

Drugmakers, Providers Push Congress on Drug Discount Rebates

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Summary by Bloomberg AI

- Hospitals and pharmaceutical giants are pressuring lawmakers to address how discounts for medications are distributed as Congress weighs changes to the 340B Drug Pricing Program.
- The pharmaceutical industry is pushing to overhaul how discounts are delivered, replacing upfront price cuts with a rebate system, while hospitals have fiercely resisted the change.
- Bipartisan groups of lawmakers have released their own versions of 340B overhaul legislation, offering different approaches to the rebate issue, with some proposals favoring drug companies and others supporting hospitals and safety-net clinics.

Hospitals and pharmaceutical giants are pressuring lawmakers to address how discounts for medications are distributed as Congress weighs changes to a popular federal drug discount program.

The 340B Drug Pricing Program requires pharmaceutical manufacturers to provide certain health providers with drugs at lower up-front prices to serve high-need populations.

But in recent years, manufacturers have pushed to overhaul how those discounts are delivered — replacing upfront price cuts with a rebate system that would require providers to first pay full price for drugs, then submit data to recoup the difference. Hospitals have fiercely resisted the change.

The fight has spilled into the courts and **onto Capitol Hill**. The Trump administration's health agency launched a **rebate pilot** targeting certain drugs set to begin in January — the government's second attempt after a federal judge **blocked** the **first one** following a legal challenge from hospitals.

“It’s just now coming to fruition,” said Heath Ingram, a partner at Goodwin Procter LLP, representing drugmakers. “Congress is seeing this litigation happen across the country, and there are lots of lobbying fights happening.”

Meanwhile, bipartisan groups of lawmakers in both chambers this summer released their own versions of 340B overhaul legislation, and a key Senate health committee chair has also taken the issue on.

“It’s time for everyone to step up and figure out if we can make sure that the program is working as it’s intended — that it’s getting relief to the populations that really are designated to and not beyond that,” said Rep. [Scott Peters](#) (D-Calif.), one lead behind a new [House bill](#) targeting the program.

Competing Legislation

The pharmaceutical industry started pushing for a rebate system after Democrats passed their health-and-tax spending bill in 2022. Drugmakers argue that providers may be receiving duplicate discounts for drugs under both 340B and the Medicare drug price negotiation program.

The current slate of legislation offers three different approaches to the rebate issue.

Senate Health, Education, Labor and Pensions Chair [Bill Cassidy](#) (R-La.) rolled out a [draft bill in June](#) giving drug companies the option to implement a rebate system or continue providing up-front discounts, a proposal the pharmaceutical industry would likely favor.

Meanwhile, a bipartisan House bill [shared first](#) with Bloomberg Government in July, would suspend any rebate programs for four years while a new data clearinghouse is established. This piece of legislation tries to thread the needle between drugmakers and healthcare providers by pausing rebates for a limited period of time, though they could restart.

And the [Senate bipartisan working group’s bill](#) released in August would end any current rebate system and clarify that drug discounts must be made at the point of purchase, an initiative that would have much more support from hospitals and safety-net clinics than Big Pharma.

“A number of these bills are attempting to be big, major, comprehensive 340B reform,” said Jeffrey Davis, a member at Bass, Berry & Sims PLC, representing 340B providers.

Lawmakers likely won’t make much progress on passing legislation this year, but expect to continue working on the issue in the next Congress.

Quicker in Court

Drugmakers and hospitals haven't waited for Congress to act, turning to federal courts as a quicker avenue to thwart or advance any policy changes.

Hospitals have so far been **successful** in legal battles in the last year over whether drugmakers could introduce rebates or if the government properly rolled out the first pilot. Drugmakers have also introduced other efforts to **restrict discounts**, but many have been **shot down** by state laws and federal courts.

Hospitals have since **warned** of potential challenges to the latest rebate pilot, suggesting the government's analysis understates the true costs of the policy.

"Drug companies like the rebate model because it lets them decide whether and when hospitals get the discounts they're owed by statute," said Chad Golder, senior vice president of legal and compliance at the American Hospital Association. "It turns the 340B program into a prior authorization program."

Providers have long argued rebates introduce overwhelming **financial and administrative challenges** for hospitals already operating on razor-thin margins. Expecting hospitals to track data and foot potential legal costs associated with improper rebate delays or denials is too burdensome, they say.

Drugmakers are **prepared to back** the government-led pilot. They argue that shifting to a rebate system would force hospitals to disclose more information about how they use the program, helping ensure drug discounts are being passed on to patients and not used by hospitals to pad their financial bottom-lines.

"A rebate is the cleanest, easiest, best way for everyone," said Karyn Schwartz, a senior vice president in the policy and research department at Pharmaceutical Research and Manufacturers of America, the nation's top drug trade industry association.

Still, both drugmakers and hospitals continue to eye whether it's better for lawmakers to step in or fight it out in court.

"There's always been some obstacle to open up the 340B conversation because nobody wants to end up in a worse position," said Christopher Schott, a partner at Latham & Watkins LLP, representing drugmakers.

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