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February 24, 2025

The Honorable Pamela Beidle  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, MD 21401

**Re: SB 773, Copay Coupon Accumulator Ban**

Dear Chair Beidle:

On behalf of AHIP, we offer the following comments in opposition Senate Bill 773, which restricts health plans' ability to hold down drug costs. This bill does nothing to control the soaring prices of prescription drugs set by pharmaceutical manufacturers, but instead rewards drug makers for steering patients towards more expensive brand-name drugs. SB 773 would encourage the use of more expensive drugs, increase premiums, and reduce wages for Maryland residents.

***Drug manufacturers intentionally use copay coupons to keep drug prices high.*** Everyone should be able to get the medications they need at a cost they can afford. But drug prices are out of control, and Maryland families feel the consequences every day. Pharmacy costs now represent over 24 cents out of every dollar of premium spent on health care.<sup>1</sup>

Drug manufacturers acknowledge their drugs are unaffordable for patients, but rather than addressing this by lowering their prices, they instead offer copay coupons<sup>2</sup> to hide the actual cost of those drugs. Coupons intentionally offset short term cost sharing for a few patients, while increasing the cost of pharmacy care for everyone and benefiting drug manufacturers.

Copay coupons encourage the use of high-priced branded prescription drugs when more affordable generic alternatives are available. The federal government considers copay coupons to be an illegal kickback if used by an enrollee in Medicare or Medicaid because they induce a patient to use a specific drug.<sup>3</sup> In the commercial market, coupons are often offered by the drugmaker only for a limited time – once the patient hits their deductible, the drugmaker discontinues the patient's assistance.

The Centers for Medicare and Medicaid Services (CMS) has concluded that coupons can distort the market and hide the true cost of drugs. "Such coupons can add significant long-term costs to the health care system that may outweigh the short-term benefits of allowing the coupons, and counter-balance issuers' efforts to point enrollees to more cost-effective drugs."<sup>4</sup>

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<sup>1</sup> [Where Does Your Health Care Dollar Go?](#) AHIP. October 2024.

<sup>2</sup> Here, the term "copay coupons" is used to represent all payments provided by a third party towards a patient's cost sharing (copay, coinsurance, deductible). This includes coupons directly from drug manufacturers, but also third-party payments and discount programs from patient assistance programs.

<sup>3</sup> See 42 U.S.C § 1320a-7b; [Special Advisory Bulletin: Pharmaceutical Manufacturer Copayment Coupons](#). Department of Health and Human Services, Office of the Inspector General. September 2014.

<sup>4</sup> [Notice of Benefit and Payment Parameters for 2020](#). Final Rule. April 25, 2019.

**Health plans use guardrails to hold drug manufacturers accountable for pricing schemes such as copay coupons.** It is critical to have guardrails in place against this kickback system to ensure transparency and affordability in drug pricing. Employers and health plans have worked hard to develop guardrails that reflect patients' actual out-of-pocket spending on drugs and shed light on drug manufacturer pricing schemes.<sup>5</sup> These employer and health plan guardrails do not result in higher costs for patients. Instead, they maximize the value of coupons to benefit the patient, taxpayers, and plan sponsors, and reduce the ability of drug manufacturers to avoid fair negotiation on prices.

**This bill will have negative consequences for all patients.** This bill would significantly hamper health insurance providers' ability to develop programs to hold manufacturers accountable for problematic pricing schemes. To assist policymakers considering whether to require health plans to accrue third-party payments towards patient cost-sharing, AHIP commissioned the actuarial firm Wakely to analyze the impact of such policy. Wakely found that legislation like SB 773 would:

- **Increase premiums**, with the largest increases in the individual marketplace
- **Result in adverse selection** into lower premium plans, such as Bronze plans, resulting in **higher premiums and consumers dropping their coverage.**
- **Reduce wages** for workers who receive coverage at work, due to **higher employer costs.**
- **Encourage use of more expensive drugs** over cheaper alternatives.<sup>6</sup>

Restricting the use of health plans' guardrails will reduce incentives for drug companies to offer lower prices because those drug companies can continue to replace real price reductions with coupons. As a result, drug companies will make more money, while consumers and businesses continue to foot the bill through lower wages and higher premiums and out-of-pocket expenses.

**The broad scope of this bill will have an even greater impact on patients' costs.** As discussed, we have concerns with curtailing insurers' programs to address the market manipulation from copay coupons for prescription drugs. However, this bill reaches further by applying these requirements to all "health care services" leading to even greater detrimental impacts for patients as it opens the door to allow any provider to steer patients towards their practice with the promise of paying a portion of their cost sharing amount. For example, an out-of-network provider with rates twice as high as in-network providers could agree to subsidize a patient's cost-sharing and leave the insurer on the hook for twice the amount they would pay an in-network provider. This will effectively nullify insurers' ability to design cost-effective networks and place an enormous financial strain on employers paying health care costs.

Wakely's analysis found that broader bills like this will increase health care spending and undermine cost-saving networks by allowing providers to direct patients to higher cost out-of-network facilities.<sup>7</sup>

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<sup>5</sup> Humer, Caroline and Michael Erman. [Walmart, Home Depot adopt health insurer tactic in drug copay battle](#). Reuters. November 13, 2018.

<sup>6</sup> [Implications of Third-Party Payments on Commercial Market](#). Wakely. July 15, 2024.

<sup>7</sup> *Id.*

Furthermore, this bill is not limited to covered health care services, which means that patients receive the benefit of covered services (using their cost sharing payments to reach their deductible or out-of-pocket maximum) for all services, whether covered by their health plan or not.

***The legislature should focus on solutions that forbid market manipulation.*** Instead of taking away the few tools that health plans and employers use to address ever increasing drug prices, the legislature should focus on fixing the market distortion caused by drug manufacturer pricing schemes, including copay coupons. We support a ban on copay coupons, especially in cases where less expensive generic alternatives are available, as California and Massachusetts have done.<sup>8</sup> This has been proposed by a group of prestigious health care scholars looking at ways to offer evidence-based steps for reforming health care spending in the US.<sup>9</sup>

If you wish to allow the use of drug manufacturer coupons to continue, we urge you to consider reforms that require a fair and equitable distribution of such coupons with sufficient oversight and transparency. This includes requiring that coupons be given to all patients prescribed a drug, assistance be provided for the entire plan year, and manufacturers inform health plans when they are providing a coupon or other type of financial assistance to an enrollee of that health plan.

***AHIP Recommendation.*** AHIP opposes SB 773 as it eliminates valuable tools used in the effort to hold drug manufacturers accountable for their exorbitant prices.

AHIP stands ready to work together with state policymakers to ensure every patient has access to the high quality, affordable drugs that they need.

Sincerely,



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AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit [www.ahip.org](http://www.ahip.org) to learn how working together, we are Guiding Greater Health.

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<sup>8</sup> CA Health and Safety Code § 132000- 132008.; Mass. Gen. Laws Ann. ch. 175H, § 3.

<sup>9</sup> [Eliminating Prescription Drug Copay Coupons.](#)