Eli Lilly ends 340B drug discounts to some hospitals for failing to provide claims data

Hospital trade groups says the data demand will cause financial stress

By Ed Silverman and Tara Bannow – STAT News
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Making good on its threat, Eli Lilly has begun eliminating mandated price breaks to a few dozen hospitals that participate in a federal drug discount program after failing to receive comprehensive claims data.

The move comes after the company warned earlier this month it would take such a step as part of a policy announced in January in order to reduce what it calls duplicate discounts paid to the hospitals. Trade groups representing hospitals, however, argue the move is unlawful and want Congress to intervene.

At the time, Lilly maintained that more than 2,300 hospitals had complied with its demand, but some larger hospitals systems around the U.S. refused to do so, despite recent follow-up letters regarding the policy, which went into effect Feb. 1. Up to 1,000 had so far not complied, and Lilly indicated it was pressing about 50 larger hospitals to provide data.

A Lilly spokesperson declined to say how many hospitals are now being denied the mandated discounts but sent us a statement saying, “Lilly is collecting claims data to stop the rampant fraud, waste, and abuse in the 340B program that is harming employers, state and federal governments, and patients.

“We announced this requirement in January, sent multiple reminders, and have reached out individually to these entities to discuss — all without success. We hope these hospitals reconsider their decision and submit claims data to accept Lilly’s offer of 340B pricing.“

The 340B program was created more than three decades ago to help hospitals and clinics care for low-income and rural patients. Drugmakers that want to take part in Medicare or Medicaid must offer their medicines at a discount — typically, 25% to 50%, but sometimes higher — to hospitals and clinics that participate in the program.

The pharmaceutical industry, however, has argued that hospitals abuse the program and divert payments to other uses, such as fueling consolidation of health care systems that, in some cases, favor wealthy communities. As a result, the pharmaceutical and hospital industries have squared off over pricing, billing, and claims data.

Six years ago, some drugmakers warned they would withhold discounts if they did not receive sufficient claims data for Medicaid patients. The companies argued they needed to avoid paying duplicate discounts and had sought claims data on patients who are also covered by Medicare Part D and commercial health insurance.

At the time, some drugmakers threatened that discounts would be cut if hospitals buy medicines and then ship them to contracted retail and specialty pharmacies for patients to pick up or delivery, instead of dispensing the drugs through their own in-house pharmacies. Now, Lilly and other drugmakers want claims data from in-house pharmacies, as well.

For their part, trade groups representing hospitals have argued the demands will cause financial problems because of complicated, behind-the-scenes efforts to capture claims data from different in-house computer systems. They have also noted the requested data will extend to both pharmacy and medical claims.

“We believe Lilly’s actions violate the law and are an unprecedented attempt to rewrite the 340B rules without congressional approval. Congress did not give drug companies the authority to create their own reporting requirements and then deny discounts to hospitals that refuse to comply,” said Maureen Testoni, who heads 340B Health, a trade group.

“The consequences will be severe. 340B hospitals provide a disproportionate share of care to low-income and vulnerable patients —

delivering approximately 77% of the nation's Medicaid care and 67% of uncompensated care."

Both 340B Health and the American Hospital Association urged the Health Resources and Services Administration, which oversees the program, to take action. We asked HRSA for comment and will update you accordingly. AHA also called for congressional action.

"Congress should immediately use its oversight authority and demand HHS take a position on drug companies' attempts to hijack the 340B program through burdensome claims-data demands," the group said.

The issue has intensified thanks to the Inflation Reduction Act, which imposes a maximum fair price on drugs paid for by Medicare and obligates drugmakers to pay added inflation rebates in Medicare. But the requirement overlaps with the 340B program. Why? Drugmakers must offer hospitals the lower of the maximum fair price or the 340B price — and pay inflation rebates only on drugs not sold at the 340B price.

Several other drugmakers, meanwhile, have recently announced that they will also demand claims data from hospitals or stop offering 340B pricing. The first to do so was Exelixis, which indicated last September it sought such data. The list has since expanded to include Novo Nordisk, Biogen, AstraZeneca, Amgen, UCB, and Bristol Myers Squibb.