



Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

**Synopsis:** House Bill 78 (HB78) would enact a new section of the New Mexico insurance code to prohibit discrimination against entities that participate in the federal 340B drug pricing program related to prescription drugs. Prescription drugs purchased through the 340B program are discounted according to federal requirements. Pursuant to HB78 manufacturers of prescription drugs must not interfere with 340B drug acquisition, contracting, or delivery to contracted pharmacies authorized to receive and dispense 340B drugs, unless receipt of the 340B drugs is prohibited by federal agencies. Additionally, unless required by federal law, manufacturers must not require 340B program entity participants to submit any claims or utilization data as a condition for allowing the acquisition or delivery of prescription drugs through the 340B program.

**FISCAL IMPLICATIONS.** There is no fiscal impact of HB78 for the New Mexico Aging and Long-Term Services Department (ALTSD). However, the 340B pricing and administration is important to New Mexico's older adults and those living with disabilities who access their medications from entities covered under 340B pricing, including the Federally Qualified Health Centers (FQHC).

#### **SIGNIFICANT ISSUES**

Prescription drug spending in the U.S. increased 8.4% to \$405.9 billion in 2022, faster than the 6.8% growth in 2021.<sup>1</sup> This is a significant rapid increase specifically as it relates to older adults. Further, between 2021 through 2022, 88.6 percent of older adults (age 65 and older) took prescription medication within the last twelve months.<sup>2</sup> It should be noted that the 340B Program is limited to outpatient settings and therefore HB78 would impact specific individuals within the outpatient realm.

The Consumer and Elder Rights Division (CERD), a division within ALTSD, statutorily tasked with providing health insurance and benefits counseling, regularly receives calls from constituents related to prescription medication insurance coverage and access to prescription medications. The follow table contains statistical information related to the total number of calls received by CERD where one of the primary discussion topics was related to prescription drugs:

<b>Topic</b>	<b># of Calls in 2024</b>
Other Prescription Assistance	22
Prescription Asst. State Pharmacy Assistance Programs	15
Prescription Assistance Union/Employer Plan	3
Prescription Drug Discount Cards	22
Prescriptions Assistance Manufactures Programs	45
<b>Total number of topics discussed:</b>	<b>107</b>

<b>Topic</b>	<b># of Calls in 2023</b>
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<sup>1</sup> <https://www.hrsa.gov/opa/updates/2023-340b-covered-entity-purchases>

<sup>2</sup> <https://www.cdc.gov/nchs/data/nhsr/nhsr209.pdf>

Other Prescription Assistance	77
Prescription Asst. State Pharmacy Assistance Programs	110
Prescription Assistance Military Drug Benefits	1
Prescription Drug Discount Cards	21
Prescriptions Assistance Manufactures Programs	153
<b>Total number of topics discussed:</b>	<b>362</b>

<b>Topic</b>	<b># of Calls in 2022</b>
Other Prescription Assistance	158
Prescription Asst. State Pharmacy Assistance Programs	341
Prescription Assistance Military Drug Benefits	2
Prescription Assistance Union/Employer Plan	2
Prescription Drug Discount Cards	4
Prescriptions Assistance Manufactures Programs	359
<b>Total number of topics discussed:</b>	<b>866</b>

The 340B pricing is important to New Mexico’s older adults and those living with disabilities who access their medications from entities covered under 340B pricing, including the FQHC.

In 2023, 340B covered entities purchased \$66.3 billion in covered outpatient drugs under the 340B Program.<sup>3</sup>

**PERFORMANCE IMPLICATIONS.** None expected for ALTSD.

**ADMINISTRATIVE IMPLICATIONS.** None expected for ALTSD.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES.** None expected for ALTSD.

**OTHER SUBSTANTIVE ISSUES.** None identified.

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If not enacted, there may be fewer eligible entities willing to participate in the 340B program due to additional administrative requirements to share claims or utilization data reporting with prescription drug manufacturers. Other eligible entities may have concerns related to the sharing of patient-care related information as a requirement to offer 340B discounted prescription drugs to qualified patients, which may impact those entities’ willingness to offer 340B drugs.

**AMENDMENTS**

<sup>3</sup> <https://www.hrsa.gov/opa/updates/2023-340b-covered-entity-purchases>