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Senate Bill 595/House Bill 879 – Health Benefit Plans - Calculation of Cost Sharing Contribution - Requirements and Prohibitions

Position: Favorable with amendments

Thank you for the opportunity to provide comments on this legislation. As part of its mission, CareFirst is committed to driving transformation of the healthcare experience with and for our members and communities. Ensuring equitable access to quality, affordable services across the healthcare continuum is essential to advancing holistic care and improving health outcomes. Fundamental to holistic care is an informed strategy to address the prescription drug and other therapeutic needs of our members and the communities we serve.

Prescription Drug "Copay Coupons" Drive Up Health Care Costs and Insurance Premiums

Drug manufacturers often provide patients with discounts or other cost-sharing assistance, known as copay coupons, to offset the patient's out-of-pocket costs for a prescription drug. While these discounts help individual patients, they also promote the use of higher-cost brand name drugs when equally effective, lower cost generic drugs are available. These additional costs are passed on to all consumers in the form of higher premiums. Several studies have confirmed these impacts:

- National Bureau of Economic Research (NBER): NBER estimates in the absence of copay coupons, on average, health care costs will decrease by ~$385 per member per month, which is nearly 8% of total costs. NBER research also shows the price for brand name drugs with copay coupons increased by 12% compared to an average of 7.5% annually for brand name drugs that didn't have an associated copay coupon.[i] While the absence of copay coupons might increase certain individual out of pocket expenses, this will be offset by an overall reduction in health care costs due to lower premiums and lower list prices from drug manufacturers.
- University of Southern California Schaeffer Center for Health Policy and Economics (USC): USC notes it is unclear if the use of coupons on drugs without a generic equivalent increases cost, but there is evidence the use of coupons on drugs with an available generic seems "very likely to raise costs without any obvious benefit".[ii]
- New England Journal of Medicine (NEJM): NEJM states cost-sharing assistance programs "discourage patients from using generic drugs and other less costly alternatives to new, patent-protected therapies" and may result in higher drug prices because of the relationship between patient demand and costs. Furthermore, these programs "accomplish nothing more than cost shifting if [they] shield patients from costs."[iii]

Drug Manufacturers Often Only Offer Copay Coupons for Limited Periods of Time

Drug manufacturers often do not provide copay coupons for the entire duration of a patient's use of a drug. They often discontinue copay coupons after a patient has reached their deductible. Doing so causes confusion, while also exposing other patients to higher premiums due to increased costs. A more effective way to ensure predictability in the use of copay coupons and protect patients is to require any cost-sharing assistance to be provided to all patients prescribed the drug for the entire plan year.

This Bill runs counter to the District of Columbia, California, and Massachusetts, as well as the Federal Government

The phenomenon noted above was recognized by Massachusetts and California, who have banned the use of copay coupons for brand name drugs with generic versions available. The Federal government has also banned use of copay

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coupons for all Federal health programs, including Medicare and Medicaid, as they violate the anti-kickback statute. Additionally, in response to concerns regarding how copay coupons encourage the use of branded drugs, the District of Columbia recently enacted a bill that includes a limited ban on copay accumulator programs with special consideration for generic drugs. Under this law, carriers are not permitted to use copay accumulators for drugs without a generic equivalent or interchangeable biologic on a preferred formulary or for generic equivalents or interchangeable biologics that the member gained access to through some type of exceptions process. As drafted, this bill would make Maryland an outlier.

CareFirst's proposed amendments will incentivize drug manufacturers to lower their high prices, while protecting consumers from high costs

Copay coupons are used by drug manufacturers to avoid lowering prescription drug list prices and increase their profits. CareFirst recommends the following amendment for your consideration to reform copay coupons and reduce health care costs for Maryland residents.

1. **Limit the accumulator ban to covered drugs that have no lower-cost alternative.**
   - This amendment would not allow Pharma to circumvent formulary management and give patients the ability to go "off formulary" for the same price.
   - The language limits the manipulation of Pharma where there are less expensive options available – either as a generic, another brand that the insurer has placed on a lower formulary tier or when the drug is available in an alternative form.

2. **Require patient assistance to be provided to all enrollees for the entire plan year and require advanced notice of discontinuation.**
   - This amendment is entirely for patient protection. This would ensure there is no discriminatory behavior allowed depending on what type of insurance a person may or may not have, and protect patients who rely on medications for long periods and have their assistance halted suddenly.

3. **Provide an HSA exemption.**
   - According to IRS Guidance[i] (Letter 2021-0014), the IRS does not allow the value of a drug coupon to be counted towards a consumer's deductible. Banning accumulators and requiring health plans to count coupons towards a consumer's deductible, could impact a consumer's ability to contribute to their HSAs.

For the aforementioned reasons, CareFirst supports the bill with the inclusion of the amendments listed above.

About CareFirst BlueCross BlueShield

As the largest not-for-profit healthcare plan in the Mid-Atlantic region, CareFirst provides health insurance products and administrative services to 3.6 million individuals and employers in Maryland, the District of Columbia, and Northern Virginia. Through its affiliates and subsidiaries, CareFirst offers a comprehensive portfolio of health insurance products and administrative services, participating in the individual, small group, and large employer markets and Medicare and Medicaid. CareFirst's mission aligns with our commitment to improve overall health and increase the accessibility, affordability, safety, and quality of healthcare throughout our service areas.

To learn more about CareFirst, visit www.carefirst.com. For insights on how CareFirst is working to transform healthcare visit www.carefirst.com/transformation, or follow us on Facebook, Twitter, LinkedIn, or Instagram.

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[i] Dafny, L., Ho, K., & Kong, E. (2022, February 14). *How do copayment coupons affect branded drug prices and quantities purchased?* NBER. Available at: https://www.nber.org/papers/w29735

[ii] Van Nuys, K., Joyce, G., Ribero, R., & Goldman, D. (2018, February 20). *A perspective on prescription drug copayment coupons*. USC Schaeffer. Available at: https://healthpolicy.usc.edu/wp-content/uploads/2018/02/2018.02_Prescription20Copay20Coupons20White20Paper_Final-2.pdf

[iii] Howard, D. (2014, July 10). *Drug companies' patient-assistance programs — helping patients or profits?* NEJM. Available at: https://www.nejm.org/doi/full/10.1056/NEJMp1401658

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