

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 560

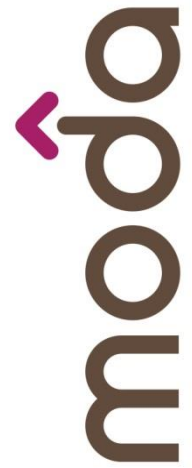
Dear Senator Patterson,

Moda Health presents this letter in opposition to Senate Bill 560, a bill that seeks to apply the use of manufacturer copay assistance programs to member out of pocket maximum cost sharing on prescription drugs.

HB 560 supports the use by prescription drug manufacturers of copay assistance programs and other patient assistance programs that they administer by requiring health insurers to count all payments made by members (directly or on their behalf) toward their deductible and overall out-of-pocket maximums. This bill will limit the ability of insurers to use cost sharing as an important utilization management tool that ensures members use the most clinically effective and affordable medications. Instead it would give a major boost to manufacturers to sell expensive medications that offer little, if no, clinically differentiated value.

Historically, manufacturer assistance, like patient assistance programs referenced in SB 560, have been used by manufacturers to assist individuals in the health care safety-net to afford their prescription drugs. Increasingly, however, manufacturers are directing their copay assistance programs to individuals with prescription drug coverage in their health benefit with the goal of steering members away from generic drugs or other preferred agents on a health plan's drug formulary. The goal of this strategy is to steer the member toward more expensive brand drugs, ignoring potentially equally effective, less expensive alternative medications.

There is no arguing that the underlying intent of SB 560 is to ensure Oregonians have access to affordable prescription drugs. Drug costs are too high and today too many Oregonians cannot afford their medications. However, there is an important difference between means-tested patient assistance programs used for individuals with no insurance or who are under-insured and copay assistance programs that target individuals with health insurance. Copay programs and other use incentive initiatives by manufacturers that are used in opposition to health insurer formularies ultimately result in higher drug costs which, in turn, will increase health insurance premiums. Additionally, these types of programs have been determined, after an OIG investigation, to be illegal kickbacks under Medicaid and Medicare because they induce a patient to use a specific drug, raising costs by forcing coverage of high-priced drugs when more affordable alternatives are available.



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The requirement for copay assistance programs to count toward deductibles and out-of-pocket maximum amounts as required under SB 560 will exacerbate an existing high cost drug problem by allowing drug manufacturers to skirt responsibility for high prices and use drug coupons, patient assistance programs or other copay assistance programs that will result in higher health care costs. Oregonians will end up paying more for their health coverage as a result.

Moda Health appreciates the opportunity to comment on SB 560. 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

