

NICOLE M. BACON

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Dear Manufacturers:

I am writing on behalf of Primary Health Services Center ("PHSC") (340B ID # CH068480, CH068480B, and CH068480C), a federally-qualified health center (FQHC) in Monroe, Louisiana that has participated in the 340B Drug Pricing Program ("340B Program") since July 1, 2003.

The purpose of this letter is to inform manufacturers that in July 2012, PHSC underwent an audit by the Health Resources and Services Administration (HRSA), Office of Pharmacy Affairs (OPA) regarding PHSC's compliance with the 340B Program requirements. In a report dated May 13, 2013, the audit found, in part, that PHSC billed "Medicaid contrary to information contained in the HRSA Medicaid Exclusion File," potentially resulting in "duplicate discounts." On November 29, 2013, HRSA approved PHSC's corrective action plan and determined that PHSC had satisfactorily addressed the findings in the audit.

With respect to the above referenced finding, PHSC does not believe that there were any duplicate discounts because PHSC never billed Medicaid for any prescription drug, not to mention the fact that PHSC's Medicaid encounter (per-visit) rate does not include the cost of any prescription drug.

As indicated in a letter dated August 12, 2013, the Louisiana Department of Health and Hospitals (DHH) – the state Medicaid agency – reached the same conclusion with respect to HRSA's audit. In particular, DHH stated that no duplicate discounts occurred because its 340B rebate invoicing does not include Medicaid claims by FQHCs as they are reimbursed on the basis of an encounter rate.

In contrast, the State's Family Planning Waiver (FPW) program under Section 1115 of the Social Security Act permits FQHCs, such as PHSC, to bill DHH on a fee for service basis for, among other things, certain 340B drugs. While PHSC billed the FPW program for certain prescription injectable drugs (namely, Depo-Provera), a fact the State was well aware of, a duplicate discount would have only occurred with respect to any such FPW claims if the state sought a rebate for them. It is unclear from DHH's August 12, 2013 letter whether the State did so or should have done so.

If manufacturers have any reason to believe that DHH received a duplicate discount under Louisiana's Medicaid or family planning programs, or if you have any questions or comments regarding this letter, please contact Matthew Freedus or myself.

Sincerely,

Feldesman Tucker Leifer Fidell LLP

by: /s/ Nicole M. Bacon

Nicole M. Bacon

¹ Even though PHSC has not billed DHH for 340B drugs it administers to Medicaid beneficiaries, it should be entitled to do so given that the cost of pharmacy is not included in its encounter rate. If it were permitted to do so, there would be no risk of duplicate discounts now that it has been added to the state's Medicaid exclusion list.