

House Bill 177
House Public Health Policy Committee
AHIP OPPOSITION TESTIMONY

Chair Lipps, Vice Chair Stewart, Ranking Member Liston, and members of the House Public Health Policy Committee, my name is Keith Lake, and I am a Regional Director for State Affairs for AHIP. AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans, including to nearly nine million patients, families, and employers in Ohio.

As an advocacy organization committed to market-based solutions that make access to high-quality healthcare affordable, I thank you for this opportunity to speak with you today, on behalf of our members, to share our opposition to House Bill 177.

AHIP recognizes that many Ohioans struggle to afford prescription drugs. Escalating drug prices are a leading driver of rising health care costs, and they are an increasing financial burden for hardworking Ohio families. Those families need practical solutions that reduce consumer costs and increase patient access to needed medication.

House Bill 177, however, statutorily rewards drug makers for bait-and-switch tactics which steer patients toward more expensive brand-name drugs for their own profit. This legislation will undermine the ability of employers and purchasers of health care to control rising prescription drug costs, ultimately hurting patients' access to affordable health care. It does not address the underlying problem of high drug prices.

Big Pharma Intentionally Use Copay Coupons to Keep Drug Prices High. As of July 10, the pharmaceutical industry has hiked prices in 2023 on 847 brand name drugs by an average of 5.5 percent – and 96 brands have increased their prices more than once this year.¹ Pharmacy costs now represent over 22 cents out of every dollar of premium spent on health care.²

Instead of lowering their prices for everyone, drug manufacturers offer copay coupons to select customers for a limited amount of time, allowing them to hide the high price of their drugs. This has negative consequences for everyone:

- These bait-and-switch tactics ***mask the actual cost*** of brand-name medications – and shift that very high price from the pharmacy counter to premiums.
- These tactics ***encourage patients to pass over*** equally effective, far more affordable alternatives in favor of more expensive, brand-name drugs.
- They ***undermine tools*** that employers and health care payers rely on to encourage more affordable choices, which lower costs and make health care more affordable for everyone.

It is important to note that the very policy House Bill 177 codifies, Medicare and Medicaid deems an illegal kickback.³ Medicare and Medicaid have determined that copay coupons induce patients to use a specific

¹ https://www.einnews.com/pr_news/644811646/price-increases-by-drug-manufacturers-to-start-july-2023

² <https://www.ahip.org/resources/where-does-your-health-care-dollar-go>

³ [42 U.S.C. § 1320a-7b\(b\)](#)

drug, with taxpayers picking up the rest of the high cost of the drug. Thus, they are illegal in order to protect taxpayer dollars.

Because these types of tactics are illegal under Medicare and Medicaid, drug manufacturers are intentionally targeting, through bills like House Bill 177, fully insured employers, families, and individuals. It is critical to understand that manufacturers are strategic in this effort:

- Drug manufacturers offer coupons for a narrow selection of drugs.
- Not every patient has access to drug manufacturer coupons. Many patients are left behind.
- Drug manufacturers offer patients coupons for a limited period of time, and once patients reach their deductible, manufacturers stop providing the coupons. This allows them to hide their high prices, requiring all patients, employees, and employers to pick up the costs.
- Drug manufacturers regularly discontinue the coupons without telling the patient.

In fact, in a sweeping investigation into drug pricing, the U.S. House Committee on Oversight and Reform stressed that these programs “do not provide sustainable support for patients, and do not address the burden that the companies’ pricing practices have placed on the nation’s health care system.”⁴

Accumulator Programs Hold Drug Manufacturers Accountable for Their Pricing Schemes. The use of manufacturer copay coupons in the commercial market has increased steadily since coupons were first introduced, with the share of branded retail spending attributable to drugs with coupons doubling from 2007 to 2010, and nearly doubling again by 2017, so that now the vast majority – over 93% – of brand-name drug spending occurs with couponed drugs.⁵

Accumulator programs hold manufacturers accountable. These programs allow patients to use copay coupons as a discount to reduce what they owe at the pharmacy counter – however, they also ensure drug manufacturers don’t profit from their “kick back” scheme. These programs lower the cost of health care for everyone.

Coupons Are a Sales Tool. Most coupons are offered in situations where the brand-name drug faces competition, from either a generic or another branded drug. There are studies that prove that drug coupons are used to increase sales, which only fuels increased drug spending and gives drug manufacturers free rein to keep raising their prices.

Last year the National Bureau of Economic Research (NBER) published a study that looked at how copay coupons affect branded drug prices and quantities purchased.⁶ This study estimated that coupons raise the prices of multiple sclerosis drugs by about 8 percent and increase spending on couponed drugs without bioequivalent generics by up to 30 percent. Another study showed drugs with coupons had a higher annual price growth (12-13%) than drugs without coupons (7-8%).⁷

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<https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/DRUG%20PRICING%20REPORT%20WITH%20APPENDIX%20v3.pdf>

⁵ https://www.nber.org/system/files/working_papers/w29735/w29735.pdf

⁶ https://www.nber.org/system/files/working_papers/w29735/w29735.pdf

⁷ https://www.hbs.edu/ris/Publication%20Files/DafnyOdySchmitt_CopayCoupons_32601e45-849b-4280-9992-2c3e03bc8cc4.pdf

The U.S. House Committee on Oversight and Reform’s 2021 drug pricing investigation also found that manufacturers use patient assistance programs as a sales tool – focusing on their rates of return, encouraging patients to stay on branded drugs after a generic is introduced, and subsidizing third-party foundations to drive sales and attract patients who otherwise might not have used the high-priced drug. For one cancer treatment, one manufacturer projected a potential rate of return of \$8.90 for every \$1 spent on their copay assistance program.⁸

Any short-term benefit to patients from the availability of manufacturer coupons is overwhelmed by higher total drug costs over time. And patients ultimately pay the price in the form of higher premiums or cost-sharing.

House Bill 177 Will Statutorily Incentivize Drug Manufacturers to Increase their Already Excessive and Unaffordable High Prices. Substantial research, and AHIP’s members’ experience, show that drug manufacturer copay coupons encourage out-of-control drug prices. Coupons remove incentives for patients to consider lower cost drugs and for drug manufacturers to compete on cost. Drug prices are unsustainably high and many Ohioans struggle to afford crucial medications.

Purchasers of health care use copay accumulators to mitigate the market distortion that coupons cause, and they work to help constrain prescription drug prices. AHIP urges this committee to oppose legislation like House Bill 177 that eliminates tools that help fight uncontrolled prescription drug price increases. Thank you.

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<https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/DRUG%20PRICING%20REPORT%20WITH%20APPENDIX%20v3.pdf>