



March 8, 2021

Representative P. Scott Lipps  
Chair, House Health Committee  
77 S. High St. #12  
Columbus, OH 43215

Re: Support of HB 135 so that Patients can Afford their Prescription Medications

Dear Chair Lipps,

The **HIV+HEP Policy Institute** is a leading HIV and hepatitis policy organization promoting quality and affordable healthcare for people living with or at risk of HIV, hepatitis, and other serious and chronic health conditions. **We strongly support House Bill 135, which would require health insurers and health care service contractors to accept and count payments made on behalf of patients towards deductibles and out-of-pocket maximums.**

Copay accumulators are harmful policies that many insurance plans, employers, and pharmacy benefits managers (PBMs) are implementing in which copay assistance does not count towards a beneficiary's out-of-pocket costs and deductible. By passing this bill, Ohio will join other states (Arizona, Georgia, Illinois, West Virginia, and Virginia) and Puerto Rico in protecting consumers purchasing insurance on the private market by assuring their copay assistance will count towards cost-sharing obligations.

People with HIV, hepatitis, and others with serious and chronic conditions rely on medications to remain healthy and alive. People with HIV and hepatitis B rely on a daily drug regimen that they must take for the rest of their lives, while people with hepatitis C can be cured of their diseases in as little as 8 to 12 weeks. However, even though people may have health insurance, access to these medications is still insurmountable for many due to high deductibles and cost-sharing, often in terms of co-insurance. Copay assistance is critical for patients to afford and adhere to their medications. It is particularly important during the COVID-19 epidemic when so many individuals and families are hurting economically.

**High Patient Cost-sharing:** According to the Kaiser Family Foundation, average deductibles for covered workers increased 212% from 2008 to 2018. For qualified health plans, CMS reports that across all metal levels, deductibles are increasing. For Bronze plans, the median deductible will be \$6,992 in 2021, an increase of 11 percent from 2017; for Silver plans, it will be \$4,879, an increase of 31 percent since 2017. For plan year 2022, CMS is proposing that the maximum out-of-pocket be \$9,100 for an individual and \$18,200 for all others. Due to the proliferation of

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high deductible plans, depending on the drug, a patient may be required to pay that total amount of \$9,100 all at once for their medication at the beginning of the year.

According to a study conducted by Ezra Golberstein examining National Health Expenditure Accounts data, in 2017 individuals were responsible for paying 14 percent of the total cost of prescription drugs. However, for hospital care, which accounts for nearly three and half times more total spending, patients were responsible for paying only 3 percent. For physician and clinical services, the next largest service category, patients paid 8.5 percent of the costs. This is one reason why people are complaining about how much they pay for their medications; insurers are requiring them to pay a high percent of the total costs.

**Patient Cost-sharing Impacts Adherence:** A recent analysis of branded prescription drug trends found that if patient out-of-pocket costs totaled between \$50 and \$74.99 per month that 30 percent of patients would not pick up their medications. If that amount were increased to \$250 or more, over 70 percent of patients would forego critical prescription drugs.<sup>1</sup> Another study highlighted the negative impact of copay accumulator programs finding that patients who are subject to the programs fill prescriptions 1.5 times less than patients in high deductible health plans. Additionally, patients subject to these programs experience a 13 percent drop in persistence between month 3 and 4 as they reach the cap in their annual benefits and terminate their therapies.<sup>2</sup>

**Growth of Copay Accumulators:** Health insurers and pharmacy benefits managers have increasingly included copay accumulator adjustment programs in their plan offerings over the last several years. According to the National Business Group of Health, in the next two years, accumulators and maximizers are expected to expand from approximately 25 percent of U.S. employers to as many as 50 percent. According to TrialCard, one of the leading administrators of copay assistance programs, clients taking infectious disease medications and subject to copay accumulator programs has increased from 7.3 percent in 2019 to 10.5 percent in 2020.

An analysis by **HIV + Hep** found that all six health insurers offering plans on the Ohio Marketplace contained language barring at least some, if not all, copay assistance from counting towards patients cost-sharing obligations. For more details please see our analysis attached to this letter.

Consider **Ohio's MedMutual** policy which includes a copay accumulator provision on page 44 of an 89 page [Medical Health Care Policy](#) document:

*"If you receive any amount from a patient assistance program or if a Provider, a Pharmacy or anyone else waives the required cost sharing (Deductible, Copayments, Coinsurance) for a particular claim, the cost sharing amounts covered by the patient assistance program or waived shall not be considered as true out-of-pocket expenses for Covered Persons, and these amounts shall not apply to Deductibles and/or Out-of-Pocket Maximums."*

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<sup>1</sup> IQVIA National Prescription Audit, Formulary Impact Analyzer, January 2019.

<sup>2</sup> Steve Mink and Arran Stranding, "Driving persistence among patients affected by copay accumulators with patient centric support," *American Journal of Managed Care*, October 18, 2020.

**Copay Accumulators Allow Insurers to “Double Dip”:** Perhaps the most overlooked aspect of the “copay accumulator” issue is that not only do patients pay much more money for their prescription drugs, but the insurers also collect more money. The insurer not only collects the value of the copay coupon, but then after it is maxed, the patient then has to pay the out-of-pocket costs, with the insurer collecting all that money as well. Additionally, the drug manufacturers end up paying more money. The only players that this policy is good for are the insurers and the PBMs.

