



March 8, 2023

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

RE: Senate Bill 565 - Opposed

Dear Chair Anderson and members of the Committee:

Moda Health presents this letter in opposition to Senate Bill 565 because we believe it will drive up healthcare costs for Oregonians and hurt patients in the long run.

Copay coupons and other patient assistance programs from manufacturers effectively raise the cost of care for everyone by encouraging the use of more expensive, brand-name drugs when other lower cost and clinically appropriate alternatives, like generic drugs, may be available. Even though copay assistance programs offer out-of-pocket savings to patients at the point of sale, the actual cost of the medication does not change. Instead the cost is passed through to health insurers and other payers, effectively removing the consumer from the purchase decision.

“Copay accumulator” programs used by health insurers and pharmacy benefit managers have become an important tool to counter the explosion of manufacturer incentive efforts targeting consumers. These programs assure that only amounts actually paid by a member/patient count toward deductibles and out-of-pocket maximums. SB 565 would prohibit health insurers from using copay accumulator programs as an important utilization management tool to direct patients to the most clinically effective and affordable medications on a plan’s formulary. Instead it would give a major boost to manufacturers to sell expensive medications that offer little or no clinically differentiated value.

Although restricting the use of copay accumulator programs may benefit a patient in the immediate transaction of filling a particular prescription, it enriches the pharmaceutical manufacturer and creates economic waste within the health care system. This increases overall spending, which will likely be passed on to patients in the form of higher copayments and premiums, to the detriment of all beneficiaries.



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Oregon has made great progress in recent years requiring greater transparency throughout the pharmaceutical supply chain. As a result of previous HB 4005, the Department of Consumer and Business Services is accumulating data from manufacturers about the use of copay programs and their impact on medication expenditure. Also, as a result of previous SB 844, the Prescription Drug Affordability Board has begun its work at a fast pace. Enabling unchecked use of manufacturer incentive programs, which would result with the passage of SB 565, will run counter to our state's efforts to better understand the supply chain to ensure that medication costs are well managed. Removing the ability for health insurers to apply copay accumulator programs to manufacturer incentive programs removes an effective tool that has helped ensure better cost management of critical medications.

Research has shown that when lower-cost alternatives are available (either generic versions of the same drug or other lower-cost drugs shown to be useful in treating the same condition) eliminating the cost-sharing responsibilities of a patient through drug manufacturer assistance can incentivize use of brand-name drugs over the lower-cost alternatives. Moreover, 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.

SB 565's requirement for copay assistance programs to count toward deductibles and out-of-pocket maximum amounts 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.

For these reasons, Moda Health opposes passage of SB 565. We respectfully request that the committee incorporate our comments in consideration of this Bill.

Sincerely,

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

Robert Judge
Chief Client Officer, Pharmacy Solutions
Moda Health Plan