

PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Assembly Committee on Health

Assembly Bill 184

February 16, 2022

First of all, I would like to thank you, Chairman Sanfelippo and committee members, for allowing me to testify before you today concerning Assembly Bill 184 relating to application of drug payments to health insurance cost-sharing requirements.

Assembly Bill 184 would require health insurers to count the value of copay assistance toward a patient's out-of-pocket costs.

When people face a serious financial situation or deal with chronic disease, their primary concern is doing what they can to address that health concern. However, another major concern is often how to afford the necessary prescription medications.

In recent years, insurers have shifted costs to insureds through coinsurance and high deductible health plans. In addition, health plans in Wisconsin are increasingly implementing dangerous new policies known as "copay accumulators," which prevent the value of copay assistance from counting toward a patient's annual deductible or out-of-pocket cost-sharing requirements.

Copay accumulators prevent copay assistance from helping a patient pay down their deductible. Therefore, when the copay assistance runs out, a patient is faced with a tough decision: pay the full cost of their medication or walk away from the pharmacy counter empty-handed.

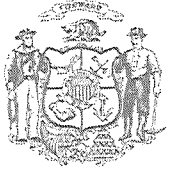
Most patients who rely on copay assistance do not have access to generic alternatives for their condition. Faced with higher out-of-pocket costs, many patients end up rationing their medication, or abandoning treatment altogether. This can have a ripple effect, as patients may experience worse health outcomes and require extra care – increasing costs to the health care system.

I'm here today on behalf of so many others who live in fear of being unable to access treatment and manage their health. Twelve states have already acted. Why not Wisconsin? Our constituents – our friends and family members – are counting on us.

Thank you for the opportunity to testify. I would be happy to address any questions you might have.

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*Testimony before the Assembly Committee on Health
State Senator André Jacque
February 16, 2022*

Chairman Sanfelippo and Members of the Assembly Committee on Health,

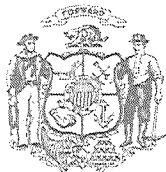
Good Morning and thank you for holding this hearing and the opportunity to testify before you today in support of Assembly Bill 184, a common sense bill supporting patient access to life-saving and essential medication that deserves our attention.

I've heard from many constituents and patients across Wisconsin about the vital role that copay assistance plays in allowing them to access critical treatments. For patients with conditions that require specialty medications, copay assistance has become even more crucial, because they are increasingly bearing the burden of higher out-of-pocket costs for their health care due to unfair policies.

Unfortunately, the adoption of "copay accumulator adjustment programs" which don't count the value of copay assistance towards patients' deductibles or out-of-pocket maximums have left patients footing the bill at the pharmacy counter. For many patients, this puts them in an impossible position where they must choose between their physical health and their financial stability. As a result, many patients are forced to disrupt their treatment regimens, or forego treatment altogether, all because of a provision in their health plan that they weren't even aware existed. As you can imagine, this puts added strain on the health care system overall, as individual health outcomes worsen, and patients require higher, more intensive levels of care.

Higher cost-sharing burdens harm patients because they have been shown to lead to lower medication adherence. According to IQVIA, in 2017, 69% of commercially insured patients did not fill their prescriptions when faced with an out-of-pocket responsibility of more than \$250, while only 11% of commercially insured patients failed to fill their prescriptions when their out of pocket responsibility was less than \$30. Medication non-adherence has been estimated to result in 125,000 deaths and at least 10% of hospitalizations, and to cost the health care system as a whole between \$100 billion and \$289 billion per year (according to *Annals of Internal Medicine*).

To ensure patient access to needed drugs, manufacturers in some cases provide cost-sharing assistance to patients in the form of coupons or vouchers, primarily for drug products that lack any generic alternatives. However, this assistance has been undercut by some health plans, which still accept the coupon or voucher, but simply don't allow patients to count them toward their deductibles and/or annual cost-sharing limits. Instead, the insurance company collects all of the cost-sharing assistance intended for the patient and still also requires the patient to pay their entire deductible out-of-pocket. Assembly Bill 184 directly addresses this concern and helps patients afford their prescription medicines by ensuring that amounts paid for prescription drugs by or on behalf of a person covered under a policy or plan apply to any calculation of an out-of-pocket maximum or to any cost-sharing requirement of the policy. This legislation is similar to nearly unanimous bipartisan legislation that has been enacted recently in a dozen other states, and there's no reason why Wisconsin shouldn't join them.



