

June 15, 2021

Amy Bricker
President
Express Scripts PBM
1 Express Way
Saint Louis, MO 63121

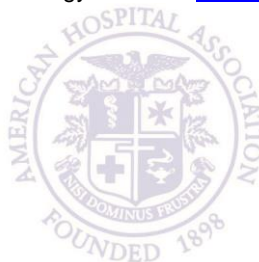
Dear Ms. Bricker:

On behalf of our nearly 2,000 340B member hospitals, the American Hospital Association (AHA) is deeply concerned with Express Scripts' new 340B claims reporting policy. According to your company's communications, 340B hospitals with contract pharmacy arrangements will be required to apply a new code for all 340B claims. The company's FAQ document provides a terse and inadequate justification that this requirement is intended to increase "transparency" in the 340B program.¹ This action is a major overreach for a pharmacy benefit manager (PBM) that has no defined legislative or regulatory role in the 340B program. Given the existing robust federal oversight of the 340B program, it raises significant questions about Express Scripts' true motivations. Meanwhile, implementation of this policy will add substantial burden and cost to the health care system at a time when hospitals continue to struggle to meet the challenges of the COVID-19 public health emergency. **As such, the AHA requests that Express Scripts withdraw this policy immediately.**

Express Scripts has implemented a new policy that will require all 340B hospitals with contract pharmacy arrangements to code all 340B claims using an "N1" transaction code. However, compliance with this policy is not as simple as adding a new code to a claim. It will require significant investments in information system upgrades, additional staffing, and other resources to implement at a time when such resources are limited due to the ongoing COVID-19 pandemic. As such, Express Scripts does not adhere to cautions urged by the National Council for Prescription Drug Programs (NCPDP) related to this type of information collection. Specifically, the NCPDP² noted when it first published a recommendation a decade ago regarding collection of 340B identifiers that "unless all trading partners in the sequence are able to support this incremental process to pass the information to the ultimate destination, the 340B-N1 is not an effective

¹ [Express Scripts Drug Discount Program NI Transaction FAQs](#)

² National Council for Prescription Drug Programs is a non-profit multi stakeholder group formed to use a consensus approach for developing health information technology solutions <https://www.ncdp.org/>



solution for the business need.”³ Clearly, Express Scripts has chosen to ignore the caution NCPDP issued a decade ago and in all subsequent updates to its 340B information exchange reference guide.

Express Scripts has explained that the adoption of this new claims reporting requirement is “in the spirit of greater transparency.”⁴ However, there are a number of questions as to why Express Scripts is inserting itself into the 340B program in this way. First, Express Scripts has no official role in the 340B billing or oversight processes. The roles and responsibilities of each key stakeholder in the 340B billing process – the 340B covered entity, the drug manufacturer, and the state Medicaid agency – are clearly spelled out in federal 340B contract pharmacy guidance. Nowhere in this guidance does it identify any role for a PBM.⁵ In addition, Express Scripts fails to acknowledge any awareness of the oversight structure already in place through which the federal Health Resources and Services Administration (HRSA) conducts rigorous audits of 340B entities and posts the findings on a public website for the purpose of full transparency. The role of PBMs in the drug market place and the associated lack of transparency has been the subject of increased debate by Congress and other key policy makers. We question why a PBM has appointed itself to police a federal program to which it is not a party and which will bring no benefit to either the 340B program or the millions of patients who rely on the program’s benefits.

The 340B program was established nearly 30 years ago to allow hospitals and other covered entities access to drug discounts to stretch the funding 340B providers have available to meet the needs of their patients in vulnerable communities.⁶ The actions of Express Scripts serve only to undermine this purpose and contravene Congress’s intent in establishing the 340B program. The AHA asks that you stop this claims reporting requirement immediately and allow hospitals to focus on what really matters – caring for patients, especially as we continue to be in the midst of the COVID-19 pandemic.

We are available to discuss this issue further. Please contact me if you have questions, or feel free to have a member of your team contact Molly Collins Offner, director of policy at mcollins@aha.org, or Aimee Kuhlman, senior associate director for federal relations at akuhlman@aha.org.

Sincerely,

Ashley Thompson
Senior Vice President
Public Policy Analysis and Development

³ www.ncdp.org/NCPDP/media/pdf/340B_Information_Exchange_Reference_Guide.pdf p. 20

⁴ Express Scripts Drug Discount Program NI Transaction FAQs https://340breport.com/wp-content/uploads/2021/03/340B_Drug_Discount_Program_N1_Transaction_FAQ.pdf

⁵ <https://www.govinfo.gov/content/pkg/FR-2010-03-05/pdf/2010-4755.pdf>

⁶ H. Rep. 102-384 (II), 102d Cong., at 12 (1992)