

J&J Takes Aim at Hospital Drug-Discount Program

Drugmaker told hospitals participating in the discounting program that they will have to pay full price upfront, then wait for rebates

By

[*Melanie Evans*](#)

Follow

and

[*Peter Loftus*](#)

Johnson & Johnson told certain hospitals around the U.S. Friday, in a letter reviewed by The Wall Street Journal, they will have to pay full price for two drugs that the company has sold at a discount under the [drug-savings program](#) and can apply later for a rebate.

The switch, which would take effect Oct. 15, would be a sharp change from the past pharmaceutical industry practice of providing the discount upfront.

Hospital industry officials said the shift could strap them financially, because it would force them to hand over significant sums and then wait months to get the money back. Hardest hit, the officials said, would be hospitals that already struggle financially, including those that serve as safety nets for lower-income or uninsured patients.

A hospital advocacy group immediately filed a challenge to J&J's plans with the federal agency overseeing the subsidy program, known as 340B.

The agency, the Health Resources and Services Administration, has told J&J that its rebate plan isn't consistent with the 340B law and hasn't been approved by the Secretary of Health and Human Services, an agency spokesman said. HRSA said it would take appropriate actions but didn't specify what they would be.

Under the 340B program, hospitals that serve low-income and uninsured patients can get discounts for expensive cancer, heart and other drugs they administer.

It has drawn criticism from pharmaceutical companies as the number of hospitals getting the discounts has expanded, becoming a front in the battle over drug pricing.

"Patients are not realizing the full benefit of the 340B program because of rampant abuse and misuse," a J&J spokesperson said Friday. "To help the 340B Program better serve vulnerable patients, J&J is implementing reasonable, standard business practices used across other government programs and contracts."

J&J said its new rebate system includes blood thinner Xarelto. PHOTO: GEORGE FREY/REUTERS

Congress created the 340B program in 1992 to provide discounts on outpatient drugs given at hospitals and clinics that treat many uninsured and low-income patients.

It was later expanded to include rural hospitals and other facilities, and now some [large, successful hospital systems](#) have access to the discount pricing.

J&J said its new rebate system is for its psoriasis and gut-disorder treatment Stelara and to blood thinner Xarelto. It will apply to hospitals classified as “disproportionate share hospitals,” which serve low-income patients and receive federal funding to pay for the care of uninsured people. Hospitals will have to purchase the drugs from wholesalers at commercial prices, similar to what non-340B customers pay.

After the drugs are given to patients, the hospitals must submit claims data through an online portal to verify the use. J&J will then issue rebates to the hospitals representing the difference between list price and the 340B price.

The American Hospital Association, a trade group, said J&J’s move was an “example of big drug companies taking unilateral actions to advantage themselves at the expense of hospitals that care for America’s most vulnerable patients.”

Shortly after J&J notified hospitals, the advocacy group 340B Health said it had asked HRSA, which administers the 340B program, to declare that drugmakers must offer upfront discounts because later rebates violate the law authorizing the program.

J&J said the rebates are fully consistent with the law, which mentions rebates as a payment mechanism.

Lawyers who represent 340B hospitals said courts will probably have to step in to settle disputes over J&J’s switch.

The pharmaceutical industry has said the program has strayed from its original purpose of helping safety-net hospitals. Manufacturers say they sell medicines to covered hospitals at steep discounts, yet some large hospitals mark up the prices charged to both uninsured patients and insurers.

Drugmakers also say pharmacy-benefit managers have profited by obtaining 340B pricing for their contract-pharmacy divisions.

In recent years, drugmakers have placed restrictions on 340B hospitals, including limiting the discounts for hospitals that don’t have in-house pharmacies and instead contract with outside pharmacies. A federal appeals court [upheld the limits](#) in a ruling in 2023, a major win for drugmakers.

Some states have responded by enacting laws that bar drugmakers from restricting 340B hospitals' use of contract pharmacies to obtain discounts.