AHIP Strongly Opposes SB 608 -A2 Amendments

Everyone should be able to get the medications they need at a cost they can afford. But drug prices are out of control, and hardworking families feel the consequences every day. The changes made by the proposed -A2 amendments are the wrong solution and will do nothing to control the soaring prices of prescription drugs for patients.

Drug manufacturers use copay coupons to increase sales and keep drug prices high for their own financial gain.

Drug manufacturers acknowledge their drugs are unaffordable for patients. But rather than simply lowering their prices, they offer copay coupons to offset cost-sharing expenses. These tactics incent patients to use expensive drugs rather than equally effective, less expensive options (such as generics, biosimilars, and other therapeutic substitutes).

The federal government considers copay coupons illegal kickbacks in federal health care programs like Medicare and Medicaid because these coupons induce a patient to use a specific drug.[i] Because the commercial market is the only market where drug manufacturers may offer copay coupons, they are aggressively seeking policy proposals that codify their financial gains.

Repeated studies have proven that coupons raise drug prices and fuel increased drug spending:

- Drugs with coupons had a **higher annual price growth** (12-13%) than drugs without coupons (7-8%).[ii]
- A 2022 study estimated that copay coupons "**raise negotiated prices** of multiple sclerosis drugs by 8%... coupons **increase spending on couponed drugs without bioequivalent generics** by up to 30 percent."[iii]
- For one cancer treatment, the manufacturer projected a **potential rate of return of $8.90 for every $1 spent** on their copay assistance program and noted "[b]ecause oncologic drugs are a necessity for patients, there is **less sensitivity to price increases**."[iv]
- The US House Oversight Committee's drug pricing investigation found that Big Pharma **uses patient assistance programs as a sales tool** – focusing on their rates of return, encouraging patients to stay on branded drugs after a generic is introduced, and subsidizing third-party foundations to drive sales and attract patients who otherwise might not have used the high-priced drug. [v]

> The U.S. House Oversight Committee agreed that these programs "do not provide sustainable support for patients and do not address the burden that the company's pricing practices have placed on the U.S. health care system.

Health insurers have limited tools to hold drug manufacturers accountable for their high prices.

Employers and health insurance providers have worked hard to develop programs to hold drug companies accountable, to shed light on these pricing schemes, and keep costs low for Oregonians. One such program allows patients to save money with a coupon at the pharmacy counter but does not count the amount the drug manufacturer has paid for the drug (through the coupon) towards the patient's deductible or out-of-pocket maximum.

The Centers for Medicare & Medicaid Services (CMS) agrees that these programs are important to protect taxpayers. CMS explicitly allowed such programs to continue in Exchange plans because they recognized the "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."[vi]

This proposal would raise costs for consumers at the benefit of drug manufacturers.

Proposals like this amendment that require insurers to count all third-party payments towards an enrollee's cost sharing obligations will eliminate incentives for drug companies to lower prices. As a result, drug companies will make more money while Oregon families and businesses continue to foot the bill through higher premiums and higher out-of-pocket expenses.

In California, a similar bill was found to only impact 1.6% of all prescription drugs dispensed but would **increase health insurance premiums by $213 million annually**.[vii] In Utah, the state found that a similar proposal would cost the state employee plan $2,750,173. **Only 15% of that would benefit members; the other 85% – $2.3 million – would benefit drug manufacturers.**

Copay coupons are another way for drug companies to insulate themselves from public scrutiny, skirt transparency, and maximize their profits. We urge you not to take away one of the few tools that health insurers have to hold manufacturers accountable.

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[i] *See 42* U.S.C § 1320a-7b; *Special Advisory Bulletin: Pharmaceutical Manufacturer Copayment Coupons*. HHS Office of the Inspector General. September 2014.

[ii] Dafny, Ody & Schmitt. When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization. October 2016.

[iii] Dafny, Ho & Kong. How Do Copayment Coupons Affect Branded Drug Prices and Quantities Purchased? NBER Working Paper Series. February 2022.

[iv] Drug Pricing Investigation: Novartis—Gleevec. US House Committee on Oversight and Reform. October 2020.

[v] Drug Pricing Investigation: Majority Staff Report. US House Committee on Oversight and Reform. December 2021.

[vi] Notice of Benefit and Payment Parameters for 2021. Centers for Medicare & Medicaid Services. June 13, 2020.

[vii] California Assembly Bill 874: Out-of-pocket Expenses. CHBRP. April 18, 2023.