Statement of Opposition to SB 439, SB 558 & SB 560

February 22, 2021

AHIP and our member plans **strongly oppose** and offer the following comments on prescription drug bills being heard in the Senate Committee on Health Care today. **We believe that none of these bills are serious about lowering drug costs and could actually end up costing consumers more, not less.**

SB 439 – Point of Sale Rebates

- 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 benefit improvements, premium reductions, and/or lower out-of-pocket costs.
- Requiring rebates to be passed on to consumers at the point of sale represents an enormous administrative challenge because rebates are not paid by pharmaceutical manufacturers until long after the plan year ends.
- Point-of-sale distribution of rebates would only benefit those consumers taking particular drugs, rather than the current model where savings are passed on to all consumers in a health plan.
- The Trump administration proposed a similar requirement in the Medicare Part D program – according to the government's own actuaries, the proposed rule would **increase premiums by 25%, costs to taxpayers would go up by $200 billion, and pharma would see a $100 billion windfall**.
- The focus on how savings are distributed is a deliberate tactic by pharma to avoid addressing the more serious issues surrounding the lack of competition, transparency, and accountability in the pricing of prescription drugs.

SB 558 – Mail Order Prohibitions

- Eliminating any form of mail order during a pandemic is harmful to consumers who rely on these services to keep themselves safe. In 2019, over **170 million prescriptions** were filled by mail in the US. Through July 2020, there was a **20% increase** in prescription drugs filled through mail-service pharmacies during the pandemic.
- Mail order services have been proven to be more **accurate** and lead to **greater** **medication adherence** for patients with chronic conditions.

SB 560 – Third-Party Prescription Drug Payments

- Copay coupons and other patient assistance programs raise the cost of care for everyone by encouraging the use of more expensive, brand-name drugs.
    - The federal government considers copay coupons to be an illegal kickback and prohibits their use in Medicare and Medicaid.
    - CMS **recognized** that there are "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".
- This bill prohibits programs that some health plans use to increase transparency of third-party payments and better reflect patients' actual out-of-pocket spending. It is critical to allow guardrails against this kickback system so that health plans can keep care affordable for all Americans.
- 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.
- Drug companies could lower the price of their drugs or give coupons to every patient for the entire time they need the medication, but they don't. Banning health plans' flexibility on coupons gives drug companies even less incentive to lower their prices, keeping drug prices high for everyone.