

Congress of the United States
House of Representatives
Washington, DC 20515

January 21, 2022

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Ave SW
Washington DC 20201

Dear Secretary Becerra,

We write today as longstanding supporters of the 340B program to urge the Department of Health and Human Services (HHS) to expedite enforcement action against pharmaceutical companies that continue to illegally overcharge 340B covered entities. Unfortunately, the slow pace of HHS's enforcement efforts to date has emboldened additional companies to begin unlawfully overcharging covered entities and threatens the integrity of the 340B program.

Despite overwhelming opposition from Congress, the previous Administration, this Administration, and thousands of 340B-covered entities and safety net providers around the country, more and more drug companies have begun to willfully deny 340B pricing to safety net providers who serve the most vulnerable patient populations in our communities. HHS has the authority to take enforcement action that could deter these manufacturers – and any other manufacturer considering such action – from engaging in this unlawful activity.

In February, in response to six of the leading drug companies in the U.S. announcing they would no longer honor 340B discounts, this coalition led a letter – signed by over 220 of our colleagues in the U.S. House of Representatives – urging HHS to put an immediate stop to these actions. Several months later, we were pleased to see the Health Resources and Services Administration send letters to the six companies informing them that their refusal to honor 340B pricing violates their statutory obligations and ordering them to resume offering 340B pricing and repay past overcharges. The letters further explained that civil monetary penalties could be imposed if the companies continued to violate the statute.

Despite the manufacturers' defiant refusal to comply or even plan to comply, only in September did HHS refer the companies to the Office of Inspector General for possible enforcement action. Unfortunately, this ongoing inaction has emboldened at least six more drug companies to join the original six companies in flouting the law.

Healthcare providers who rely on the 340B program and the patients they serve are suffering and cannot wait much longer for HHS to protect the program's integrity. Many 340B-covered entities are struggling with severe financial losses and staffing challenges as a result of the COVID-19

pandemic, and they cannot afford to pay higher up-front prices for the drugs their patients need. Drug companies' refusal to offer 340B pricing for drugs dispensed through community pharmacies impedes the ability of covered entities to finance critical health care for their patients.

Again, we urge you to move quickly to enforce the law and begin assessing civil monetary penalties on manufacturers that have denied 340B pricing to providers.

Sincerely,



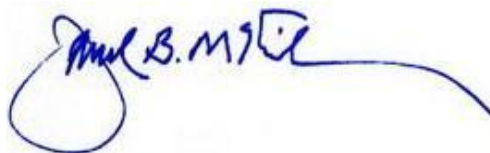
Abigail D. Spanberger
Member of Congress



Cindy Axne
Member of Congress



Doris Matsui
Member of Congress



David B. McKinley
Member of Congress



Dusty Johnson
Member of Congress



John Katko
Member of Congress

Enclosure:

- February 2021 Congressional Letter to Acting HHS Secretary Cochran Re:340B