

# Manufacturer Restrictions on Contract Pharmacies

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## NEW MANUFACTURER RESTRICTIONS FOR CONTRACT PHARMACIES

In this NACHC Brief we explain how Gilead's new "Contract Pharmacy Integrity Initiative" leads to manufacturer restrictions which require health centers and other covered entities to provide claims-level data from contract pharmacies. Merck has recently included Federally Qualified Health Centers (FQHCs) in their contract pharmacy restrictions when previously only hospital covered entities were impacted. Restrictions do not apply to in-house/entity owned pharmacies.

### GILEAD

The current products restricted by Gilead are treatments for Hepatitis C, with the brand names: Eplclusa, Harvoni, Sovaldi and Vosevi. Hepatitis C is a viral infection that can cause significant liver damage and may sit dormant for many years before being discovered, or results from an active Hepatitis C infection.

This restriction began when Gilead documented an increase in duplicate discounts and diversion at contract pharmacies. Gilead's goal is to "mitigate duplicate discounts and diversion concerns". They anticipate that requiring Community Health Centers and other covered entities to provide claims-level data to Second Sight/340B ESP from contract pharmacies, their concerns will be mitigated.

Under this new initiative, as of May 2, 2022, if covered entities do not provide claims data, Gilead will withhold shipments to contract pharmacies.

Gilead is the 15th manufacturer to impose restrictions on shipping to contract pharmacies. Four of these manufacturers, whose products are widely used by health centers, are choosing to include Federal Grantees in their contract pharmacy restrictions. They are Eli Lilly, Sanofi, AstraZeneca, and Gilead.

The manufacturer's actions have hit health centers and their patients hard. While most health centers are encouraging providers to prescribe equivalent medications that can be shipped to contract pharmacies from another manufacturer, 340B savings have been impacted. This is especially true at health centers that operate solely through contract pharmacy arrangements. Many patients that benefit from price reductions offered by health centers through a contract pharmacy can no longer afford medications because of actions by Gilead and others.

### MERCK

Merck is now including FQHCs (but not FQHC-Look Alikes) in their "340B Program Integrity Initiative", which was previously only impacting hospitals. There are several medications included in this program (attached), and the impact on health centers can be significant. Similar to the Gilead program, in order for Merck products to be shipped to a health center's contract pharmacies, the prescription data must be provided to Second Sight through 340B ESP. 340B ESP enables covered entities to upload de-identified 340B claims data that originates from contract pharmacies. This data is linked to Medicaid and commercial rebate data provided by pharmaceutical manufacturers to identify duplicate discounts.

## What actions can CHCs take?

- Offer alternative medications: Work with your prescribers to write for medications that are available through the 340B program. AbbVie (Mavyret) offers a brand name Hepatitis C treatment that can be shipped to contract pharmacies. The authorized generics of Eplclusa and Harvoni are also available at contract pharmacies. While these 3 products offer similar treatment outcomes, the 340B savings is significantly lower than with Gilead brand products. FYI, some Medicaid plans will only pay for the Gilead branded products.

A list of alternative medications is being compiled for Merck products and will be shared in the future.

- Offer an in-house/entity owned pharmacy: As with other manufacturers blocking contract pharmacy shipments, Gilead will continue to ship all their Hepatitis C medications to entity owned pharmacies. This is good news, but health centers would not have access to the 340B savings. Insurers often require these medications to be filled at specialty pharmacies.

Merck is not restricting shipments to entity owned pharmacies.

- Provide your prescription data to Second Sight/340B ESP: It is understandable that that health center may contemplate providing data to Second Sight/340B ESP as is required by Gilead and Merck, but this is the least favorable option. If health centers sign-up to provide their prescribing data through 340B ESP, Gilead and Merck will continue to ship to their contract pharmacies. However, providing this data presents concerns that Pharmacy Benefit Managers (PBMs) will become “pickpockets”

The data collected will be sold to manufacturers, who will use it to withhold marketing kickbacks/ rebates from the PBMs. In the absence of national protection against these discriminatory contracts, the PBMs lower reimbursement to health centers and contract pharmacies as a way to offset their losses in marketing rebates.

Health centers need to realize that once claims dispensing data is submitted, they have lost all rights to how their data is used or sold. It is possible that submitted data could be used in ways that harm health centers.

Even health centers in states that have passed anti-pickpocketing legislation, discriminatory contracting is possible, as Medicare Part D and Advantage plans are not bound by state laws.

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