



OFFICE *of the* STATE COMPTROLLER

State of Connecticut Pharmacy Services RFP

Additional Clarification Question & Answer – October 31, 2023

Question: In the responses to our Q&A questions, the State of Connecticut replied that they needed additional information in regards to the recently pass 340B parity law:

29. How is the plan contemplating recent CT parity law changes going into effect 1/1/24 as part of the RFP?

Response: The state would need a more specific question regarding any concerns or assumed implications with the law to respond.

In follow up, here is a more detailed question:

We have follow-up questions regarding the RFP's request for Proposed "Acquisition Cost Plus" pricing, particularly in connection with Connecticut Public Act 23-171, §15, which is effective January 1, 2024 ("340B Parity Law").

1. Must a 340B pharmacy be willing to contract on a 340B acquisition cost basis in order to participate in the State's specialty pharmacy network?
2. The 340B Parity Law prohibits a PBM from entering into a contract with a 340B entity that contains "[a] reimbursement rate for a prescription drug that is less than the reimbursement rate paid to pharmacies that are not 340B covered entities." "Acquisition Cost" as defined in the RFP is based on the price a pharmacy pays to a manufacturer or wholesaler, which necessarily varies depending on a pharmacy's 340B status. Has the State considered that the "Acquisition Cost Plus" model may lead to significantly lower reimbursement rates for 340B pharmacies than for non-340B pharmacies?
3. Please clarify whether, to comply with the 340B Parity Law, 340B specialty pharmacies are expected to submit a response to the RFP that uses the non-340B price of a drug as the baseline for their "Acquisition Cost."
4. Assuming the Specialty Network Pharmacy participants include 340B and non-340B pharmacies, the reimbursement rates as between those pharmacies, if based on cost, will vary for prescriptions of the same NDC and strength. How will the State ensure that "Acquisition Cost Plus" model does not lead to lower reimbursement rates for 340B pharmacies than for non-340B pharmacies?
5. The 340B Parity Law also states, "[e]xcept to the extent permitted by law, a pharmacy benefits manager may not consider whether an entity is a 340B covered entity when determining reimbursement rates." How then will the RFP process account for significant disparities in "Acquisition Cost" without taking into account the 340B covered entity's participation in the federal 340B Drug Pricing Program?

Response:

Subsection (b) of PA 23-171 states “a contract entered into between a **pharmacy benefit manager** and a 340b covered entity shall not contain any of the following provisions” The contract for these services will be held between the **state** and the covered entity, not the PBM, therefore subsection (b) of this law is not applicable.

In addition, as a policy matter, subsection (c) of the public act states:

(c) Except to the extent permitted by law, a pharmacy benefits manager may not consider whether an entity is a 340B covered entity when determining reimbursement rates.

Our reimbursement policy is the same for all specialty pharmacies regardless of the 340B status – acquisition cost plus a standard admin. fee. We are not establishing independent reimbursement rates, rather we are seeking to reimburse pharmacies the aggregate acquisition cost plus administrative fees. The policy is consistent across both 340B and non 340B entities.

Finally, it is not clear that the specialty pharmacy network established under this procurement will include any pharmacies that do not participate in the federal 340B program.

For all of these reasons each specialty pharmacy should respond to this RFP based upon actual acquisition costs without adjustments.