

Full Performance Evaluation

**Department of Health and
Human Resources**

The Department of Health and Human Resources Has Made Progress in Expanding the Enrollment of Medical Facilities in the Federal 340B Drug Pricing Program; However, Its Effort With Respect to Disproportionate Share Hospitals Needs to Be Increased



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John Sylvia
Director

September 19, 2004

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J.D. Beane
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Full Performance Evaluation of the *Department of Health and Human Resources*, which will be presented to the Joint Committee on Government Operations on Sunday, September 19, 2004. The issue covered herein is "The Department of Health and Human Resources Has Made Progress in Expanding the Enrollment of Medical Facilities in the Federal 340B Drug Pricing Program; However, Its Effort With Respect to Disproportionate Share Hospitals Needs to Be Increased."

We transmitted a draft copy of the report to the Department of Health and Human Resources on September 7, 2004. We held an exit conference with the Department on September 10, 2004. We received the agency response on September 14, 2004.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

Issue 1: The Department of Health and Human Resources Has Made Progress in Expanding the Enrollment of Medical Facilities in the Federal 340B Drug Pricing Program; However, Its Effort With Respect to Disproportionate Share Hospitals Needs to Be Increased.

The Legislative Auditor examined the efforts of the Department of Health and Human Resources in assisting eligible entities (i.e. Federally Qualified Health Centers, Disproportionate Share Hospitals) in enrolling in the federal 340B Drug Pricing Program. In general, it was found that the DHHR has showed progress in expanding the enrollment of Federally Qualified Health Centers in the 340B program. However, the DHHR's efforts with respect to Disproportionate Share Hospitals (DSHs) needs to be increased.

For West Virginia the 340B price was 38% below that of Medicaid's top twenty five drugs.

Created by the Veteran's Healthcare Act of 1992, the federal 340B Drug Pricing Program has been in existence for 12 years. The 340B program offers a significant discount on prescription drugs, often below the Medicaid net price. For West Virginia, it was found that the 340B price was 38% below that of Medicaid's top twenty five drugs. An advantage for savings lies with the Bureau for Medical Services. Since 340B prices are below that of the Medicaid net price, Medicaid can save money because 340B providers may only bill Medicaid for the acquisition cost plus the dispensing fee. It has been found by a national survey conducted by the Public Hospital Pharmacy Coalition that "340B programs are saving state Medicaid programs an average of almost \$300,000 per hospital per year."

DHHR has expanded the participation of Federally Qualified Health Center in the 340B Drug Pricing program. However, no disproportionate share hospitals have enrolled as a result of DHHR's efforts.

DHHR's efforts to increase participation in the 340B Drug Pricing program began in April 2003 when only 8 FQHCs and 2 DSHs were enrolled. Since then, the Division of Primary Care, in cooperation with the West Virginia Primary Care Association has helped numerous FQHCs apply for the program, and through the West Virginia Hospital Association, has provided information to the DSHs. The Legislative Auditor does acknowledge that 53 FQHCs and their satellites clinics have applied since DHHRs efforts began, however, only 1 DSH has enrolled in the 340B program in this time. Furthermore, this hospital indicated that it did not hear about 340B through DHHR and it did not receive assistance from DHHR. The Legislative Auditor concludes that DHHR should increase its outreach efforts to inform and assist the state's DSHs in enrolling in 340B.

The Legislative Auditor also finds that many hospitals may encounter obstacles to joining the program. In order to enroll in the 340B program, three

requirements must be met: 1) The entity must have a Medicare reimbursement greater than 12.00%; 2) The entity must not be part of any bulk purchasing agreement; and 3) The entity must be government owned or affiliated. Furthermore, there may be confusion about how to begin using the 340B pricing. This is reinforced by the fact that Stonewall Jackson Memorial Hospital believes that the 340B is good, however, the lack of assistance about what to do once enrolled slowed participation. **The Legislative Auditor recommends that the Department of Health and Human Resources incorporate information concerning overcoming the governmental affiliation obstacle, as well as assist in the start-up phase.**

West Virginia can also save money through the Division of Corrections (DOC). The state can save money if correctional facilities contract with entities that are enrolled in the 340B program to provide inmate medical care. Since an inmate would then be considered a patient of a covered entity, the inmate would then become eligible for the 340B discounts. West Virginia's DHHR indicated that the Pharmaceutical Cost Containment Council is in the process of working with the DOC in contracting with 340B providers. The Division of Corrections indicated that it welcomes any assistance from the DHHR regarding the 340B program.