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Assembly Bill 184 allows co-pay assistance for prescription drugs to count toward a patient's out-of-pocket maximum or cost-sharing requirement and helps keep health care costs down. On behalf of all our constituents, family, and friends with a complex or chronic condition, I urge this committee to take action on Assembly Bill 184 to protect copay assistance for patients across the state.

Thank you for your consideration of Assembly Bill 184.



Testimony Opposing Assembly Bill 184 Relating to Drug Coupons

Cathy Mahaffey, CEO, before the
Assembly Health Committee
February 16, 2022

Common Ground Healthcare Cooperative opposes Assembly Bill 184 which would allow pharmaceutical manufacturers to incentivize patients to take expensive medications. Please note that we are not opposed to consumers using and having access to drug coupons and our plan allows for this. We are opposed to drug companies subsidizing certain consumers' deductibles and out-of-pocket maximums.

This legislation will increase insurance premiums. We say that with certainty because we changed our own policy in regard to drug coupons some years back which had a positive impact on our premiums. Our new policy continues to protect our members which we can illustrate with real-life examples.

Common Ground Healthcare Cooperative (CGHC) is a non-profit, member governed cooperative that provides health insurance to small employers and thousands of individuals in Wisconsin that are not offered health coverage through their employer. Our mission is to put our members first when it comes to balancing cost and coverage, and we strive to reduce costs for our members wherever possible.

How Drug Coupons Work

Pharmaceutical companies price specialty drugs extremely high, and then offer drug coupons to lower costs so consumers are not deterred from taking them. CGHC will honor drug coupons for our members that are prescribed medications that qualify for these. Under our policy, CGHC will ensure through its PBM that the member fully benefits from the coupon, then counts only the amount that is actually paid out of pocket by the member toward their deductible and maximum out-of-pocket. This ensures all of our members can continue to use coupons while protecting the rest of our membership against higher price increases.

Below are real-life examples below of how this policy works to protect all our members:

Member 1: Charlotte

- *Charlotte has been prescribed Otezla and Xeljanz. The price for Otezla is upwards of \$3,500 for a monthly fill, and for Xeljanz it is nearly \$5,000. Charlotte is on a plan with a \$50 deductible and a \$1,500 maximum out of pocket.*
- *In 2021, Charlotte has filled each of these medications five times and has paid nothing out of pocket for either medication.*
- *The total cost of Charlotte's medications was \$42,023. Of that, CGHC paid \$29,450, and the drug coupons covered \$12,573. If AB 184 were in place, CGHC would have paid \$40,523 or more for the medications, while the drug coupon would have covered at most \$1,500 – the member's maximum out of pocket.*

Member 2: Rick

- *Rick has been prescribed Dupixent. The price for Dupixent is about of \$3,300 for a monthly fill. Rick's plan has a \$400 deductible and a \$2,850 maximum out of pocket.*
- *In 2021, Rick has filled his prescription five times and has paid nothing out of pocket for medication.*
- *The total cost of Rick's medications was \$16,530. Of that, CGHC paid \$10,171 while a drug coupon covered \$6,359. If AB 184 were in place, CGHC would have paid at least \$13,680 for the medications, while the drug coupon would have covered at most \$2,850 – the member's maximum out of pocket.*

Member 3: Bob

- *Bob has been prescribed Syprine. The price for Syprine is nearly \$25,000 for a monthly fill. Rick's plan has a \$150 deductible and a \$1,500 maximum out of pocket.*
- *In 2021, Bob has filled his prescription four times and has paid \$20 out of pocket for the medication (\$5 per fill).*
- *The total cost of Rick's medications was \$99,210. Of that, CGHC paid \$93,240 while a drug coupon covered \$5,950. If AB 184 were in place, CGHC would have paid at least \$97,710, with the drug coupon covering at most \$1,500.*

We urge you to reject AB 184 in favor of other ideas that may actually lower health costs for consumers. The bill only helps out-of-state pharmaceutical companies at the expense of Wisconsin insurance consumers. We would remind you that the more CGHC pays for medications, the more our members pay in premiums.

