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Planned Parenthood Affiliates Admit They Overbilled for Discount Drugs, Apologize

Steven Aden

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Two Planned Parenthood affiliates recently admitted to Health and Human Services auditors that they overbilled Medicaid for drugs purchased through the federal drug discount pricing program and published “Dear Manufacturer” letters promising to repay amounts that were overcharged.

The admission appears to bolster the conclusion of an Alliance Defending Freedom [report](#) that waste, abuse, and even potential fraud of the Medicaid system may be widespread among Planned Parenthood affiliates.

That report reviews federal and state audits finding that Planned Parenthood overbilled in numerous states and also reviews multiple False Claims Act lawsuits filed by former Planned Parenthood officers alleging fraud, waste, and abuse of Medicaid funds.

The federal government’s 340B Drug Pricing Program requires drug manufacturers to offer discounts to certain Medicaid providers for “covered outpatient drugs,” including contraceptives. The 340B program was intended to expand care for patients by enabling healthcare providers to stretch taxpayer dollars for public assistance further. Under the program, the federal Health Resources and Services Administration calculates a 340B maximum “ceiling price” that a manufacturer can charge providers for each covered drug, resulting in a substantial discount to providers for 340B drugs—a discount they are supposed to pass on to patients.

Planned Parenthood affiliates, like many family planning providers, often buy contraceptives through the 340B program. When they do, they’re required to notify Medicaid if they have chosen to “carve out,” or exclude, their Medicaid patients from the 340B program and instead bill Medicaid at the higher approved Medicaid rates rather than the discount 340B rates. Because the reimbursement rate is higher for non-340B drugs, providers have an incentive to make this election. If a provider fails to inform the state that it’s buying drugs at a discount through 340B and still bills Medicaid at its usual market cost, it will enjoy an unfair windfall.

It would also subject the drug maker to paying an unfair “double rebate,” because the manufacturer will have sold the 340B drugs to the provider at a discount, and yet it will still have also had to pay a statutory rebate it owes to state Medicaid when providers bill Medicaid for drugs at market value.

Sound complicated? Yes, it is, and that’s why some 340B participants, like Planned Parenthood affiliates, may be trying to game the system.

HHS’s inspector general [reported](#) in 2011 that family planning providers, in particular, were prone to overbill state Medicaid programs for drugs purchased through the 340B program. On the heels of that finding, two Planned Parenthood affiliates accepted the conclusion of HRSA auditors that they had caused drug makers to pay a “double rebate” by failing to carve out their Medicaid patients from 340B pricing.

As part of sanctions agreed to in workout agreements with HRSA, the affiliates, Planned Parenthood Hudson Peconic and Planned Parenthood of Western Pennsylvania, were required to send letters to 340B manufacturers advising them of the audits and the potential overbilling and promising to repay any drug maker that sold them 340B drugs at discounted prices.

The “Dear Manufacturers” [letter](#) from PPHP Chief Financial Officer Andrew J. Bracco posted on the HRSA 340B “Program Integrity” website states the following:

I am writing on behalf of [PPHP] to inform manufacturers that PPHP recently underwent an audit by [HRSA] of PPHP’s compliance with [340B Program] requirements. The HRSA audit identified a duplicate discount finding that could potentially result in PPHP owing repayments to manufacturers. PPHP decided to accept the audit findings, and is currently in the process of investigating further to determine whether any amounts are owed to manufacturers. Once its investigation has concluded, PPHP will notify all affected manufacturers to offer repayment.

The audit covered 11 PPHP clinics for services provided from September 2013 to February 2014, according to Bracco’s letter. “PPHP has taken other numerous steps to avoid recurrence of the problem, which have been documented and submitted to HRSA as part of a corrective action plan,” PPHP stated.

Planned Parenthood Western Pennsylvania CEO Kimberlee Evert was less forthcoming in her “Dear Manufacturers” [letter](#). Evert simply informed drug makers that as a result of a May 2012 HRSA audit, “[PPWP] was found to have non-compliance within their 340B program and responsible for repayment” as a result of failing to properly document its Medicaid “carve out.”

Evert assured manufacturers, “PPWP has identified all affected manufacturers and has contacted each to notify them of these violations to begin a dialogue on a method for repayment to affected manufacturers.”

While HRSA did not disclose the amounts of the overbilling it found, PPHP’ 2013 990 return lists

Medicaid program service revenue in the amount of \$4.6 million. Since the 340B discount is generally estimated to be around 10 percent of the market value for the discounted drugs, the amount overcharged to Medicaid could run into six figures just for this one affiliate—especially since it isn’t known how long the practice went on.

These Planned Parenthood affiliates’ failure to document the 340B “carve out” for Medicaid may have been a simple mistake, but perhaps not, based upon the actions of Planned Parenthood elsewhere. According to Abby Johnson, a former Planned Parenthood of Houston and Southeast Texas officer (now part of Planned Parenthood Gulf Coast), when Planned Parenthood employees asked what the affiliate would do after it admitted internally to massive unlawful billing to Texas Medicaid, a high-ranking official responded, “We’re going to hope we don’t get caught.”

Although Planned Parenthood denied wrongdoing, it settled a fraud lawsuit brought by the State of Texas and another former Planned Parenthood officer for \$4.3 million. It’s out of concern for overbilling practices like these that the Wisconsin Legislature is considering a [bill](#) to require healthcare providers participating in the 340B program to bill Medicaid only at the actual acquisition cost of the drugs purchased to avoid giving providers like Planned Parenthood an unearned windfall at the expense of patients, taxpayers, and drug makers.

With American taxpayers funding Planned Parenthood to the tune of \$1.5 billion between 2010 and 2012 alone [according to the Government Accountability Office](#), lawmakers are wise to subject this nonprofit behemoth to greater fiscal scrutiny.