For each DSH that participates in the 340B program, Medicaid may save an estimated \$75,000 in state funds.

Over the past ten years, prescription drug costs to the Bureau for Medical Services have increased over 200%. In order to control the rising drug costs, the DHHR should continue to encourage eligible facilities to enroll in the federal 340B program. West Virginia has possibly 11 of the 58 DSHs that may be eligible to participate in the program. For each DSH that participates in the 340B program, Medicaid may save on average \$300,000 per year, with \$75,000 being state funds. The Federally Qualified Health Centers and Disproportionate Share Hospitals themselves also benefit from the 340B program. Hospitals involved in the 340B program have saved on their drug expenses. Both DSHs and FQHCs have reinvested the savings into improving and expanding health care options. The Legislative Auditor finds that the Department of Health and Human Resources has made an effort with the Primary Care Association and the Hospital Association to encourage and assist eligible facilities in enrolling in the program, and that continuing this effort is in the best interest of the state. However, it is evident that more progress can be made with respect to increasing the number of DSHs that are enrolled in 340B.

Recommendations

1. *The Legislative Auditor recommends that the Department of Health and Human Resources continue providing information and assistance to Federally Qualified Health Centers and Disproportionate Share Hospitals.*
2. *The Legislative Auditor recommends that the Department of Health and Human Resources incorporate information concerning overcoming the governmental affiliation obstacle, as well as informing hospitals that the bulk-purchasing requirement applies to out-patient drugs only.*
3. *The Legislative Auditor recommends that the Pharmaceutical Cost Containment Council continue its effort with the Division of Corrections to contract with 340B providers.*
4. *The Legislative Auditor recommends that the Department of Health and Human Resources continue studying the relationship between 340B and Medicaid to determine how the Bureau for Medical Services can maximize the 340B benefits.*

Review Objective, Scope and Methodology

This is a Full Performance Evaluation of the Department of Health and Human Resources. The DHHR is responsible for administering numerous programs that benefit the health and welfare of the citizens of West Virginia.

Objective

The objective of this report was to examine the extent of the effort by the Department of Health and Human Resources to inform and assist eligible entities in the enrollment in the 340B Drug Pricing Program.

Scope

The scope of this report focused on calendar and fiscal years 2003 and 2004.

Methodology

The Legislative Auditor utilized performance audits of other states, mainly the December 2002 report by the Joint Legislative Audit and Review Commission of Virginia titled *State Spending on Medical Supplies* and as well as internet sources, including the Public Hospital Pharmacy Coalition and the Bureau of Primary Health Care. The Legislative Auditor also requested 340B drug pricing information from CAMC and West Virginia University Hospitals, as well as Medicaid drug pricing information from the Bureau for Medical Services.

Issue 1

The Department of Health and Human Resources Has Made Progress in Expanding the Enrollment of Medical Facilities in the Federal 340B Drug Pricing Program; However, Its Effort With Respect to Disproportionate Share Hospitals Needs to Be Increased.

Issue Summary

Prescription drugs are the second largest expense for the Bureau for Medical Services; increasing an average of 14% per year.

Prescription drugs are the second largest expense for the Bureau for Medical Services; increasing an average of 14% per year from 1994-2003. In fiscal year 2003, West Virginia spent over \$325 million, and for 2004 that figure is expected to top \$360 million. One method to help control rising Medicaid drug costs is to expand the number of state medical facilities that participate in the federal 340B Drug Pricing program. This program has been in existence since 1992, and it offers significant savings on prescription drugs to eligible medical facilities. **It has been estimated that each hospital that participates in the program saves Medicaid approximately \$300,000 per year.** Many of the state's Disproportionate Share Hospitals (DSHs) may be eligible for the program and all Federally Qualified Health Centers (FQHCs) are automatically eligible but they must enroll.

