



February 6, 2025

The Honorable Joseline A. Pena-Melnyk, Chair
The Honorable Bonnie Cullison, Vice Chair
Members of the House Health and Government Operations Committee
6 Bladen St., Room 240
Annapolis, MD 21401

RE: Opposition to HB 424 Prescription Drug Affordability Board – Authority for Upper Payment Limits (Lowering Prescription Drug Costs for All Marylanders Now Act)

Chair Pena-Melnyk, Vice Chair Cullison and Members of the House Health and Government Operations Committee:

As a broad coalition of advocacy organizations including patients, caregivers and health care providers, we write to express **opposition** and concern with HB 424 – a bill to expand the reach of upper payment limits set by the Prescription Drug Affordability Board (PDAB). We recognize the importance of lowering health care costs. However, PDABs have no track record of achieving savings while upper payment limits pose a risk to patient access.

Currently, upper payment limits implemented by the PDAB apply only to government-sponsored health plans. HB 424 would expand the authority of the PDAB to impact commercial plans within the state.

As you consider this legislation, please also consider these concerns:

- 1) PDABs take a narrow view of a complex system
- 2) PDABs have not achieved savings, and patient savings remain unlikely
- 3) UPLs risk patient access to medications Marylanders rely on

PDABs TAKE A NARROW VIEW OF A COMPLEX SYSTEM

In addressing affordability, PDABs often take a narrow view of the true cost of care, ignoring the actual cost to patients after insurance and assistance programs.

PDABs' proposed solution to create savings – a cap on the topline price of prescription medications through the implementation of upper payment limits (UPLs) – fails to address other drivers of cost within the system, such as those added by pharmacy benefit managers, insurers and wholesalers. It also ignores the costs added to the health care system through delays or denials to treatment imposed by health plans. These delays allow disease progression, leading to additional doctor or hospital visits, and drive further negative economic impact through missed days at work for patients who are suffering.

Lawmakers seeking to lower the cost of care, and improve patient outcomes, should consider all parts of the health care system.

LACK OF PATIENT SAVINGS

HB 424 is named the “Lowering Prescription Drug Costs for All Marylanders Now Act”. Evidence suggests the bill may never live up to its name.

Insured patients don’t typically pay the list price of a drug – the price upper payment limits seek to impact. Rather, patients’ out-of-pocket costs are determined by their health plan and its benefit design.

A 2024 survey of payers conducted by Avalere on behalf of the Partnership to Fight Chronic Disease shows health plans do not intend to pass savings, if any exist, on to patients. Payers stated:

- *“While well intentioned, state lawmakers did not place a ton of thought into the implementation of a UPL and how this will impact the supply chain.”*
- *“Payers will not pass their savings (if any) onto individuals. It’s not realistic and somebody will need to make up the differences.”*
- *“UPLs will alter how formularies are determined by plans which will likely mean changes to patient copays and coinsurance amounts.”¹*

Now in its sixth year of operation, the Maryland PDAB has not produced any savings. In fact, no PDAB in any state has saved a single dollar for patients. The legislature should be skeptical of expanding a program with no history of positive results.

RISK TO PATIENT ACCESS

The implementation of upper payment limits poses a risk to patient access to the medications they rely on.

The same survey of payers referenced above shows that UPLs are likely to increase health plan utilization management, which can result in delays or denials for patients. Payers stated:

- *“Utilization management will undoubtedly go up with UPLs, whether for the drugs subjected to them or for competition. This is going to depend on how low or high the UPLs are set at and what changes this brings to classes and volume.”*
- *“Anything that impacts product reimbursement over time will impact patient access. Providers will not want to take financial risks regarding inadequate reimbursement under UPL.”*

¹ Partnership to Fight Chronic Disease. *Health Plans Predict: Implementing Upper Payment Limits May Alter Formularies And Benefit Design But Won’t Reduce Patient Costs*. 2024 March.
<https://www.fightchronicdisease.org/sites/default/files/FINAL%20PFCD%20Avalere%20PDAB%20Insurer%20Research.pdf>

While payers' comments are clear about the risk of decreased patient access resulting from UPLs, the PDAB has done nothing to ensure continued health plan coverage for drugs impacted by UPLs.

Pharmacists are also concerned about the impact of artificially capping prescription prices. At the Medicare level, The National Association of Community Pharmacists surveyed their members and reported that more than 50% of independent pharmacists are strongly considering not stocking drugs subjected to CMS payment limits due to concerns over reimbursements.

If upper payment limits prevent payers from providing coverage for a drug or pharmacies from stocking a drug, then Marylanders face a risk of reduced access to those drugs. Lawmakers should not expand a program that could diminish access to treatments Marylanders rely on.

With no proven model to follow and no track record of success, we remain concerned that upper payment limits present a broad threat to patient access while ensuring no patient savings.

Therefore, the Value of Care Coalition respectfully requests the Committee move forward an **unfavorable report** on HB 424.

Thank you,

Derek Flowers
Director, Value of Care Coalition