**Lack of Transparency:** Patients often are not aware that their insurance policies contain these harmful policies until they pick up their medications at the pharmacy and are stuck with a several thousand-dollar bill that they did not expect. Insurers conceal copay accumulator language deep in plan documents. Additionally, there is no consistency among insurers on how the policies are displayed and plans use ambiguous language.

For the benefit of patients who rely on prescription drugs to maintain their health, we urge you to support HB 135. If you have any questions or need any additional information, please do not hesitate to reach out via phone at (202) 462-3042 or email at [cschmid@hivhep.org](mailto:cschmid@hivhep.org). Thank you very much.

Sincerely,



Carl E. Schmid II  
Executive Director

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### 2021 Ohio Health Plans

| Insurer   | Copay Accumulator?   | Citation |
|---|--|----------|
| <b>Ambetter</b><br><br><a href="#">2021 Evidence of Coverage</a>  | <p>“Similarly, if we determine payment was made for deductibles or cost sharing by a third party, such as a drug manufacturer paying for all or part of a medication, that shall be considered a third party premium payment that may not be counted towards your deductible or maximum out-of-pocket costs”</p>   | Pg. 34   |
| <b>Anthem BlueCross and Blue Shield</b><br><br><a href="#">Health Certificate of Coverage</a>               | <p><b>“Drug Cost Share Assistance Programs</b><br/>           If You participate in certain drug Cost Share assistance programs offered by drug manufacturers or other third parties to reduce the Cost Share (Copayment, Coinsurance) You pay for certain Specialty Drugs, the reduced amount You pay may be the amount We apply to Your Deductible and/or Out-of-Pocket Limit when the Specialty Drug is provided by a Network Provider. Your eligibility to participate in such programs is dependent on the programs’ applicable terms and conditions, which may be subject to change from time to time. We may discontinue applying such reduced amounts to Your Cost Share at any given time.”</p>   | Pg. 3    |
| <b>CareSource Ohio, Inc.</b><br><br><a href="#">2021 Evidence of Coverage and Health Insurance Contract</a> | <p>“Copay Cards, also called rebate cards or discount cards, may be available to you from some drug manufacturers who offer very high cost Brand drugs. These programs may apply after your Prescription Drug claim has been paid by CareSource. Money paid to reduce your cost share by these programs will not be permitted to apply toward your Deductible or Annual Out-of-Pocket Maximum under your Plan. Money received through these copay cards may jeopardize High Deductible benefit plans and their tax savings with the Internal Revenue Service.”</p>   | Pg. 102  |
| <b>MedMutual</b><br><br><a href="#">HMO Network Medical Health Care Policy</a>                              | <p>“The Covered Person’s Deductible, Copayments or Coinsurance is based upon the amount charged by the Pharmacy and does not include any rebates received by Medical Mutual. The Covered Person is responsible for any Deductible, Copayment, or Coinsurance amounts specified in the Schedule of Benefits. The requirement to pay the applicable cost sharing (Deductible, Copayments or Coinsurance) cannot be waived by a Provider, a Pharmacy or anyone else under any "coupon program" or similar arrangement or by using funds from a patient assistance program, regardless if the member is receiving such assistance due to financial need from a pharmaceutical manufacturer, government program, or a charitable organization. Pharmaceutical manufacturers may sponsor patient assistance programs (PAPs) that provide financial assistance or drug free products (through in-kind product donations) to low income individuals to augment any existing prescription drug coverage. If you receive any amount from a patient assistance program or if a Provider, a Pharmacy or anyone else waives the required cost sharing (Deductible, Copayments, Coinsurance) for a particular claim, the cost sharing amounts covered by the patient assistance program or waived shall not be</p> | Pg. 44   |

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|   | considered as true out-of-pocket expenses for Covered Persons, and these amounts shall not apply to Deductibles and/or Out-of-Pocket Maximums.”   |         |
| <b>Molina Healthcare of Ohio</b><br><br><a href="#">Agreement and Individual Evidence of Coverage</a> | <p>“Please note, Cost Sharing reduction for any prescription drugs obtained by You through the use of a discount card or coupon provided by a prescription drug manufacturer, or any other form of prescription drug third party cost-sharing assistance, will not apply toward any Deductible, or the Annual Out-of-Pocket Maximum under Your Plan.”</p>   | Pg. 5   |
| <b>Oscar</b><br><br><a href="#">Individual HMO Plan</a>   | <p><b>“Drug Coupons, Rebates or Other Drug Discounts</b></p> <p><u>You must pay Oscar the difference if a coupon exceeds the cost of a medication.</u></p> <p>Drug Manufacturers may offer coupons, rebates or other drug discounts to Members, which may impact the benefits provided under this Plan. The total benefits payable will not exceed the balance of the Allowed Amount remaining after all drug coupons, rebates, or other drug discounts have been applied. The Member agrees to reimburse Oscar any excess amounts for benefits that We have paid You and for which You are not eligible due to the application of drug coupons, rebates or other drug discounts.</p> <p><u>Some coupons will not count towards Your Out-of-Pocket Maximum or Deductible.</u> Some specialty medications may qualify for third party Copayment assistance programs which could lower your out-of-pocket costs for those products, subject to Our prior approval. For any such specialty medication where third party Copayment assistance is used, you shall not receive credit toward their Maximum Out-of-Pocket or Deductible for any Copayment or Coinsurance amounts that are applied to a manufacturer coupon or rebate.”</p> | Pg. 113 |

*Analysis completed March 1, 2021*

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