FQHCs	Number of Entities
Total Estimated Number of FQHC sites	97
Number of FQHCs Enrolled in 340B	31
Number of FQHCs (Including Satellites) that Have Applied	53
DSHs	Number of Entities
Number of DSHs in State	58 (11 eligible for 340B) ¹
Number of DSHs Enrolled in 340B	3
Number of DSHs Currently Applying	1 ²
<p><i>Source: Data for this table were gathered from information provided by DHHR.</i></p> <p>¹ The 12.00% DSH Adjustment restricts eligibility, however, estimates indicate that 11 DSHs are eligible for 340B.</p> <p>² According to the West Virginia Hospital Association, Cabell Huntington Hospital is beginning the application process.</p>	

DHHR has expanded the participation of FQHCs in the 340B program; however, no DSHs have enrolled as a result of DHHR's efforts.

DHHR's efforts to increase participation in the 340B Drug Pricing program began in April 2003 when only 8 FQHCs and 2 DSHs were enrolled. DHHR's efforts involve partnering with the West Virginia Primary Care Association and the West Virginia Hospital Association to inform and assist medical facilities to enroll in 340B. Table 1 shows that progress has been made with respect to increasing FQHCs enrollment. DHHR reports that all remaining FQHCs "have applied and all will be covered by the end of September 2004," and the satellite clinics may take up to 2006 to enroll. With respect to DSHs, the DHHR, in conjunction with the West Virginia Hospital Association, held a meeting in which DSHs were informed of the benefits of the 340B program. However, not all hospitals attended the meeting, and there is no record of which hospitals attended. Three of the possible 11 eligible DSHs enrolled in the program prior to DHHR's efforts. Therefore, there has been limited progress in increasing DSHs' enrollment. DHHR does not know why the remaining DSHs have not applied. Evidence suggests that DSHs may have misconceptions about 340B, still lack knowledge of the program, or may not know how to complete the application process. **The Legislative Auditor concludes that DHHR should increase its outreach efforts to inform and assist the state's DSHs in enrolling in 340B.**

Significant Savings Are Possible Under the Federal 340B Program

With prescription drug costs being one of the largest items in the Bureau for Medical Services' budget and increasing an average rate of 14% per year, cost containment is one of the most pressing issues for the Bureau for Medical Services and the Department of Health and Human Resources. Although West Virginia has the 48th lowest average retail prescription drug prices in the nation at \$47.31, a high demand (second in the nation at 15.2 prescriptions per capita) offsets the low cost¹. The Bureau for Medical Services took the initiative to begin a Preferred Drug List in an attempt to control these rising costs.

The 340B program was started under the Veteran's Health Care Act in 1992. The program requires manufacturers of prescription drugs to provide discounts to "covered entities." These "covered entities" include disproportionate share hospitals, Federally Qualified Health Centers, Federally Qualified Health Center Look-A-Likes, and several other health care organizations. The 340B discounts are higher than those available to Medicaid. In West Virginia, the 340B discounts averaged around 38% for

¹According to the Kaiser Family Foundation's State Health Facts, West Virginia was 48th in the nation in prescription drug prices for 2002.

the Bureau for Medical Services' top twenty five drugs (see Table 2).

The 340B discounts averaged around 38% for the Bureau for Medical Services' top twenty five drugs.

Another advantage for savings lies with the Bureau for Medical Services, because **340B providers may only bill Medicaid for the acquisition cost plus the dispensing fee.** Since 340B prices are below that of the Medicaid net price, Medicaid can save money. It has been found by a national survey conducted by the Public Hospital Pharmacy Coalition that “340B programs are saving state Medicaid programs an average of almost \$300,000 per hospital per year.” **If this estimate is correct, then if 11 of West Virginia’s 58 Disproportionate Share Hospitals are found eligible for the program and enroll, the state would save \$3.3 million a year in Medicaid drug expenditures.** Of this \$3.3 million a year, West Virginia’s savings would be approximately \$825,000 million, with the remaining \$2.4 million being federal funds.

If 11 of West Virginia’s 58 Disproportionate Share Hospitals are found eligible for the program and enroll, the state would save \$3.3 million a year . Of this \$3.3 million a year, West Virginia’s savings would be approximately \$825,000 million.