The legislature should not be helping pharmaceutical manufacturers to get away with the schemes they have been employing for years that drive up insurance costs. Ever increasing medication and health care prices have inevitably led to increased deductibles and out of pockets for patients. Now, instead of taking accountability for their actions and working to lower costs to an affordable level, pharmaceutical companies are asking the legislature to enable them to bribe patients into taking their medicines. AB 184 hurts more people than it helps, and it encourages pharma companies to drive prices even higher.

It is Time to Target Medical Prices

In arguing for the drug coupon mandate, pharmaceutical manufacturers place the blame on health plans for high deductibles and out of pocket maximums. That is ironic when you consider that the root cause of high deductibles is the skyrocketing prices for care and treatment.

As prices drive deductibles higher, drug makers invented coupons to shield patients from high prices while keeping list prices high for everyone else, including health plans, employers, and governments. It's not good policy, and we hope the legislature won't buy into it.

Drug coupons are just one example of a dysfunctional health care delivery system with misaligned incentives. For the sake of insurance consumers, health plans and employers, we ask Wisconsin lawmakers to join our fight to address high prices instead of taking tools away from us. As a society, we can no longer afford to pay "as much as the market will bear" for health care and medicines.

The Real-Life Story Behind our Drug Coupon Policy

Common Ground Healthcare Cooperative adopted its drug coupon policy after a member kindly shared her story with us. She wasn't convinced that the \$20,000 per month drug she was taking was helping her medical condition, but she had stayed on it year after year because it meant she could meet her maximum out of pocket limit shortly after the first of the year. Once the drug coupon helped her meet her out of pocket, she stated that "all of her health care was free" to her and her family members on the plan for the remainder of the plan year.

Unfortunately, the other members of our cooperative were footing the bill for the one-year supply of this very expensive medication plus whatever medical cost this member incurred. Remember, the member didn't think the drug was helping her.

It's safe to say that our members don't enjoy playing these games. They are looking for a health care system that makes sense and an insurance system that offers comprehensive, affordable coverage. They certainly aren't looking for pharmaceutical companies to make more money through legislative workarounds.

Our members often share their stories with us to illustrate the absurdity of "the system." As a cooperative, we try to educate our members about the many ploys that exist in health care to maximize profit, so they understand the reasons behind our decisions.



Coalition of Wisconsin Aging & Health Groups

Financial Empowerment – Personal Advocacy – Victim Rights

The Coalition of Wisconsin Aging and Health Groups is a nonprofit, nonpartisan, statewide membership organization that was founded in 1977.

“Advocating for all Generations”

February 16, 2022

Assembly Committee on Health: Statement in support of AB 184

Good morning Chair Sanfelippo and members of the Committee. Thank you for holding this hearing today.

My name is Rob Gundermann. I’m the President and CEO of the Coalition of Wisconsin Aging and Health Groups. We are a nonprofit, nonpartisan statewide membership organization that was founded to improve the quality of life for people of all ages in Wisconsin.

My organization is proud to lead the Wisconsin All Copays Count Coalition, which makes up more than 35 national and Wisconsin-based patient and provider groups serving the interests of patients with chronic and serious health conditions that rely on copay assistance to access critical medications.

On behalf of the Coalition, I’m here to express our strong support for AB 184 and urge the Committee to support this legislation to protect copay assistance for patients. Copay assistance programs were first created by manufacturers in response to efforts from health plans to shift the cost burden of prescription medications on to patients. As a result, countless patients with chronic and complex conditions that require specialty medications depend on copay assistance to access life-saving treatments and manage their health. In response, health plans began implementing “copay accumulator adjustment programs”, which don’t count the value of copay assistance towards patients’ cost-sharing responsibility.

Copay assistance is a critical lifeline for many patients across our state, many of whom I’ve heard from first-hand. Melissa El Menaouar, diagnosed with Primary Biliary Cholangitis and who’s story you can read in *The Capital Times*, wrote that “Facing a life-threatening disease is terrifying enough, and Wisconsin patients deserve to manage their conditions without the threat of financial ruin.”

