



January 18, 2021

The Honorable Shane E. Pendergrass  
Chair, Health and Government Operations Committee  
Maryland General Assembly  
Room 241 House Office Building  
Annapolis, Maryland 21401

Re: [SB 290](#) / [HB 167](#)– Prescription Drug Copay Coupons

Dear Delegate Pendergrass,

On behalf of America's Health Insurance Plans (AHIP), I am providing comments respectfully opposing House Bill 167 related to drug copay coupons and accumulators.

While HB 167 simply requires the out-of-pocket maximum of insureds to include any payments made on behalf of the insured, the proposed legislation in fact benefits pharmaceutical manufacturers more than it does consumers – allowing for their copay coupons to count towards a consumer's out of pocket maximums which data illustrates hides the increase of brand name drug costs and raises the overall cost of healthcare.

- Drug manufacturers' use coupons, vouchers, discounts, or payments to offset cost-sharing expenses (collectively, "copay coupons"), which steer consumers into higher cost, brand name products when safe and effective generic and alternative brands are available.
- Considered illegal kickbacks in federal health programs, copay coupons are banned in Medicare and Medicaid, as coupons induce a patient to use a specific drug, with the rest of the cost picked up by taxpayers.

Health plans support both public policy and market-based solutions to foster competition and bring about lower costs for consumers, taxpayers, and employers. That is why health plans have long used formulary placement to incentive providers to prescribe, and patients to request, generic and/or lower-cost medications within a given class. Patients benefit from lower co-pays because generics are typically 85% cheaper than their brand name counterparts<sup>i</sup>, and everyone in the system benefits from lower overall health care costs. Generic drugs currently account for roughly 90% of prescriptions dispensed and 95% of generic prescriptions have a copay below \$20<sup>ii</sup>, indicating the success of these formulary strategies.

Copay coupons, on the other hand, undermine formulary design and other drug cost saving programs by masking the true cost of brand name medications from the patient while shifting the financial burden to everyone in the system. They allow manufacturers to continue to raise prices on existing medications – sometimes multiple times a year and sometimes by double or triple digits – without patients ever knowing the cost has gone up. In addition, formulary designs are utilized by carriers to incentive drugs with higher clinical value as designated by their Pharmacy and Therapeutic Committee which coupons also completely weaken and ignore.

**Harvard Study on Coupons:** A case study by Harvard, Kellogg, and UCLA between Massachusetts (who had banned coupons) and their neighboring state New Hampshire (which had not), shows:

- prices for brand name drugs with copay coupons rose 12% per year compared to price increases of 7% to 8% per year on brand name drugs that did not offer coupons<sup>iii</sup>;
- resulting in a 60% (or more) increase in brand utilization than if patients had switched to a generic competitor<sup>iv</sup>;

- after reviewing a sample of 23 medications, the study found coupons increased total spending by \$700 million in the five years after generic entry<sup>v</sup>.

As a result of coupons, drug companies make more money while consumers, businesses, and taxpayers' foot the bill for higher premiums, out-of-pocket expenses, and federal insurance subsidies. A 2011 study estimated copay coupons could increase prescription drug costs for employers, unions, and other plan sponsors by \$32 billion over ten years<sup>vi</sup>.

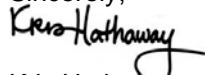
Furthermore, coupons are not freely available – drug makers only offer coupons to specific patients with certain plans for a narrow choice of drugs, and only until those patients' deductibles are met. When patients reach their out-of-pocket maximums, insurers pay all future costs. As a result, carriers have recently established copay coupon accumulator programs to increase transparency of third-party payments, which in effect HB 167 bans.

It is critical to have guardrails in place against this kickback system to help ensure that health care is affordable for all consumers in Maryland. Preserving copay accumulator programs allows consumers to see the true price and price increases of their medications. It also helps promote generic and brand name drug competition which could exert downward pressures on drug spending, helping to stabilize health care costs for consumers.

Rather than protecting consumers from high drug prices, copay coupons are yet another way for drug companies to insulate themselves from public scrutiny. By hiding the true cost of brand name drugs from consumers, manufacturers continue to operate in the “black box” of drug pricing. Instead of lowering costs for everyone by reducing the actual list price of the drug, they target specific populations with advertising and coupons.

AHIP stands ready to work with legislators to ensure continued access to safe and affordable medications and by leveling the playing field to foster true competition among brand and generic manufacturers based on price. We appreciate the ability to provide insight and data related to coupons and the adverse impact HB 167 will have on Maryland residents. Please let me know if you have any questions or concerns related to coupons or our comments at [khathaway@ahip.org](mailto:khathaway@ahip.org) or (202) 870-4468. Thank you for your time and attention on this critical issue.

Sincerely,



Kris Hathaway  
Vice President, State Affairs  
America's Health Insurance Plans

AHIP is the national association whose members provide insurance coverage for health care and related services. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access and well-being for consumers.

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<sup>i</sup> [Generic Drug Facts](#). U.S. Food & Drug Administration website.

<sup>ii</sup> The Case Competition, 2019 Generic Drug and Biosimilars Access & Savings in the U.S. [Report](#). Association for Accessible Medicines.

<sup>iii</sup> When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization [Abstract](#). Dafny, Ody, and Schmitt. American Economic Journal October 4, 2016.

<sup>iv</sup> Id.

<sup>v</sup> Id.

<sup>vi</sup> How Copay Coupons Could Raise Prescription Drug Costs By \$32 Billion Over the Next Decade. [Visante Analyses](#). Pharmaceutical Care Management Association. November 2011.