However, the Bureau for Medical Services is not the only entity that can benefit from the discounted prescription drugs. Disproportionate Share Hospitals are also saving money off their prescription drug budgets. For example, West Virginia University Hospitals estimates that it has saved at least 10% off its entire prescription drug budget in the year and a half it has participated in the program. Federally Qualified Health Centers that are actively participating in the 340B program are also using the savings to expand their health center’s capabilities. These facilities can either pass the savings to their patients or use the savings as a revenue source to help cover the costs of indigent care. **Still, Medicaid can only be billed at the acquisition cost, plus a dispensing fee.**

Table 2
340B Prices Compared to Medicaid Discounts
for the Top 25 Drugs Used by Medicaid Recipients

Drug Name	WV Medicaid Payment Per Rx	340B Payment Per Rx
Prevacid 30MG Cap.	\$125.48	\$48.53
Zocor 20MG. Tab.	\$124.27	\$55.64
Zocor 40MG. Tab.	\$123.90	\$62.71
Clarinet 5MG Tab.	\$61.18	\$38.22
Plavix 75MG Tab.	\$108.86	\$63.37
Singulair 10MG. Tab.	\$82.02	\$64.47
Zoloft 100MG Tab.	\$91.07	\$58.26
Aciphex 20MG Tab.	\$122.35	\$53.42
Neurontin 300MG Tab.	\$103.19	\$61.32
Zoloft 50MG Tab.	\$80.06	\$50.78
Zyprexa 10MG Tab.	\$338.86	\$234.76
Zithromax 250MG Tab.	\$42.65	\$26.68
Advair Diskus	\$136.63	\$90.61
Synagis 100MG/5CC	\$1,259.68	\$877.45
Ambien 10MG Tab.	\$74.67	\$34.36
Zyprexa 20MG Tab.	\$559.27	\$406.09
Celexa 20MG Tab.	\$79.12	\$46.22
Depakote 500MG EC Tab.	\$143.19	\$48.88
Topamax 100MG Tab.	\$221.06	\$67.86
Zyprexa 15MG. Tab.	\$490.92	\$345.59
Seroquel 200MG Tab.	\$304.26	\$186.59
Neurontin 600MG Tab.	\$182.33	\$122.96
Wellbutrin SR 150MG Tab.	\$92.60	\$36.39
Risperdal 1 MG Tab.	\$147.35	\$70.55
Zyprexa 5MG Tab.	\$209.95	\$152.02

Source: Data for this table was calculated on a per pill basis using the Bureau for Medical Services prices paid, the Federal Supply Schedule, and the 340B Drug prices.

340B Savings Could Be Extended to the Division of Corrections

West Virginia can also save money through the Division of Corrections (DOC). There are over 20 correctional facilities in the state of West Virginia, and each facility is currently under contract with physicians to provide medical services to inmates. It is likely that the DOC has not contracted with a 340B provider since only 3 hospitals statewide participate in the program. However, according to an audit by the Joint Legislative Audit and Review Commission of Virginia, as well as the Public Hospital Pharmacy Coalition, states can save money if correctional facilities contract with entities that are enrolled in the 340B program to provide inmate medical care. Since an inmate would then be considered a patient of a covered entity, the inmate would then become eligible for the 340B discounts. Currently, Texas has put this idea into action. The Joint Legislative Audit and Review Commission (JLARC) states that Senate Bill 347 requires that the Department of Criminal Justice partner with the Correctional Managed Health Care Committee and the Texas Tech University Health Sciences Center to make all necessary contractual modifications so that prisoners would meet the definition of a patient of a 340B provider. Furthermore, according to the JLARC, “the Texas Department of Criminal Justice estimates savings associated with this program to be approximately 22%.” West Virginia’s DHHR indicated that the Pharmaceutical Cost Containment Council is in the process of working with the DOC in contracting with 340B providers. **The Legislative Auditor recommends that the Pharmaceutical Cost Containment Council continue their effort with the Division of Corrections to contract with 340B providers.**

DHHR estimates that all FQHCs in the state will have applied or will be enrolled by September of 2004.

