# 340B and Prescription Drug Affordability Board (PDAB)

Once a state creates a PDAB, 340B entities will continue to obtain their 340B drugs via their existing 340B supply channels – even for drugs for which the PDAB establishes a statewide, all-payer upper payment limit (UPL) so long as the 340B is less than the UPL . The UPL should exceed the 340B price in most cases.

The 340B price is tied to/the same as the Medicaid rebate amount. For legal reasons, a PDAB’s UPL for a drug should not be lower than the Medicaid/340B discount because that UPL could create a new Medicaid best price in the national market. A new national best price could mean that the manufacturer will have to give that discount to every state Medicaid program. If this were to happen, it could possibly be a violation of the Constitution’s Commerce Clause which stipulates that only the federal government regulates interstate commerce. This is why 340B prices will be lower than a UPL.

While using their existing supply chains and benefitting from large discounts, 340B entities will be limited to billing health plans no more than the statewide, all-payer UPL. Today, 340B entities bill health plans an amount similar to market price. It is possible, therefore, that a 340B entity will have slightly reduced revenue on drugs with a UPL.

Importantly, a statewide UPL will apply to certain high-cost drugs -- typically drugs that hold a market position that does not require much price discounting. As a result, the 340B revenue on these drugs is not large to begin with, so any reduction in revenue on these products because of a UPL will not be significant.

For 340B entities that provide employee health coverage, a UPL will benefit their employee benefit pharmacy costs.

340B entities will continue to profit on UPL drugs, but not as much as they would profit in the absence of a UPL. A small reduction in revenue for certain high-cost drugs should not threaten their mission-driven service and is a small tradeoff for making drugs affordable for all people in the state.

A PDAB will be even more important to people served by 340B entities if federal courts or agencies limit the reach of 340B program.[[1]](#footnote-1)

1. Manufacturers and 340B hospitals have been litigating different aspects of the 340B program including the role of contract pharmacies and federal Medicare reimbursement of 340B hospitals. [↑](#footnote-ref-1)