



EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES  
**COMMONWEALTH OF MASSACHUSETTS**  
OFFICE OF MEDICAID  
ONE ASHBURTON PLACE, BOSTON, MA 02108



**MAURA T. HEALEY**  
GOVERNOR

**KATHLEEN E. WALSH**  
SECRETARY

**KIMBERLEY DRISCOLL**  
LIEUTENANT GOVERNOR

**MIKE LEVINE**  
ASSISTANT SECRETARY  
FOR MASSHEALTH

May 5, 2023

The Honorable Michael J. Rodrigues  
Chair, Senate Committee on Ways and Means  
State House, Room 212  
Boston, MA 02133

The Honorable Aaron Michlewitz  
Chair, House Committee on Ways and Means  
State House, Room 243  
Boston, MA 02133

The Honorable Cindy Friedman  
Senate Chair, Joint Committee on  
Health Care Financing  
State House, Room 313  
Boston, MA 02133

The Honorable John Lawn  
House Chair, Joint Committee on  
Health Care Financing  
State House, Room 236  
Boston, MA 02133

Dear Chairs Rodrigues, Michlewitz, Friedman, and Lawn,

Enclosed is a 340B/High-Cost Drugs Impact Report, which is required by chapter 118E section 13L of the Massachusetts General Laws. At least 180 days before any restriction or limitation is implemented on an eligible hospital's access to the discounted purchase of prescription drugs to the full extent permitted under section 340B of the federal Public Health Service Act, as codified under 42 U.S.C. § 256b, the Secretary of Health and Human Services is required to submit a report to the Joint Committee on Health Care Financing and the Senate and House Committees on Ways and Means detailing: (A) the proposed restriction or limitation; (B) the anticipated aggregate savings to the commonwealth; (C) the estimated fiscal impact of the restriction or limitation on each affected hospital; and (D) the manner in which the Secretary plans to mitigate the fiscal impact, which may include measures to maintain savings already achieved by providers under said 42 U.S.C. § 256b.

The MassHealth program intends to limit payment for eleven drugs when purchased through the 340B Drug Pricing Program to allow the Commonwealth to benefit from value-based contracts entered into by MassHealth. MassHealth will continue to pay for these eleven drugs for MassHealth members when purchased outside of the 340B Drug Pricing Program, and this policy will therefore not impact MassHealth member access to these drugs, or the ability of hospitals to receive payment for these drugs when purchased through the 340B Drug Pricing

Program and provided to non-MassHealth patients. This report details the proposed limitation and its anticipated fiscal impact and mitigation.

I hope you find this document useful and informative. Please feel free to contact Sarah Nordberg, Legislative Affairs Manager, at [Sarah.Nordberg@mass.gov](mailto:Sarah.Nordberg@mass.gov) if you have any questions about the report.

Sincerely,

A handwritten signature in black ink that reads "Mike Levine". The signature is written in a cursive, flowing style.

Mike Levine  
Assistant Secretary for MassHealth

cc: Kathleen E. Walsh

# **340B/High-Cost Drugs Impact Report**

## **Summary**

At least 180 days before any restriction or limitation is implemented on an eligible hospital's access to the discounted purchase of prescription drugs to the full extent permitted under section 340B of the federal Public Health Service Act, as codified under 42 U.S.C. § 256b, the Secretary of Health and Human Services is required to submit a report to the Joint Committee on Health Care Financing and the Senate and House Committees on Ways and Means detailing:

- (A) the proposed restriction or limitation;
- (B) the anticipated aggregate savings to the Commonwealth;
- (C) the estimated fiscal impact of the restriction or limitation on each affected hospital; and
- (D) the manner in which the Secretary plans to mitigate the fiscal impact, which may include measures to maintain savings already achieved by providers under said 42 U.S.C. § 256b.

The MassHealth program intends to limit payment for eleven drugs for MassHealth members if purchased through the 340B Drug Pricing Program to allow the Commonwealth to benefit from value-based contracts entered into by MassHealth. MassHealth will continue to pay for these eleven drugs for MassHealth members when purchased outside of the 340B Drug Pricing Program, and this policy will therefore not impact MassHealth member access to these drugs, or the ability of hospitals to receive payment for these drugs when purchased through the 340B program and provided to non-MassHealth patients. This report details the proposed limitation and its anticipated fiscal impact and mitigation.

## **(A) Proposed Restriction or Limitation**

MassHealth has designated the following eleven drugs as non-payable when purchased through the 340B drug pricing program and provided to MassHealth members:

- Abecma (idecabtagene vicleucel)
- Breyanzi (lisocabtagene maraleucel)
- Carvykti (ciltacabtagene autoleucel)
- Kymriah (tisagenlecleucel)
- Tecartus (brexucabtagene autoleucel)
- Yescarta (axicabtagene ciloleucel)
- Luxturna (voretigene neparvovec)
- Zolgensma (onasemnogene abeparvovec-xioi)
- Hemgenix ((etranacogene dezaparvovec)
- Zynteglo (betibeglogene autotemcel)
- Skysona (elivaldogene autotemcel)

In accordance with 130 CMR 406.404(D): Participation in the 340B Drug Pricing Program for Outpatient Pharmacy Services, these drugs are high-cost drugs with a gross cost of \$100,000 or more per utilizer per year.

This policy has no impact on MassHealth's coverage of medically necessary drugs for MassHealth members. This policy affects only the method by which specific high-cost drugs may be purchased when provided to MassHealth members, and does not impact the use of 340B drugs for other patients.

MassHealth will implement this limitation no sooner than November 15, 2023.

### **(B) Anticipated Aggregate Savings to the Commonwealth**

MassHealth has value-based payment (VBP) contracts tied to certain of these drugs and may enter into VBP contracts covering other such drugs where payment for the drug is tied to patient outcomes. VBP contracts are a relatively new development, and they allow drug manufacturers to stand behind their products and take financial responsibility for clinical outcomes. These VBP contracts protect the Commonwealth in the event the drugs do not perform as desired and therefore potential savings are dependent on actual clinical outcomes. MassHealth is unable to estimate such savings at this time, which will vary depending on the number of value-based contracts entered into and the clinical outcomes for patients.

### **(C) Estimated Fiscal Impact of the Restrictions or Limitations on each Affected Hospital**

Each of the eleven affected drugs are already listed or will be listed on the MassHealth Acute Hospital Carve-Out Drugs List, and providers are reimbursed at their actual acquisition cost of the drug, regardless of method of purchase. This payment methodology will not change. Hospitals will pay more to purchase the drug outside of the 340B Drug Pricing Program but will be reimbursed at a corresponding higher amount. As such, any fiscal impact of this policy is limited to temporary cash-flow impact. There are, however, potential savings for the Commonwealth under the VBP contracts.

It is important to note that drug manufacturers are typically unwilling to pay rebates on drugs purchased through the 340B Drug Pricing Program, and states cannot collect the standard federal rebate on drugs purchased through the 340B program. Many manufacturers are also unwilling to pay state-only rebates, including value-based rebates, on a drug that does not have a standard federal rebate. Requiring these drugs to be purchased outside of the 340B program for MassHealth members allows the Commonwealth to benefit from the protections available through a value-based contract.

### **(D) How the Secretary Plans to Mitigate the Fiscal Impact, which may Include Measures to Maintain Savings Already Achieved by Providers under 42 U.S.C. § 256b.**

The Secretary of Health and Human Services does not anticipate there will be a fiscal impact, so there will be no need to mitigate. MassHealth will provide notice to affected

providers for input by provider bulletin and may adjust this policy if it is determined that there is a fiscal impact.