Effort By Department of Health and Human Resources Shows Progress

The Department of Health and Human Services’ efforts in promoting the 340B program began in April 2003. It was during this time period that the 340B workgroup was created. This workgroup included Medicaid, the Health Care Authority, the West Virginia Hospital Association, the West Virginia Primary Care Association, and the Division of Primary Care. According to DHHR, at this time, 8 FQHCs were actively participating in the 340B Drug Pricing Program. Since then, the Division of Primary Care, in cooperation with the West Virginia Primary Care Association has helped numerous FQHCs apply for the program, and through the West Virginia Hospital Association, has provided information to the DSHs. DHHR estimates that all FQHCs in the state will have applied or will be enrolled by September of 2004. Currently, there are 15 FQHCs actively dispensing. However, the West Virginia Primary

Care Association estimates that it will take until 2006 for the satellite clinics to be enrolled and actively participating. The 340B workgroup has also applied for, and received, a grant from the Claude Worthington Benedum Foundation to help further the 340B efforts.

Expansion of DHHR's Efforts Could Result In More DSHs Participating

The Legislative Auditor acknowledges that DHHR has been successful in assisting the FQHCs in enrolling in the program. However, there has been a lack of progress on the DSHs. The DHHR, in cooperation with the West Virginia Hospital Association, held a meeting in which DSHs were informed of the benefits of the 340B program. However, not all hospitals attended the meeting, and there is no record of which hospitals attended. According to DHHR, there are 11 hospitals that qualify, while the Primary Care Association (in cooperation with the Division of Primary Care) indicates that 23 hospitals are eligible. Furthermore, only 1 DSH has joined 340B since the meeting, and it indicated that it did not hear about 340B through DHHR and it did not receive assistance from DHHR. Therefore, there has been limited progress in increasing DSHs' enrollment. DHHR does not know why the remaining DSHs have not applied. Evidence suggests that DSHs may still have misconceptions about 340B, still lack knowledge of the program, or may not know how to complete the application process. **The Legislative Auditor concludes that DHHR should increase its outreach efforts to inform and assist the state's DSHs in enrolling in 340B.**

The West Virginia Hospital Association held a meeting in which DSHs were informed of the benefits of the 340B program. However, no DSH has enrolled in 340B as a result of this meeting. Evidence suggests that DSHs still have misconceptions about 340B, which indicates that further outreach is needed.

Although there appears to be little initial interest in 340B by DSHs, more DSHs may be willing to participate in the 340B program if DHHR expanded its current efforts. This idea is supported by the hospitals currently enrolled in the program. Stonewall Jackson Memorial Hospital believes that the 340B is good, however, the lack of assistance about what to do once enrolled slowed participation. Stonewall Jackson Memorial Hospital went so far as to contact the Performance Evaluation and Research Division asking for assistance. **The Legislative Auditor believes that expanding the current efforts to include assistance after enrolling could result in more DSHs joining the 340B program, and therefore would create savings for the Bureau for Medical Services.**

The Legislative Auditor also finds that many hospitals may encounter obstacles to joining the program. In order to enroll in the 340B program three requirements must be met: 1) The entity must have a Medicare reimbursement greater than 12.00%; 2) The entity must not be part of any bulk purchasing agreement; and 3) The entity must be government owned or affiliated. The

third criteria, government affiliation, may hamper DSHs from participating in the program unless there is cooperation with state or local governments. For example, Stonewall Jackson overcame the government affiliation obstacle by entering into a contract with the Lewis County Commission stating that it agrees to continue providing services for indigent populations at the same rate it was prior to participation in the 340B program. Also, the state of Maryland implemented an agreement by which its not-for-profit hospitals became government affiliated through a formal memorandum of agreement to continue providing indigent care, regardless of a patient's ability to pay. This agreement enabled Maryland hospitals to qualify for the 340B program.² In addition, some hospitals may be reluctant to stop being a part of a bulk purchasing agreement. While the bulk purchasing agreement does only apply to outpatient drugs, hospitals may negotiate discounts for inpatient drugs individually with the supplier. Hospitals may fear that their expenditures will increase. However, both CAMC and WVUH have indicated that their participation in the program has saved the hospitals money. **The Legislative Auditor recommends that the Department of Health and Human Resources incorporate information concerning overcoming the governmental affiliation obstacle, as well as assist in the start-up phase.**

For each DSH that participates in the 340B program, Medicaid may save on average \$300,000 per year, with \$75,000 being state funds.

