

CAROLYN A. QUATTROCKI
Chief Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CARRIE J. WILLIAMS
Deputy Attorney General

SHARON S. MERRIWEATHER
Deputy Attorney General

ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement



**STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION
HEALTH EDUCATION AND ADVOCACY UNIT**

ANTHONY G. BROWN
Attorney General

WILLIAM D. GRUHN
Division Chief

KIMBERLY S. CAMMARATA
Unit Director

PETER V. BERNS
General Counsel

CHRISTIAN E. BARRERA
Chief Operating Officer

IRNISE WILLIAMS
Deputy Unit Director

March 25, 2025

TO: The Honorable Pamela Beidle, Chair
Senate Finance Committee

FROM: Irnise F. Williams, Deputy Director, Health Education and Advocacy Unit

RE: House Bill 1246- Health Benefit Plans - Calculation of Cost Sharing Contribution
– Requirements - **LETTER OF CONCERN**

The Health Education and Advocacy Unit submits a letter of concern for the limited purpose of addressing section (C)(1) of House Bill 1246, which requires persons that provide discounts, financial assistance payments, product vouchers, or other out-of-pocket expenses made on behalf of an insured or enrollee that is used in the calculation of the insured's or enrollee's contribution to cost-sharing requirement or out-of-pocket maximums, to notify the insured or enrollee of material information related to the use of the funds. An amendment to this section also requires the entity offering the assistance to "provide the discount, financial assistance payment, product voucher, or other out-of-pocket expense for the duration of the plan year."

The bill provides that a violation of (C)(1) is a violation of the Consumer Protection Act (CPA). The CPA generally requires that material information be provided to consumers. Section (C)(1)(i) identifies specific material information that must be provided to consumers. Thus, this bill applies the general principle that already is present in the CPA and applies that principle to programs that provide discounts, financial assistance, or product vouchers. We are concerned about an amendment to the bill that requires material information be provided within 7 days after acceptance of the assistance, because it is at odds with traditional consumer protection principles - that details of the offer should be clear and conspicuous at the time of the offer.

Our office is also concerned about the amendment to this section that requires the entity offering the assistance to "provide the discount, financial assistance payment, product voucher, or other out-of-pocket expense for the duration of the plan year" because it could harm recipients and raises

enforcement questions. For example, consider a consumer who at the beginning of their plan year has a \$6,000 deductible, their drug costs \$6,000 to fill for a 30-day supply, and they are eligible to receive \$6,000 in copay assistance. If the \$6,000 copayment assistance is required to last for the “duration of the plan year,” is the \$6,000 pro rated, resulting in the consumer only receiving \$500 a month in copay assistance, not the full \$6,000 upfront? If the copayment assistance is prorated over the plan year, this could be a significant barrier to a patient being able to afford the drug on day 1 of their plan year. In this same scenario, it is also possible the patient might only need the drug for part of the plan year, but the consumer would be denied the full amount of copayment assistance because of the requirement that the financial assistance be available for the duration of the plan year. If the intent of the amendment is to require that the expiration date shall not be earlier than the end of the patient’s plan year, it would be helpful to modify the amendment to clarify that intent. Otherwise, the amendment is likely to result in patients being denied the full benefit of the assistance programs. We hope this information is helpful to the Committee in considering House Bill 1246.

cc: The Honorable Vice Chair Cullison
The Honorable Steve Johnson