



The Monitor

The Inside Source on the Public Health Service 340B Drug Discount Program

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BREAKING NEWS ALERT

Santa Clara Judge Bars Discovery of Manufacturer Pricing Data

A federal judge told lawyers for Santa Clara County that he will not let them investigate how drug manufacturers crunched internal data to calculate prices for products sold under the federal drug discount program. The California county and its health clinics alleged in their federal lawsuit that 10 pharmaceutical manufacturers overcharged them for 340B-covered medicines.

District Court Judge William Alsup's Nov. 25 ruling is a setback for Santa Clara, which believed the discovery would help demonstrate that safety-net hospitals are consistently overcharged for drugs.

Judge Alsup reluctantly granted the manufacturers a protective order, saying that an earlier decision by the 9th Circuit U.S. Appeals Court barred him from giving the county access to their data. But he also allowed the county to appeal the discovery matter to the higher court, while allowing the case to proceed.

The manufacturers had successfully argued that the pricing agreements they reach with the government don't allow providers to probe the data components that the government uses to determine 340B ceiling prices.

Jeffrey Lawrence, the attorney representing Santa Clara County, said his clients "are reviewing the judge's ruling and considering their options."

Judge Alsup's ruling means that if Santa Clara Co. prevails in the lawsuit, it will only be able to recover payments made in excess of 340B prices that were calculated using the average manufacturer price and manufacturer best price data. Such overpayments could still be significant.

Read more about these developments in the January issue of the Monitor.