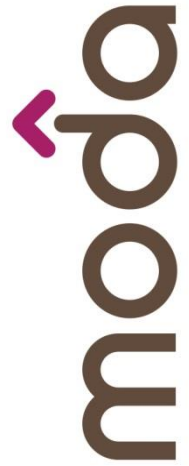


February 22, 2021

The Honorable Deb Patterson, Chairperson
Senate Committee On Health Care
Oregon Senate
900 Court St NE
Salem, OR 97301



Re: Senate Bill 439

Dear Senator Patterson,

Moda Health presents this letter in opposition to Senate Bill 439, a bill that seeks to require that 85 percent of the value of prescription drug rebates generated from manufacturers be shared with health plan members.

SB 439 seeks to relieve the financial burden on consumers caused by high drug prices from manufacturers. It requires health plans to reduce members' cost share for prescription drugs at a retail pharmacy by at least 85 percent of all rebates collected or estimated to be collected by the insurer for the drug. The focus of SB 439 mistakenly assumes that by directing rebates to individuals who use the rebated medication that consumers will be protected from the persistent problem caused by aggressive and relentless high prices for medications.

Health plans aggressively negotiate with manufacturers for ways to reduce the impact of high drug prices. Those savings – including rebates – are passed on to all enrollees through improvements to benefit packages, reductions in premiums, and/or lower out-of-pocket costs. Removing the ability of insurers to leverage manufacturer rebates to improve benefit plans and reduce premiums would have the opposite impact. It could lead to higher health care costs and disrupt improvements in benefit packages that help all members in a health plan.

SB 439 creates an obligation that will be difficult to implement and manage equitably for members. The bill will create an administrative burden for health plans to assess a rebate value and distribute it in the form of a benefit design based on an assumption that rebates are timely paid by pharmaceutical manufacturers. Prescription drug rebates are paid retrospectively to health plans based in part on the number of prescriptions that were utilized by the plan's members. Manufacturers have no requirement to pay rebates within a defined time. Oftentimes rebate payments are received long after a plan year ends. Pharmaceutical manufacturers may also deny a rebate payment that is claimed. This means that the final value of a rebate that is earned during a plan year can come long after a member has transitioned from an insurer's plan.

Most importantly, a point-of-sale distribution of rebates as envisioned by SB 439 would only benefit those members taking particular drugs, rather than the current model where savings are passed on to all members in a health plan. With the persistent high drug cost trends experienced today, many health plans use the anticipated savings from rebates to reduce plan costs. For these plans, all members, using rebated drugs or not, may receive the benefit from rebates in the form



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of lower premium rates or lower employee contribution rates than they would likely have had in the absence of the drug rebates.

When a similar program as that envisioned by SB 439 was proposed by CMS in its Medicare Part D program, an actuary analysis by CMS resulted in a finding that the proposed rule would have increased premiums by 25% and costs to taxpayers would have increased by \$200 billion, and pharmaceutical manufacturers would have benefited from lower rebate payments.

Oregonians should be able to get their prescriptions at the lowest price available to them. Health plans should be able to maximize the value of their negotiations with drug manufacturers to effectively manage costs to all members. While Moda Health supports the goal to achieve lower costs for prescriptions drugs, SB 439 will not provide the assistance Oregonians require and may instead have an unintentional consequence of negatively impacting Oregonian's access to high value lower costs health benefits plans and premiums.

Moda Health appreciates the opportunity to comment on SB 439. We respectfully request that the committee incorporate our comments in consideration of this Bill.

If you have any question, please do not hesitate to contact me at: robert.judge@modahealth.com, or (503)703-2195.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Judge", written in a cursive style.

Robert Judge
Director, Pharmacy Services

