



Safety Net Hospitals for Pharmaceutical Access

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Safety Net Hospitals for Pharmaceutical Access Comments on Major Drug Pricing Decision by the U.S. Supreme Court

March 29, 2011—Safety Net Hospitals for Pharmaceutical Access (SNHPA) issued the following statement today in response to [the U.S. Supreme Court's decision in *Astra USA Inc. v. County of Santa Clara* \(Case No. 09-1273\)](#):

We are disappointed that the U.S. Supreme Court today left safety-net hospitals and other health care providers in the federal 340B Drug Discount Program without an important remedy to combat overcharging by drug manufacturers.

Ten of millions of uninsured and underinsured Americans rely on SNHPA member hospitals for their health care. These hospitals are legally obligated to treat vulnerable patients regardless of their ability to pay. As a result, our members are entitled to, and are heavily dependent upon, the substantial price discounts on pharmaceuticals made available through the 340B program.

This morning, the Court ruled that our member hospitals cannot seek redress from the judiciary when they believe that they have been overcharged in violation of the nation's laws. They must now rely on the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Justice (DOJ) for protection.

The two departments sided with the drug manufacturers in this litigation. "The justices' decision puts the onus on HHS and DOJ to investigate evidence of past overcharging, punish wrongdoing, and make 340B providers whole when they have suffered losses," said SNHPA President and General Counsel William von Oehsen.

Looking ahead, HHS's Health Resources and Services Administration (HRSA), which oversees the 340B program, must redouble its efforts to publish regulations implementing a new mandatory dispute resolution process and manufacturer civil monetary penalty process for 340B, as provided for under the Affordable Care Act (ACA). In the meantime, HRSA should use its informal authority to resolve pending complaints by hospitals and other providers that they have been subject to longstanding and widespread overcharges. In addition, DOJ should step up its enforcement of 340B pricing obligations.

Safety Net Hospitals for Pharmaceutical Access (SNHPA) is an association of 700 hospitals with a mission to increase the affordability and accessibility of pharmaceutical care for the nation's poor and underserved populations. For more information about SNHPA and the 340B program, visit www.snhpa.org.