



February 4, 2025

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Delegate Bonnie Cullison
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Senator Brian Feldman
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Delegate Jennifer White Holland
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Via Electronic Correspondence

Re: Prescription Drug Affordability Board – Authority for Upper Payment Limits (Lowering Prescription Drug Costs for All Marylanders Now Act) SB0357/HB0424

Dear Senator Dawn, Senator Feldman, Delegate Cullison, and Delegate White Holland:

Aimed Alliance is a non-profit health policy organization that seeks to protect and enhance the rights of health care consumers and providers. Aimed Alliance appreciates the efforts the Maryland General Assembly has taken to lower prescription drug costs for health care consumers.

SB0357/HB0424 would permit the Maryland Prescription Drug Affordability Board (PDAB) to establish a process for setting upper payment limits for certain eligible prescription drugs. Aimed Alliance encourages the Maryland General Assembly to consider alternatives that can directly impact consumer cost-sharing, such as a copay accumulator ban.¹ In addition, Aimed Alliance urges the Maryland General Assembly to modify the current PDAB law to ensure clearer opportunities for consumer engagement, representation, and direct impacts on consumer prescription drug affordability. Specifically, we urge the Maryland General Assembly to:

- I. Appoint a member to the Board that has lived experience with chronic disease, disability, and/or health equity;**
 - II. Require the Board to explain how it considered feedback from the Stakeholder Advisory Council;**
 - III. Ensure monitoring of UPLs consider access and affordability challenges developed in relation to the UPL; and**
 - IV. Ensure PDAB savings are required to pass through directly to consumers in the form of lower prescription drug costs or lower premiums.**
- I. Appoint a member to the Board that has lived experience with chronic disease, disability, and/or health equity.**

Currently, Maryland's PDAB law requires Board Members to have expertise in health care economics or clinical medicine.² The Board does not require any representation from individuals with lived experience in disability or chronic disease. Individuals with lived experience have direct knowledge about

¹ All Copays Count Coalition, *State Legislation Against Copay Accumulators*, <https://allcopayscount.org/state-legislation-against-copay-accumulators/>.

² HB 0768, <https://mgaleg.maryland.gov/2019RS/bills/hb/hb0768e.pdf>

how public policy and health initiatives directly impact health care consumers access and affordability. Working with individuals with lived experience ensures decision makers have a deeper and more realistic understanding of how certain conditions and circumstances affect different populations and provides a clearer understanding of the most appropriate solutions for those problems.³

Recently, the federal government has recognized the value of ensuring a permanent position for the patient perspective by requiring all Pharmacy & Therapeutics (P&T) Committees to include at least one patient representative as a member of the P&T Committee. In making this decision, the government recognized that consumer representatives can provide “insights into real consumer experiences unknown to P&T committees.”⁴ Thus, a similar permanent position could be equally as valuable and beneficial for Maryland’s PDAB.

While we recognize consumers have the opportunity to engage through the Stakeholder Advisory Council this is insufficient to meet consumers’ needs. The Stakeholder Advisory Council does not have decision-making authority, as such without appropriate representation the Board could disregard consumer perspectives shared as part of the Stakeholder Advisory Council. As such, Aired Alliance urges the Maryland General Assembly to modify the current statute to include a patient representative in the PDAB Membership.

II. Require the Board to explain how it considered feedback from the Stakeholder Advisory Council;

Maryland’s PDAB statute requires the Board to consult the Stakeholder Advisory Council throughout the drug selection and UPL setting process. However, the statute fails to identify how the Board must weigh and reconcile stakeholder feedback with its ultimate decision. For instance, in the 2024 Annual Report, the Board recognized it received input from the Stakeholder Advisory Council when selecting drugs from negotiation.⁵ Specifically, the Report states “The Board referred 8 drugs to the Stakeholder Council for input in March 2024 (Biktarvy, Dupixent, Farxiga, Jardiance, Ozempic, Skyrizi, Trulicity, and Vyvanse). The Board considered public and Stakeholder Council input and selected drugs for the Cost Review Study Process. The Board selected 6 drugs for the Cost Review Study Process in May 2024 (Dupixent, Farxiga, Jardiance, Ozempic, Skyrizi, and Trulicity).”⁶ This statement does not explain the type of feedback that was received; how the information was used in the Board’s decision-making process; or what additional information would have been helpful to the Board.

Therefore, Aired Alliance urges the Maryland General Assembly to modify the current PDAB statute to ensure that the Board must reconcile the Stakeholder and consumer feedback it receives and its ultimate decision. Moreover, requiring the Board to disclose the additional types of information that could

³ ASPE, *Engaging People with Lived Experience to Improve Federal Research, Policy, and Practice*, <https://aspe.hhs.gov/lived-experience>.

⁴ 2025 NBPP; See also, Lisa Baumann, et al., Public and patient involvement in health policy decision-making on the health system level – A scoping review, 126 HEALTH POL. 1023-38 (Oct. 2022), <https://www.sciencedirect.com/science/article/pii/S0168851022001919>

⁵ MD PDAB 2024 Annual Report, <https://pdab.maryland.gov/Documents/reports/2024.12.31.2024%20Annual%20Report%20%281%29.pdf>

⁶ *Id.*

have been helpful to the Board will ensure advocates and organizations are aware of the type of information the Board needs to make consumer-focused decisions.

III. Ensure monitoring of UPLs considers access and affordability challenges developed in relation to the UPL.

Both the original PDAB statute and SB0357/HB0424 recognize the importance of the Board monitoring the implementation of UPLs, and specifically how UPLs may be impacted during Food and Drug Administration (FDA) recognized drug shortages. However, neither the statute nor the proposed legislation recognizes the need to monitor UPL implementation more broadly to ensure it does not impact consumer access or affordability. UPLs are novel concepts within state health insurance markets, as such potential consequences of UPLs such as formulary restrictions are not completely known. Therefore, the Maryland PDAB should be required to monitor how UPLs impact consumer access and affordability to ensure UPLs do not impair access. Aimed Alliance urges the Maryland General Assembly to codify this obligation in SB0357/HB0424.

IV. Ensure PDAB savings are required to pass through directly to consumers in the form of lower prescription drug costs or lower premiums.

Maryland's PDAB law recognizes that prescription drugs are a high-cost expenditure for commercial health plans, Medicaid, and state employee health benefit programs.⁷ As such, the PDAB is intended to protect these entities from the high-cost of prescription drugs.⁸ In addition, PDABs allege they can lower prescription drug costs for consumers through the savings from UPLs. This requires that plans pass savings to consumers in the form of lower premiums or lower prescription drug prices. However, without a statutory mandate this may not occur.

Without a requirement to pass savings, state and local governments could elect to use plan savings toward other necessary expenditures such as road repairs or schools. Therefore, Aimed Alliance urges the Maryland General Assembly to modify the current PDAB statute to include specific language that requires UPL savings to be passed down to beneficiaries in the form of meaningful reductions to premiums or prescription drug costs.

V. Conclusion

We sincerely appreciate the opportunity to comment on this proposed legislation and look forward to continuing to engage with the Maryland General Assembly and Maryland PDAB to ensure consumers access and affordability are centered throughout these reforms. Please contact us at policy@aimedalliance.org if you have any questions regarding this comment.

Sincerely,
Ashira Vantrees
Director of Legal Strategy & Advocacy

⁷ MD HB 0768, <https://mgaleg.maryland.gov/2019RS/bills/hb/hb0768e.pdf>.

⁸ *Id.*