

June 1, 2015

Jay C. Ecleberry
Director, Pharmacy Networks
Humana, Inc.
321 West Main Street
P.O. Box 1438
Louisville, KY 40201-1438

Akure Ahaghotu
Legal Counsel
Humana, Inc.
500 W Main Street
P.O. Box 1438
Louisville, KY 40202-2920

Re: Humana Contracts with 340B Covered Entities

Dear Ms. Ahaghotu and Mr. Ecleberry:

The undersigned organizations are writing to express our concern regarding the manner in which Humana is offering to include 340B providers in its pharmacy networks. Our groups represent the broad range of safety-net providers that participate in the 340B federal drug discount program.

In October 2013, several associations representing 340B providers, including some of this letter's signatories, sent the attached letter¹ to Humana to convey our concern regarding Humana contracts that we consider to be both discriminatory and inconsistent with the intent of the 340B program. Humana did not reply. We recently learned that Humana has continued using contracts that contain low reimbursement rates for 340B drugs. Such reduced reimbursement threatens to significantly hinder the ability of eligible safety-net providers to care for the nation's most vulnerable patients. We reiterate that we consider these contracts to be both discriminatory and inconsistent with the intent of the 340B program.

23 years ago, Congress enacted the 340B program to give eligible safety-net providers access to discounts to allow these providers to stretch their scarce resources, so that they may "reach more patients" and furnish "more comprehensive services."² Covered entities use 340B savings in a variety of ways to benefit the vulnerable patients they serve. The Government Accountability Office (GAO) has found that providers use 340B to: offset losses incurred from treating some patients, continue providing existing pharmaceutical and clinical services, lower drug costs for low-income patients and serve more patients, and provide additional services, such as case management to facilitate access to appropriate care.³

The payment rates that Humana has offered to 340B providers are so low that they would exhaust much of the 340B savings that Congress intended these providers receive when it created the 340B program.

¹ Attachment 1.

² H.R. Rep. 102-384, 102d Cong., pt.2, at 12 (2d Sess. 1992).

³ GAO, *Manufacturer Discounts in the 340B Program Offer Benefits, but Federal Oversight Needs Improvement* (Sept. 2011), p. 17, at <http://www.gao.gov/assets/330/323702.pdf>.

Ms. Akure Ahaghotu & Mr. Jay C. Ecleberry

June 1, 2015

Page 2 of 2

Congress did not create the 340B program to operate as a financial pass through from pharmaceutical manufacturers to third-party payers. As such, Humana's reduced reimbursement rates to 340B providers contravene congressional intent and frustrate the purpose of the 340B program.

Additionally, the implications for 340B providers as a result of Humana's contracts are inconsistent with the position of the Health Resources and Services Administration (HRSA), the agency that administers the 340B program.⁴ HRSA recognizes that the difference between a 340B drug's lower acquisition cost and standard non-340B reimbursement represents the very benefit that Congress intended to give covered entities when it established the 340B program.⁵ According to HRSA, if "covered entities were not able to access resources freed up by the drug discounts when they ... *bill private health insurance*, their programs would receive no assistance from the enactment of section 340B and there would be no incentive for them to become covered entities."⁶

For the aforementioned reasons, we request that Humana reconsider the payment terms contained in its contracts with 340B providers. If you have any questions, please contact 340B Health Senior Vice President and General Counsel, Maureen Testoni, at 202-552-5851 or maureen.testoni@340bhealth.org or 340B Health Legal and Policy Affairs Counsel, Greg Doggett, at 202-552-5859 or greg.doggett@340bhealth.org.

Sincerely,

340B Health (formerly Safety Net Hospitals for Pharmaceutical Access (SNHPA))
America's Essential Hospitals
Children's Hospital Association
National Association of Community Health Centers
Planned Parenthood Federation of America, Inc.
Ryan White Clinics for 340B Access
The Hemophilia Alliance

cc:

CDR Krista Pedley, Director, Office of Pharmacy Affairs, HRSA
Cheryl Dammons, Associate Administrator, Healthcare Systems Bureau, HRSA

Attachment:

1. October 2013 letter to Humana

⁴ See Letter from CDR Krista Pedley, Office of Pharmacy Affairs (OPA), to SNHPA (Nov. 30, 2011) at http://www.snhpa.org/images/uploads/OPA_Response_to_Argus_Letter_113011.pdf

(noting that 340B providers use program savings to provide more care to their vulnerable patients and explaining that "[a] reimbursement policy that does not cover full 340B Program costs or does not provide funds to provide these additional services could potentially lead covered entities to withdraw from the 340B Program," which would "reduce services to their patients.").

⁵ HRSA, Hemophilia Treatment Center Manual for Participating in the Drug Pricing Program Established by Section 340B of the Public Health Service Act, July 2005), at <http://www.hrsa.gov/hemophiliatreatment/340Bmanual.htm>

⁶ *Id.* (emphasis added).