# Policy Brief

## April 2017

## 340B PROGRAM BILLING IN GOVERNOR BROWN BUDGET

**POSITION:** The Chamber's Healthcare Committee OPPOSED the language regarding changes to the 340B program in the Governor's proposed state budget.

**STATUS:** The Governor included the provision for 340B changes in the proposed budget in January. It is expected that this language be codified in trailer bill(s), to be directed from May Revise announcements, should the Governor choose to proceed with the idea.

### AT-A-GLANCE

Per a Department of Health Care Services proposal included in the Governor's proposed budget, it is anticipated that trailer bill language will require 340B entities to bill for discounted outpatient medications at their actual 340B acquisition cost, plus any applicable dispensing fee in both Medi-Cal fee-for-service and Medi-Cal managed care programs.

### SUMMARY

The 340B program (named for Section 340B of the Public Health Service Act) was created in 1992 to allow for decreased costs of pharmaceuticals to Medicaid patients. Specifically, the program mandates that drug manufacturers give outpatient drugs for low income patients in "covered entities" at significantly discounted rates. These covered entities can be described as safety net hospitals, including children's hospitals, certain disproportionate share hospitals and federally qualified health clinics.

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### ANALYSIS

The purpose of 340B was to ensure that institutions caring for large numbers of low-income patients can stretch their resources as far as possible, caring for the highest number of patients. Typically, a covered entity will save 20- 50 percent on cost of outpatient drugs, with the Congressional Budget Office estimating that the ceiling price (as determined by the net Medicaid price which is the lower of two specified equations to reach the final discounted price) is typically 51% of the list price of covered pharmaceuticals.

Previously, California mandated that in the Medi-Cal program, all covered entities must dispense only 340B program-purchased drugs to Medi-Cal recipients, and required providers to bill the State only an mount reflecting the (discounted) 340B purchase price, plus the dispensing fee. This proposal would effectively treat both fee-for-service patients and those in managed care programs the same, resulting in the saved money currently held by healthcare institutions that are covered entities to be transferred back to the state.

The state has previously tried to regulate the 340B program to recoup money saved by hospitals to fill state budget holes, particularly in challenging budget years (i.e. 2009's proposal via the Budget Act). In this instance, the proposal included in the budget is estimated to cost the institutions covering the most vulnerable populations $2 million annually, resulting in hundreds of millions of dollars to such organizations lost across the state each year to backfill state budget holes.

The existing 340B model is an important tool for healthcare institutions to utilize savings in a way that help to expand services to disenfranchised or marginalized communities, the same communities that often cost disproportionately more in care than their healthier counterparts. In its 25 years of operation, it has been lauded as a smart way to benefit patients and provide robust prescription drug services who would otherwise have little access. While this proposal in the January budget does not do away with 340B is strips the covered entities of funds that are currently necessary to their service and operation.