The Maryland All Copays Count Coalition

February 25, 2025

House Health and Government Operations Committee

HB 1246 – Health Benefit Plans - Calculation of Cost Sharing Contribution - Requirements

Position: SUPPORT

Dear Chair Pena-Melnyk, Vice Chair Cullison, and Honorable Committee Members,

The Maryland All Copays Count Coalition, which includes the undersigned organizations, write to you in support of HB 1246. **This legislation would ensure that copay assistance, a vital source of financial assistance for Maryland patients to afford their medication, will count towards deductibles and out-of-pocket maximums.** Below we detail our support for the legislation and provide a patient perspective on the differences with SB 773.

Our coalition represents Marylanders living with chronic and rare conditions who rely on high-cost specialty drugs. The specialty medications required to manage these complex conditions are often placed on the highest cost-sharing tier of health plan formularies — resulting in high out-of-pocket costs. To offset high out-of-pocket costs, patients will apply for and receive copay assistance. Individuals will enroll in the copay assistance programs offered by the manufacturer that produces their medication or apply to receive financial assistance from nonprofit entities.

In recent years, health insurers and pharmacy benefit managers (PBMs) have begun implementing new policies that prevent any copay assistance funds from counting toward patients' deductibles and out-of-pocket maximums. These programs are often referred to as copay accumulator adjustment programs, or simply "copay accumulators." These policies eliminate any benefit from copay assistance and result in a significant financial barrier to accessing treatment. When facing high out-of-pocket costs, patients do not use their medications appropriately, skipping doses to save money or abandoning treatment altogether.

A 2025 annual report found that 50% of marketplace plans in Maryland have copay accumulator adjustment policies.[1] These plans include:

- CareFirst BlueChoice (HMO)
- CareFirst BlueCross BlueShield (PPO)
- Wellpoint

[1] Available at https://aidsinstitute.net/documents/TAI-2025-Report.pdf

Health insurers say that copay accumulators *"..help nudge patients toward lower cost, higher value choices"*[2], however, a prior analysis showed that for all commercial market claims for specialty medications where copay assistance was used, less than 1% of those claims were for a product that may have a generic alternative available.[3] Simply put, patients don't choose a more costly drug.

Patients and providers work together to determine a treatment plan that works best for them. Copay assistance is only utilized *after* a patient, provider, and their health plan have approved their access to that medication. This process often involves patients going through prior authorization, step therapy, and other forms of utilization management to demonstrate that the medication identified by their provider is the best choice for them. Patients and families overcome these barriers only to encounter challenges with affording their out-of-pocket costs. Subsequently, the financial assistance they intend to use to help with out-of-pocket costs is not counted due to a copay accumulator policy. This is tragic and represents a financial barrier to care that is unacceptable.

Differences to SB 773

HB 1246 addresses the concept of a copay accumulator and ensures that copay assistance counts in these instances. However, HB 1246 differs from SB 773 in a few areas:

1) **Inclusion of language on the use of assistance when a generic is available**
    a. The Coalition supports this language in HB 1246 as copay assistance is rarely used for a drug that has a generic alternative. This language addresses the committee's previous concerns around the use of copay assistance for branded medications when a generic alternative is available.

2) **Removal of language protecting patients from other misuses of copay assistance**
    a. SB 773 includes important language that prohibits insurance carriers and PBMs from altering an individual's health benefit based on the availability of financial assistance that is available. The goal of this legislation is to prevent emerging threats to copay assistance and patient access. These include programs known as "copay maximizers" and "alternative funding programs"[4]. We want to stress the importance of this language in protecting patients from current and future threats to copay assistance.

3) **Different language regarding individuals on High Deductible Health Plans (HDHPs) and their Health Savings Account (HSA) contributions**

---

[2] AHIP statement available at https://www.ahip.org/news/press-releases/ahip-files-amicus-brief-in-support-of-copay-coupon-accumulators

[3] Available at https://www.iqvia.com/locations/united-states/library/fact-sheets/evaluation-of-co-pay-card-utilization

[4] Information on copay maximizers and alternative funding programs available at https://www.cff.org/about-us/copay-accumulators-maximizers-and-alternative-funding-programs

a. The Coalition supports the language in HB 1246 regarding these HDHPs and appreciates the Maryland Insurance Administration's prior analysis[5] that confirmed if an insured or enrollee is covered under a health savings account-eligible HDHP, a carrier must apply the requirement to count copay assistance after the insured or enrollee satisfies the HDHP's minimum deductible requirement.

4) **Inclusion of notification requirements for entities providing financial assistance**
    a. HB 1246 addresses entities that provide financial assistance by requiring them to notify individuals of certain information. There are a variety of different pharmaceutical manufacturers and nonprofit organizations that provide financial assistance for use towards out-of-pocket expenses. We applaud the goal of providing more information to individuals regarding their financial assistance. Our concern is whether these requirements are operational for all entities that provide financial assistance.

To date, 21 other states (including neighbors Virginia, West Virginia, and Delaware), the District of Columbia and Puerto Rico have passed similar legislation to ensure copay assistance counts towards insurance deductibles and out-of-pocket maximums. We respectfully request your support for HB 1246 to ensure Marylanders can fully access the lifeline that copay assistance provides.

Sincerely,

ALS Association
American Cancer Society Cancer Action Network
Arthritis Foundation
Chronic Care Policy Alliance
Crohn's & Colitis Foundation
EveryLife Foundation for Rare Diseases
Hemophilia Federation of America
Hemophilia Foundation of Maryland
HIV+Hepatitis Policy Institute
Immune Deficiency Foundation
Lupus and Allied Diseases Association
MedChi, The Maryland State Medical Society
National Bleeding Disorders Foundation
National Psoriasis Foundation
Spondylitis Association of America
Susan G. Komen
The AIDS Institute

[5] 2024 Policy and Fiscal Note for HB 879 available at https://mgaleg.maryland.gov/2024RS/fnotes/bil_0009/hb0879.pdf