CAMBIA HEALTH SOLUTIONS

Testimony on SB 565: Co-Pay Accumulator Legislation

March 8, 2023

Chair Patterson and Members of the Committee,

My name is Mary Anne Cooper, and I'm the Oregon Director of Government Relations at Cambia Health Solutions, which operates Regence Blue Cross Blue Shield of Oregon. Thank you for the opportunity to submit testimony on SB 565. We are concerned that SB 565, while offered as a measure to help patients, will increase already significant profit margins for drug manufacturers, increase health insurance costs, and keep patients on expensive drugs even if lower cost, equally effective treatments are available on the market. We believe there are several more patient-focused solutions to drug affordability that we encourage the committee to consider in place of SB 565.

As one of the state's largest health insurers, Regence is committed to addressing both persistent and emerging health needs for the nearly one million Oregonians we serve. In keeping with our values as a tax paying nonprofit, 85% of every premium dollar goes to pay our members' medical claims and expenses. In Oregon, prescription drugs account for 20-30% of all plan spending.[1] These costs are largely driven by specialty drug spending, where manufacturer coupons are often directed. Within Regence, specialty drugs account for only 1.2% of claims, but over 55% of the total costs of prescription drugs.

Today our members can and do use manufacturer coupons to help offset their obligation at the pharmacy counter, but only the member's own out-of-pocket costs "count" toward their cost share obligation under their policy. This wouldn't be a problem if manufacturers consistently provided coupons throughout the calendar year, but some manufacturers have limits that appear to be more focused on incentivizing use of their drug, such as only making them available for a limited

[1] Department of Consumer and Business Services. (2022, November 30). Prescription Drug Price Transparency Results and Recommendations – 2022. Retrieved March 9, 2023, from https://dfr.oregon.gov/drugtransparency/Documents/Prescription-Drug-Price-Transparency-Annual-Report-2021.pdf

number of fills. SB 565's requirement for insurers to count those coupons toward the members' cost-share obligations limits the value of coupon assistance manufacturers would provide before the plan picks up 100% of the cost and incentivizes patients to stay on high-cost drugs, even if equally effective alternative therapies are available or introduced to the market.

Of note, people in the United States pay twice as much for their prescriptions compared to thirty-two other developed countries.[2] We know that many people cannot afford the high costs of their medications without insurance. The skyrocketing price of prescription drugs is one of the main reasons the state has created the Prescription Drug Affordability Board and the Prescription Drug Price Transparency Board, neither of which have endorsed this approach to improve drug affordability.

Over the years, manufacturers have aggressively raised prices on existing drugs and have continuously raised the price of new drugs. The Congressional Oversight Committee Investigation on Drug Pricing found that manufacturers raised the price of 12 drugs over 250 times with the median price of those drugs being almost 500% higher than when it was originally brought to market.[3] In 2008, the average cost of a new drug entering the market was $2,000 annually, today it is $220,000 annually.[4]

Manufacturers use copay coupons to mask these high prices. Coupons are given to patients to help them afford the unjustified cost of the medications that Americans pay more for than any other part of the world. Manufacturers are now asking for the state's help to circumvent health plan tools that lower prescription drug spending and steer patients toward more expensive drugs.

Yet, these coupons have been associated with drug cost increases. According to a study done by researchers from Harvard, UCLA, and Northwestern, "coupons are associated with faster branded price growth. Drugs without coupons experience real price growth of 7–8 percent per year, while drugs with coupons experience price growth of 12–13 percent per year."[5] Notably, government health plans such as Medicare and Medicaid have banned copay coupons as a form of an illegal kickback.

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[2] Drug pricing investigation : majority staff report. (2021). Committee on Oversight and Reform, U.S. House of Representatives.

[3] Drug pricing investigation : majority staff report. (2021). Committee on Oversight and Reform, U.S. House of Representatives.

[4] https://www.reuters.com/business/healthcare-pharmaceuticals/us-new-drug-price-exceeds-200000-median-2022-2023-01-05/#:~:text=The%20median%20annual%20price%20of,2022%2C%20the%20median%20was%20%24222%2C003

[5] Dafny, L., Ody, C., & Schmitt, M. (2017). When discounts raise costs: the effect of copay coupons on generic utilization. *American Economic Journal: Economic Policy*, *9*(2), 91-123.

Medicare's ban on copay coupons saved the Part D program an estimated $18 billion over the last ten years.[6]

Manufacturers have the power to lower drug prices and alleviate patient cost burden. We saw that recently when Eli Lily significantly lowered the price of their insulin by 70%. Yet manufacturers continue to tout coupons as the solution. Why? Because the coupons bolster ever-increasing revenue targets and incentivize patients to use expensive treatments. Copay coupons are not charity. Rather, they are a key part of drug manufacturers' shell games that distract from unreasonable and constant price increases. Nationally the continued use of copay coupons will raise overall drug spending by $32 billion for employers, unions and other plan sponsors while earning drug manufacturers a 4:1 to 6:1 return on investment.[7]

Utah's government-run Public Employee Health Plan recently completed a fiscal analysis of how a bill similar to SB 565 would impact that state's benefit plan. They concluded that state healthcare spending would rise by more than $2.7 million, with about 85% of the added cost directly benefiting drug manufacturers (because available assistance would no longer be maximized) and only 15% benefiting patients (who would hit their deductibles faster). We are working on getting specific numbers for Regence in Oregon.

As health plans continue to pay for increasingly costly drugs, the unwanted but necessary effect is rising health insurance costs. Of note, plans and employers must grapple with prohibitive costs of newer emerging drug therapies with list prices in the $2-3 million dollar range. Indeed, Regence has seen its drug spending rise in recent years, from $90 PMPM in January 2022 to $110 PMPM in February 2023, with a total increase in our fully insured business of $29 million during that time period. SB 565 would exacerbate this trend. If the legislature's concern is a patient's inability to afford their insurance cost share obligation for expensive specialty drugs, there are several solutions that would address that concern without incentivizing excessive drug prices from manufacturers. We are happy to work with the committee on those solutions.

We also note that pharmaceutical companies have figured how to bypass laws that disallow them from providing financial assistance directly to patients. By aggressively

[6] Visante Copay Coupon Study. "How Copay Coupons Could Raise Prescription Drug Costs by $32 Billion Over the Next Decade." October 2011.

[7] Wickersham, P. (2013). Sorting out the truth about copay coupons. Employee Benefit Plan Review, 67(10), 26.

donating money to patient advocacy groups, manufacturers have financially motivated these charity groups to push pro-pharmaceutical legislation even though some of the legislative outcomes actually harm patients. Current federal regulations allow drug manufacturers to make tax deductible donations to patient assistance charities which do not have to be publicly reported.[8]

The Oregon Prescription Drug Affordability Board has recommended that all manufacturers report annually on all patient assistance programs that they maintain or fund. We support this approach, as it will provide more information on the roles pharmaceutical manufacturers play in shaping policies such as SB 565.

We would love to work with this committee to find a solution that primarily benefits patients, not drug manufacturers. As drafted, we oppose SB 565, as the benefits would flow overwhelmingly to drug manufacturers and fails to address unjustified high drug prices. We share the goal of the committee of easing the burden of skyrocketing drug prices on consumers and look forward to working with the committee on solutions.

Thank you for the opportunity to submit testimony, and please let me know if you have any questions.

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[8] Dafny, Leemore, Christopher Ody, and Teresa Rokos. "Giving a Buck or Making a Buck? Donations by Pharmaceutical Manufacturers to Independent Patient Assistance Charities." Health Affairs 41, no. 9 (September 2022).