HB 2385 B STAFF MEASURE SUMMARY **Carrier:** Sen. Hayden

Senate Committee On Health Care **Minority Report**

Action Date:	05/13/25
Action:	Do pass with different amendments to the A-Eng bill. (Printed B-Eng.) Minority
Fiscal:	Fiscal impact issued
Revenue:	No revenue impact
Report Signers:	Sen. Hayden, Sen. Linthicum
Prepared By:	Daniel Dietz, LPRO Analyst
Meeting Dates:	5/6, 5/8, 5/13

WHAT THE MEASURE DOES:

The measure makes it an unlawful trade practice for drug manufacturers to take specified actions that limit or interfere with a pharmacy's ability to acquire or dispense 340B drugs. It requires certain discounts to be applied to an individual's out-of-pocket costs.

Detailed Summary:

- Prohibits a drug manufacturer or entity operating on manufacturer's behalf from:
  - Denying, restricting, prohibiting, or otherwise interfering with the acquisition of a 340B drug by pharmacy that has contracted with a covered entity to dispense 340B drugs unless the acquisition is prohibited by the United States Department of Health and Human Services (HHS).
  - Requiring a covered entity to submit utilization review data as a condition for the acquisition of a 340B drug unless such data submission is required by HHS.
- Requires covered entities to determine the difference between total payments received for all 340B drugs and the total acquisition cost.
  - For individuals who are not enrolled in the state's medical assistance program, requires that 95 percent of the difference between payment and acquisition cost be used to decrease the individuals' out-of-pockets costs.
  - For individuals who are enrolled in medical assistance, requires 90 percent of the difference to be used to decrease out-of-pocket costs, with five percent deposited into a fund to be credited to an individual's electronic benefits transfer card for use on medical and dental expenses.
- Requires covered entities to report to the Department of Consumer and Business Services annually by March 1. Report must include drug acquisition costs, payments received, and itemized reporting on actions to lower out-of-pocket costs for individuals. Requires DCBS to publish received report by June 1 of each year on Department's website.

ISSUES DISCUSSED:

- Impacts of the measure.

EFFECT OF AMENDMENT:

Requires covered entities to use discounts reduce to out-of-pocket costs.

BACKGROUND:

In 1990, Congress created the Medicaid drug rebate program to lower the cost of pharmaceutical drugs purchased by state Medicaid programs. The program requires drug manufacturers to enter into a rebate agreement with the Department of Health and Human Services as a prerequisite for having coverage of a drug by Medicaid and Medicare Part B. Under the program, drug manufacturers must pay rebates to state Medicaid programs that are based on the manufacturer's "best price" for the drug.

In 1992, the cost relief provided by the Medicaid drug rebate program was extended to safety-net providers through the passage of Section 340B of the Public Health Service Act. Under 340B, drug manufacturers give

front-end discounts on specified outpatient drugs purchased by “covered entities,” which include federally qualified health centers and other specified programs and entities that serve vulnerable populations.

House Bill 2385 MR B prohibits drug manufacturers from taking specified actions that restrict a pharmacy's ability to acquire or dispense 340B drugs and requires that 340B discounts be applied to out-of-pocket costs.