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sis. This will assure that the DVA has access to all the drugs that its patients may need, and will prevent manufacturers from refusing to negotiate or give discounts on particular drug products.

Second, the bill would exclude from the calculation of "best price" for determining the amount of the Medicaid rebate any prices charged under the FSS, thereby excluding all prices to the DVA. In doing so, the bill would further the economies which the DVA-administered FSS permits such Federal health care providers as the Department of Defense and the Bureau of Prisons, which also purchase drugs through the FSS. In addition, the Committee bill would clarify that prices paid under State pharmaceutical assistance \*12 programs such as that operating in the State of New York, which use DVA of FSS prices as a basis for determining rebates or discounts, are also excluded from the calculation of "best price."

Finally, the Committee bill would also condition the availability of Federal matching funds with respect to any covered outpatient drug of a manufacturer on the agreement of the manufacturer to provide the DVA a minimum discount on each drug and to comply with applicable reporting and auditing requirements. In the case of single source drugs (outpatient or inpatient) purchased under the DVA's depot contracting system or listed on the FSS, the DVA may not be charged more than 76 percent of the non-Federal average manufacturer price (less an additional discount to offset price increases in excess of inflation). The 24percent discount represents the median "best price" rebate under the Medicaid program for the first quarter of 1991, which was the last quarter before manufacturers began substantially increasing prices to the DVA. The use of this percentage is intended to capture what the Committee on Veteran's Affairs believes to be the level of discounts the DVA was receiving before the Medicaid rebate program went into effect. The Committee bill requires that an additional discount be paid on a drug when the increase in the non-Federal AMP exceeds the increase that would have occurred if the CPI had been applied to the non-Federal AMP (measured in the 3-month period ending one year before the end of the 3-month period for which the discount is calculated).

The Committee bill also provides protection from drug price increases to specified Federally-funded clinics and public hospitals that provide direct clinical care to large numbers of uninsured Americans. Like the prices charged to the DVA, prices charged to these "covered entities" would be exempt from the calculation of the Medicaid "best price" for purposes of determining the Medicaid rebate. The Committee expects that this exemption will remove any disincentive that the Medicaid rebate program creates to discourage manufacturers from providing substantial voluntary or negotiated discounts to these clinics, programs, and hospitals.

In addition, manufacturers, as a condition of receiving Federal Medicaid matching funds on their covered outpatient drugs, would have to enter into an agreement with the Secretary of HHS to provide price reductions (whether through a discount, rebate, or other mechanism) to these "covered entities" on covered outpatient drugs. These price reductions would be at least as great as those which Medicaid receives under the rebate program. They would be implemented, at the discretion of the Secretary, either by a point-of-purchase discount, a rebate, or other mechanism. "Covered entities" receiving these price reductions would be prohibited from obtaining payment for these drugs under Medicaid or from reselling or transferring the drugs to individuals other than their patients, and they would be subject to audit to verify compliance with these requirements. **In giving these "covered entities" access to price reductions the Committee intends to enable these entities to stretch scarce Federal resources as far as possible, reaching more eligible patients and providing more comprehensive services.**

\*13 The Committee bill specifies 6 types of "covered entities":

- (1) Federally qualified health centers (FQHCs), a category which includes ap-