Rebuttal to HHS Arguments for Medicare 340B Payment Cuts

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Subject: Response to Casey B. Mulligan, "How CMS plans to fix a major flaw in the 340B drug discount program" (October 8, 2026).

CONCLUSION. HHS emphasizes $1.15 billion in reduced beneficiary coinsurance on 340B drugs under its proposed 2027 policy, but omits the corresponding statutory requirement to raise payment rates for other hospital outpatient services. Those higher rates also increase beneficiary coinsurance. The proposal therefore redistributes patient cost-sharing across services rather than establishing a $1.15 billion net reduction in beneficiary out-of-pocket costs.

1. The $1.15 Billion Beneficiary Savings Claim Excludes Offsetting Coinsurance Increases

Mulligan cites projected first-year reductions of $4.55 billion in Medicare drug payments and $1.15 billion in beneficiary drug payments when affected 340B drugs are reimbursed at average sales price (ASP) minus 33.4%. CMS's own July 2026 fact sheet, however, expressly states: "Statute requires that this policy be implemented in a budget neutral manner, so this proposal would increase OPPS payments for non-drug services by an equivalent amount." [1]

The aggregate reduction in drug payments and cost-sharing—approximately $5.70 billion—thus leads to increased allowed payments for other outpatient services. Because beneficiaries generally owe coinsurance on those other services, the upward reimbursement adjustment increases their cost-sharing, subject to service-specific caps and other payment rules. Patients receiving affected 340B drugs may pay less, while beneficiaries receiving imaging, procedures, and other outpatient services may pay more.

The central defect: HHS presents drug-specific coinsurance savings without identifying the offsetting nondrug coinsurance increases or calculating the net beneficiary impact. The $1.15 billion estimate cannot properly be described as a net systemwide beneficiary saving without that calculation.

2. CMS's 2018–2022 Experience Confirms the Redistribution Mechanism

The earlier CMS policy reduced payments for affected 340B drugs from ASP plus 6% to ASP minus 22.5% and raised payments for nondrug outpatient services under budget neutrality. In its subsequent remedy rule, CMS estimated approximately $7.8 billion in additional nondrug payments during 2018–2022 that had to be addressed through a prospective offset. [2]

This prior episode demonstrates that a drug-payment cut does not simply take spending out of Medicare: the OPPS methodology shifts reimbursement to other services. The same rate mechanics

create increased coinsurance for beneficiaries using those services. Conversely, lower nondrug rates can lower beneficiary coinsurance.

The 2027 proposed rule separately would accelerate the prospective offset for the historical 2018–2022 overpayments from 0.5% to 3% beginning in 2027. This legacy recovery policy is analytically separate from the proposed new 340B reduction and its budget-neutral nondrug payment increase; the combined effects should be disclosed rather than conflated. [1]

3. The Opinion Omits Safety-Net Consequences and Assumes Incentive Effects Without Proving Net Patient Benefit

The 340B program was created to assist eligible safety-net providers. A reduction in their Medicare drug reimbursement may be only partially offset—or not offset at all—by increases in other OPPS payments flowing across participating hospitals. HHS offers no corresponding assessment in the opinion of potential effects on outpatient infusion care, medication assistance, access for vulnerable patients, or provider service capacity.

The opinion also attributes growth in hospital outpatient drug spending and site acquisitions to 340B financial incentives, but the cited spending trends alone cannot isolate the causal effect of 340B reimbursement from changes in drug prices, utilization, treatment mix, or site of care. These issues merit examination; they do not substitute for a transparent estimate of beneficiaries' net cost-sharing and access consequences.

What HHS Should Publish Before Claiming Beneficiary Savings

CMS should provide (1) its estimate of the incremental nondrug OPPS payment-rate increase caused solely by the proposed 2027 340B drug cuts; (2) the corresponding projected increase in beneficiaries' nondrug coinsurance, accounting for service-level rules and supplemental coverage; and (3) the net out-of-pocket effect, separately showing the new budget-neutral adjustment and the accelerated recovery of the prior 2018–2022 payments.

BOTTOM LINE. Lower coinsurance on specific 340B drugs is real, but it is not the same as lower overall beneficiary spending. HHS has not established that its proposed 2027 340B policy generates $1.15 billion in net beneficiary savings once offsetting outpatient coinsurance increases are counted.

Sources

1. CMS, CY 2027 OPPS/ASC Proposed Rule Fact Sheet (July 2, 2026).
2. CMS, Remedy for 340B-Acquired Drug Payment Policy for CY 2018–2022 (November 2, 2023).
3. Federal Register, CY 2027 OPPS/ASC Proposed Rule (CMS-1850-P).

Source opinion: Casey B. Mulligan, "How CMS plans to fix a major flaw in the 340B drug discount program," October 8, 2026 (user-provided article).