What the Experts Say About Copay Coupons

Statement of Opposition – SB 560

May 3, 2021

AHIP and our member plans **strongly oppose** SB 560, which limits programs that health plans use to increase transparency of third-party payments and better reflect patients' actual out-of-pocket spending. **We believe that this bill will do nothing to lower drug costs and could actually end up costing consumers more, not less.**

Experts Say that Copay Coupons Raise the Cost of Care for Everyone

- Copay coupons and other patient assistance programs raise the cost of care for everyone by encouraging the use of more expensive, brand-name drugs.
    - CMS recognized the "market distortion effects related to direct drug manufacturer support amounts when consumers select a higher-cost brand name drug over an equally effective, medically appropriate generic drug".
    - The federal government considers copay coupons to be an illegal kickback because they induce a patient to use a specific drug with the rest of the cost picked up by taxpayers and prohibits their use in Federal health care programs like Medicare and Medicaid.
- Brand drugs with coupons had a higher annual price growth –12-13% for brand name drugs with coupons, compared to 7-8% for drugs without coupons.
- Copay coupons increase market-share for brand name drugs after a generic enters the market and have increased sales of branded drugs with a generic alternative by over 60%.
- During the first 5 years after a generic alternative enters the market, coupons increased spending of 23 branded drugs by as much as $2.7 billion ($30 million-$120 million per drug).
- Brand drug makers use coupons to keep prices high, even after a lower-cost generic comes to market – as did Pfizer when its blockbuster drug Lipitor faced generic competition.
- The House Oversight and Investigations Committee found that Novartis used its co-payment and patient assistance programs to reduce price sensitivity and drive demand for the cancer treatment Gleevec (particularly after loss of exclusivity). Internal documents projected a potential rate of return of $8.90 for every $1.00 invested in the Gleevec co-pay assistance program.

SB 560 is Not the Right Answer to Addressing High Drug Prices

- It is critical to have guardrails in place against this kickback system to keep care affordable for all Americans.
- This bill prohibits programs that health plans use to increase transparency of third-party payments and better reflect patients' actual out-of-pocket spending.
- These guardrails restore the balance in the system by allowing the patient to use coupons, but not counting it towards the deductible – since the patient is not actually paying the value of the coupon.
- CMS encouraged health plans to consider excluding coupons from the annual cost sharing limitations as one tool to combat the high and rising out-of-pocket costs for prescription drugs.
- Banning health plans' flexibility on coupons gives drug companies even less incentive to lower their prices, keeping drug prices high for everyone.

What the Legislature Should Do Instead

- When it comes to unaffordable medications, the problem starts with the high initial list price of the drug – copay coupons only fuel this egregious out-of-control drug pricing.
- Economic experts estimate that eliminating copay coupons could reduce commercially inured prescription drug spending by .9% – which would align with Oregon's goal of slowing the growth of health care costs.
- The legislature should follow California and Massachusetts' lead and ban copay coupons when a generic is available.
    - A study of 7 popular brand name drugs that have a generic available and a copay savings program found that brand market share for those drugs is lowest in California (7.48%) and Massachusetts (9.94%) – all other states are at 12.29%.