Conclusion

Over the past ten years, prescription drug costs to the Bureau for Medical Services have increased over 200%. During this period, the most restrictive price control imposed has been the preferred drug list, which was implemented in 2002. West Virginia is second in the nation in the number of prescriptions per capita, and this high number of prescriptions serves to continually drive costs up. In order to control rising drug costs, the DHHR should continue to encourage eligible facilities to enroll in the federal 340B program. The Legislative Auditor calculated that the prices under the 340B program are, on average, 38% below those that Medicaid receives for the top 25 drugs. In addition, West Virginia has possibly 11 of the 58 DSHs that may be eligible to participate in the program. For each DSH that participates in the 340B program, Medicaid saves on average \$300,000 per year, with \$75,000 being state funds. Medicaid is not the only entity that benefits from the discounted prescription drugs. The Federally Qualified Health Centers and Disproportionate Share Hospitals themselves also benefit from the 340B

² *Special Report: State Spending on Medical Supplies and Pharmaceuticals, The Joint Legislative Audit and Review Commission of the Virginia General Assembly, December 2002, p.23.*

program. Hospitals involved in the 340B program have saved on their drug expenses. Both DSHs and FQHCs have reinvested the savings into improving and expanding health care options. The Legislative Auditor concludes that the Department of Health and Human Resources has made an effort with the Primary Care Association and the Hospital Association to encourage and assist the eligible facilities in enrolling in the program, and that continuing this effort is in the best interest of the state. However, it is evident that more progress can be made with respect to increasing the number of DSHs that are enrolled in 340B.

In addition, the state could benefit from the 340B program through savings in the Division of Corrections. The DOC contracts with private physicians, who are not eligible to receive the 340B prices. However, the DOC has the option of contracting with FQHCs and DSHs for medical services. Both entities are eligible for the 340B program, and consequently, the patients would receive prescription drugs at substantially discounted prices. This has the potential to provide significant savings to the Division of Corrections.

Recommendations

1. *The Legislative Auditor recommends that the Department of Health and Human Resources continue providing information and assistance to Federally Qualified Health Centers and Disproportionate Share Hospitals.*
2. *The Legislative Auditor recommends that the Department of Health and Human Resources incorporate information concerning overcoming the governmental affiliation obstacle, as well as informing hospitals that the bulk-purchasing requirement applies to out-patient drugs only.*
3. *The Legislative Auditor recommends that the Pharmaceutical Cost Containment Council continue its effort with the Division of Corrections to contract with 340B providers.*
4. *The Legislative Auditor recommends that the Department of Health and Human Resources continue studying the relationship between 340B and Medicaid to determine how the Bureau for Medical Services can maximize the 340B benefits.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

September 7, 2004

Paul Nusbaum, Secretary
Department of Health and Human Resources
Building 3, Room 206
Charleston, WV 25305

Dear Secretary Nusbaum:

This is to transmit a draft copy of the Full Performance Evaluation of the Department of Health and Human Resources. This report is scheduled to be presented during the September 19-21 interim meetings of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting on Thursday or Friday, September 9th or 10th. Please notify us to schedule an exact time. In addition, we need your written response by noon on Tuesday, September 14th in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, September 16, 2004 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

c: Nancy Atkins, Commissioner, Bureau for Medical Services

Joint Committee on Government and Finance

Appendix B: DHHR Response



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bob Wise
Governor

Office of the Secretary
State Capitol Complex, Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (304) 558-0684 Fax: (304) 558-1130

Paul L. Nusbaum
Secretary

September 14, 2004

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PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Mr. John Sylvia, Director
Performance Evaluation and Research Division
West Virginia Legislature
State Capitol Building, Room W-314
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia:

The Department of Health and Human Resources accepts and appreciates the recognition of the Department's efforts to expand the 340b program to Federally Qualified Health Centers (FQHC) and eligible hospitals.

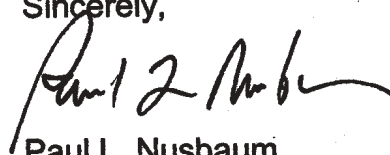
As discussed in our exit interview, currently all FQHCs have either applied for 340b certification or are already certified. Fifteen of the thirty-one FQHCs in the State are dispensing. In regard to hospitals, it is the Department's understanding from the West Virginia Hospital Association (WVHA) that the most recent cost settlement reports indicate that eleven hospitals are eligible to participate in the 340b program. As the report mentions, only three of them participate. The Department will continue to work with the WVHA to inform eligible hospitals about the program and encourage those hospitals to analyze the benefits to their respective organizations. The Department will assist as it can with helping hospitals meet the government affiliation requirement.