Denise Seyfer, diagnosed with Pulmonary Arterial Hypertension, said “Because of a copay accumulator program, my insurance company cashed in twice at my expense.” You can read her op-ed in *The Capital Times* as well.



Coalition of Wisconsin Aging & Health Groups

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“Advocating for all Generations”

Renee Simono, a small business owner from Stevens Point diagnosed with psoriasis and psoriatic arthritis, said “Today, my health and the livelihood of my 30-year business are in jeopardy, simply because my insurance company is changing the rules on the copay assistance I use to afford my prescription. It’s just not right.”

Today, you’ll hear from Jim Turk, an MS patient whose story was published in an op-ed in the *Milwaukee Journal Sentinel*.

I’m here today on behalf of those individuals and many others who are looking to you to take action to protect copay assistance for patients and ensure that those in greatest need of treatment are able to access consistent, effective care.

On behalf of the Wisconsin All Copays Count Coalition and the countless patients and providers we represent, I thank you for holding this hearing and listening to us today, and urge you to support Assembly Bill 1-8-4, which is a simple solution to a devastating problem and would alleviate so much pain and fear for patients across the state.

Thank you.



**Wisconsin
Association of
Health Plans**

**Assembly Bill 184
Assembly Committee on Health
February 16, 2022**

Chair Sanfelippo, Members of the Committee, thank you for the opportunity to testify today. My name is Tim Lundquist and I am the Senior Director of Government and Public Affairs at the Wisconsin Association of Health Plans. The Association is the voice of 12 community-based health plans that serve employers and individuals across the state in a variety of commercial health insurance markets, as well as state-administered programs like the Group Health Insurance Program and Medicaid managed care.

Community-based health plans share the goal of the legislative authors of making prescription drugs more affordable for Wisconsin patients. Prescription drugs prices set by pharmaceutical manufacturers are excessive and unreasonable, and prescription drugs constitute a significant and fast-rising portion of total health care spending. Unfortunately, AB 184 will not reduce this trend. Instead, this legislation provides state endorsement of bait-and-switch strategies used by pharmaceutical companies to encourage consumers to use more expensive branded drugs. For this reason, the Wisconsin Association of Health Plans opposes AB 184.

Copay waivers obscure a drug's true cost, incentivize the use of high-cost drugs, and make pharmaceutical manufacturers less accountable for both their prices and price increases.

While pharmaceutical companies often represent their cost-sharing assistance programs as being charitably designed, the reality is that these programs are a marketing tool used to drive sales of brand-name drugs. According to research published by the *1% Steps for Health Care Reform Project*, "Copay coupons encourage consumers to use more costly branded drugs. The higher costs of these branded drugs are then passed on to all consumers via higher insurance premiums... In the presence of coupons, consumers' out-of-pocket costs may be lower for low-value brand-name drugs than for high-value generics... Beyond steering consumers away from high-value drugs, drug coupons can also harm insurer negotiating positions, thereby raising drug prices (and ultimately raising insurance premiums). In the absence of copay coupons, insurers could negotiate lower drug prices by threatening to place high-priced drugs on lower benefit tiers that have higher cost sharing. With coupons, drug manufacturers have an incentive to raise prices and offer coupons to offset consumer cost sharing."

Pharmaceutical manufacturer assistance programs are not allowed under federal programs like Medicare and Medicaid because they are considered a violation of federal anti-kickback laws. What's more, no health care provider in Wisconsin is permitted to offer the kind of copay waivers that pharmaceutical companies provide. Doing so would constitute a violation of Wis. Stat. 146.905, as well as federal anti-kickback and civil monetary penalty laws.

Community-based health plans take different approaches in how manufacturer-provided assistance payments are applied toward member cost-sharing obligations, but are united in their concern about this legislation. We respectfully ask the committee to reject AB 184, and instead focus efforts on making prescription drugs more affordable for **all** Wisconsin patients.



Assembly Bill 184
Wisconsin Assembly Committee on Health
AHIP Testimony

Thank you for the opportunity to speak before you today. My name is Miranda Motter, and I am the Senior Vice President for State Affairs and Policy for AHIP, the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans, including to many employers, families, and patients in Wisconsin. We are committed to market-based solutions and public-private partnerships to make health care better and coverage more affordable and accessible to everyone.

