaid pharmacy benefit out of Medicaid Managed Care, there are still opportunities for CHCs to avail themselves of the 340B program through Medicare and commercial insurance. To protect those opportunities, CHCANYS supports A.7789 (Paulin) which would prohibit pharmaceutical manufacturers and pharmacy benefit managers (PBMs) from discriminating against covered entities and their New York pharmacy partners based on 340B participation.

In recent years, pharmaceutical manufacturers, PBMs, and other related entities have taken steps to diminish safety net providers’ 340B savings. For example, PBMs often impose restrictive contracting terms and employ unique audit techniques exclusively towards 340B covered entities. This places an additional administrative burden on 340B covered entities while PBMs divert 340B savings from covered entities to themselves. Additionally, some pharmaceutical manufacturers have instituted new policies prohibiting CHCs from receiving 340B-priced drugs at multiple contract pharmacies. Many CHCs have vast service areas, and patients travel great distances to receive care. Contract pharmacies ensure CHC patients can receive their medications closer to home. According to a CHCANYS survey, over 95% of New York’s CHCs engage with contract pharmacies, and, on average, each CHC contracts with about 20 contract pharmacies. The pharmaceutical manufacturer, PBM, and other entities’ discriminatory actions reduce 340B savings, hurting CHCs’ ability to expand care in their communities, e.g. through providing discounted drugs to the uninsured and underinsured and establishing school-based health centers.

A.7789 would prohibit manufacturers, PBMs, and other related entities from engaging in discriminatory business practices. These actions reduce CHCs’ 340B savings while lining the pockets of for-profit entities. CHCANYS urges the Legislature to pass A.7789 (Paulin) to safeguard the integrity of the 340B program and ensure CHCs continue to have access to 340B benefits in Medicare and commercial insurance. This legislation will protect resources CHCs need to provide and expand healthcare services that meet the needs of the vulnerable communities at no additional cost to the State.

For questions, contact Marie Mongeon, Vice President of Policy, at mmongeon@chcanys.org