In regard to Medicaid participating in the 340b program, the Medicaid program continues to evaluate that option. A number of issues must be addressed before implementing this program. Medicaid must be able to segregate the 340b claims in its computer system from non-340b claims. The State cannot receive manufacturer rebates on any pharmaceuticals paid for at the 340b price. Medicaid must also evaluate which pricing system would be most beneficial - 340b prices or the current prices which include negotiated rebates with the manufacturers. As the report states, pharmacies can only charge Medicaid the acquisition cost plus the dispensing fee. Under the current payment method, pharmacists acquire some profit through the reimbursement rate for the drug and receive the dispensing fee. In order for pharmacists not to incur a loss on the dispensing of the 340b drugs, Medicaid believes an incentive payment must be instituted for those claims.

Mr. John Sylvia, Director
September 14, 2004
Page Two

Thank you for your work in developing the final report.

Sincerely,

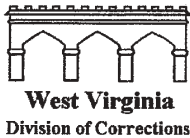


Paul L. Nusbaum
Secretary

PLN:skp

cc: Shana Kay Phares
Danny Franco
John Law
Nancy Atkins
Chris Curtis
Mike Robbins
Brian Cunningham

Appendix C: DOC Response



STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF CORRECTIONS



BOB WISE
GOVERNOR

JIM RUBENSTEIN
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September 13, 2004

R E C E I V E D
SEP 14 2004

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

John Sylvia
WV Legislative Performance Evaluation and Research Division
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Charleston, WV 25305-0610

RE: DHHR Legislative Performance Audit: 340B Drug Pricing Program

Dear Mr. Sylvia:

On behalf of the Commissioner, I offer the following regarding the Draft report, as it pertains to the WV Division of Corrections:

At this time, the WV Division of Corrections has limited knowledge regarding the 340B Drug Pricing Program, the qualifications of a Disproportionate Share Hospital (DSH), and the Federally Qualified Health Center (FQHC). We would welcome dialogue with DHHR regarding these programs, the applicability to the WV Division of Corrections population and medical services, and any potential cost savings to our agency and the state of West Virginia.

Under the section title *"340B Savings Could Be Extended to the WV Division of Corrections"* it states that "WV can also save money through the Division of Corrections (DOC). There are over 20 correctional facilities in the state of West Virginia". Currently, WVDOC operates 12 correctional institutions; 4 of which are very small facilities. DOC has a statewide contract with Correctional Medical Services, Inc. (CMS) to provide medical services in our larger facilities; excluding the Northern Regional Jail and Correctional Facility. That facility is part of the WV Regional Jail and Correctional Facility Authority system, which contracts with Prime Care for medical services. The Regional Jail system is a separate entity from the WV DOC and currently operates 9 facilities, with a tenth under construction. Both CMS and Prime Care, in turn, hire medical staff to provide in-house services, and utilize community specialty providers as deemed necessary.

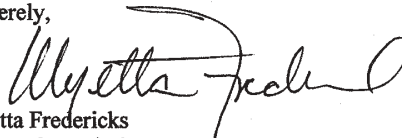
McDowell County Correctional Center is operated by the McDowell County Commission; WV DOC pays per diems rates for custody and care of adult offenders housed at this facility.

The WV Division of Juvenile Services operates facilities for juvenile offenders.

The Division of Corrections does not have a state employee with the medical expertise to accurately assess the applicability or impact. However, our Director of Contractual Services, Ms. Kate Lucas, oversees our medical contract. I have forwarded this information to her and asked that she take on the additional responsibility as Liaison with DHHR on this subject. She is looking forward to their call. Her phone number for convenience is 304 442 7213, ext. 203.

In closing, we thank you for the opportunity to provide feedback, and we look forward to exploring this program with appropriate officials within DHHR. Should you have any questions, please do not hesitate to call my office at 304 558 6084.

Sincerely,



Wyetta Fredericks
Deputy Commissioner

Cc: Jim Rubenstein, Commissioner
M. Christine F. Morris, Acting Secretary, MAPS
Loita Butcher, Executive Assistant
Kate Lucas, Director of Contractual Services
Nancy Swecker, Director of Administration
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