Trump Proposal to Cut Hospital Drug Pay Risks Legal Resistance

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Summary by Bloomberg AI

- The Trump administration's proposal to cut payments for hospitals' drug costs will likely face litigation over the validity of the survey methods used to justify the cuts.
- Hospitals and their advocates are questioning the credibility of the survey methods, citing concerns that the sample size is too low and the findings do not accurately reflect actual acquisition costs for many providers.
- The proposed reimbursement cuts would come at a time when hospitals are facing financial headwinds, and hospital lobbyists are rallying their members to push for changes to the proposal.

The Trump administration's proposal to slash payments for hospitals' drug costs will likely face litigation over the validity of the survey methods used to justify the cuts if finalized in its current form, lawyers say.

The US Department of Health and Human Services earlier this month **proposed** a **33.4% cut** in reimbursement for the 340B Drug Pricing Program, which offers reduced prices on prescription drugs to low-income-serving hospitals, clinics, and community health centers.

The proposal comes as pharmaceutical companies and lawmakers have raised concerns over the program's ballooning costs. The US Health Resources & Services Administration reported **$100 billion** in drug purchases in 2025, up about 20% from **the previous year**, with low-income serving hospitals accounting for the majority of those transactions.

But hospitals and their advocates are taking aim at the credibility of the survey methods used to justify the rate cuts, signaling a legal fight ahead.

"Hospitals vary significantly in purchasing arrangements, service lines, patient mix, and drug utilization patterns," said Jeff Wurzburg, a partner at Norton Rose Fulbright. "Applying the survey's findings uniformly across all 340B hospitals risks producing reimbursement rates that do not accurately reflect actual acquisition costs for many providers."

Only about 30% of hospitals complied with a CMS request for hospital drug acquisition costs data, a sample size too low to draw legally tenable conclusions, he added.

Under the program, hospitals buy drugs from manufacturers at steeply discounted prices; in turn, these facilities bill the federal government the standard cost of the drug.

The revenue generated is then used to offset the costs of uncompensated care, expand health services, and provide lower-cost medications to patients.

Hospital lobbyists are rallying their members to push for changes.

“Right now, this is a proposal; it’s not final. We will absolutely be submitting comments. We will be encouraging our members to submit comments as well,” said Maureen Testoni, president and chief executive officer of the hospital lobbying group 340B Health.

Contested Ground

The reimbursement cuts would come at a time when hospitals are reeling from a perfect storm of financial headwinds. These include rising labor and supply costs, growing uncompensated care expenses tied to uninsured patients, and **federal cuts** to the Medicaid program.

Over 70% of Medicaid hospitals’ services are covered by the 340B program; additional cuts could force these facilities to make tough decisions to remain financially viable, such as shutting down unprofitable service lines like behavioral healthcare, she added.

The proposal, however, is gaining backing by the pharmaceutical industry, which has increasingly **questioned** how much of the savings from the 340B program’s steep drug discounts are going to patients.

A separate study from the consulting firm KNG Health, however, found that 340B hospitals allocated a **larger share** of their net patient revenue on uncompensated care than traditional facilities, especially during the pandemic, where 340B hospitals spent 17.5% more on uncompensated care in 2019.

In an emailed statement to Bloomberg Law, Molly Jenkins, a spokesperson for PhRMA, said drugmakers appreciated “the Administration’s focus on the role hospitals play in driving health care costs,” and added that it looked forward to “working with the Administration, policymakers and stakeholders on comprehensive 340B reforms that bring needed transparency, accountability and patient-centered change to the program.”

Legal Challenges

The proposed payment cut follows earlier efforts by the agency in 2018 and 2019 to cut drug reimbursement to 340B hospitals. The US Supreme Court in ***American Hospital Assn. v. Becerra*** later blocked the move, highlighting that the CMS did not adequately survey hospitals’ drug acquisition costs as required by law.

“If the survey results do not accurately reflect the acquisition costs of 340B hospitals nationwide, the agency may face many of the same legal challenges that resulted in the courts striking down its prior 340B payment cuts,” Wurzburg said.

This time around challenges will likely hinge more on the design and representativeness of the survey itself and whether it provides an adequate basis for the payment reduction, Wurzburg said.

He anticipates that the CMS will take the position that the law does not demand a statistically perfect survey. “The agency is likely to argue that the survey provides the best available evidence of hospital acquisition costs and that reasonable disagreements over methodology or representativeness do not make the resulting reimbursement policy unlawful,” he said.

Affected hospitals, however, will home in on specific design flaws that they can point to that lead to erroneous conclusions. According to Testoni, the survey does not reflect drug prices as accurately as the statute requires.

“What CMS did with the survey number is they came up with an average and they’re applying that to all drugs. So obviously some drugs are going to be way underpaid. Some drugs maybe would be overpaid,” Testoni said.