Today, I am here to speak about our work to hold Big Pharma accountable for the out-of-control price they, and they alone, increase year after year, and how Assembly Bill 184 statutorily rewards drug makers for bait-and-switch tactics which steer patients toward their expensive brand-name drugs for their own profit. This legislation will undermine the ability of employers and payers of health care to control rising prescription drug costs, ultimately hurting patients' access to affordable health care.

Big Pharma Intentionally Use Copay Coupons to Keep Drug Prices High. We agree with policymakers, patients, families, employers, labor unions, and state health programs that drug prices are excessive, unreasonable, and out-of-control. In the first month of 2022, the pharmaceutical industry hiked prices on [785 brand name drugs](#) by an average of 4.9 percent. Pharmacy costs now represent over 21 cents out of every dollar of premium spent on health care.

Big Pharma acknowledges their drugs are unaffordable for patients. But instead of lowering their prices for everyone, they offer vouchers and discounts to select customers for a limited amount of time to hide the price of their drugs. This practice has negative consequences for everyone:

- These bait-and-switch tactics mask the actual cost of brand-name medications – and shifts that very high price from the pharmacy counter to premiums. Rather than saving consumers money, they simply shift out of which pocket the money is paid.
- These tactics encourages patients to pass over the equally effective, far more affordable generics in favor of more expensive, brand-name drugs.
- They undermine tools that employers and health care payers rely on to encourage more affordable choices, which lower costs and make health care more affordable for everyone.

It is important to note that the very policy Assembly Bill 184 will encourage – the use of bait and switch coupons - Medicare and Medicaid has deemed to be illegal. A bait and switch coupon is an illegal kickback if used by an enrollee in Medicare or Medicaid because it induces a patient to use a specific drug. The position of Medicare and Medicaid is that copay coupons induce patients to use a specific drug, with taxpayers picking up the rest of the high cost of the drug. Thus, they are illegal to protect precious taxpayer dollars.

Because these types of tactics are illegal under Medicare and Medicaid, drug manufacturers are intentionally targeting, through bills like Assembly 181, fully insured employers, families, and



individuals with commercial health insurance coverage. It is critical to understand that drug manufacturers are strategic in this effort:

- Drug manufacturers offer them for a narrow selection of drugs.
- Not to every patient has access to drug manufacturer coupons. Many patients are left behind.
- Drug manufacturers offer patients coupons for a limited period-of-time, and they discontinue the coupons often without telling the patient.

In short, these enticements are offered only to very specific patients for a very short period of time and once the patient hits their deductible drugmakers stop providing their coupons. This scheme allows Big Pharma to keep their prices high, and passes on the cost to all patients, employees, and employers.

In a wide sweeping investigation into drug pricing, the U.S. House Oversight Committee stressed that these programs “do not provide sustainable support for patients, and do not address the burden that the company’s pricing practices have placed on the U.S. health care system.”

Just yesterday, Axios reported on a new study from the National Bureau of Economic Research (NBER) that looked at “How Do Copayment Coupons Affect Branded Drug Prices and Purchased.”¹ According to the Axios, “while [d]rug copay coupons make medications free or very cheap for patients at the pharmacy counter...they drastically increase the amounts paid by employers, insurer, and other workers.”² The NBER study estimated that the prices of multiple sclerosis drugs are about 8 percent higher than they would be if coupons were banned. A coupon ban would result in “[n]et savings for MS drugs along alone would amount to nearly a billion dollars annually.”³

Accumulator Programs Hold Drug Manufacturers Accountable for Pricing Schemes.

Employers, states, local governments, and health insurance providers have worked hard to develop programs that attempt to restore transparency and shed light on drug manufacturer pricing schemes. Guardrails are critically important to ensuring transparency and affordability in drug pricing for every American. Accumulator programs help to restore the balance in the system by allowing patients to use manufacturer coupons, but not counting the amount the drug manufacturer has paid for the drug (through the coupon towards the deductible).

Employers and health care payers are not the only purchasers that see value in accumulator programs. The Centers for Medicare and Medicaid Services (CMS) explicitly allows accumulator programs in the Exchange Marketplaces as part of their efforts to protect taxpayer dollars and to combat the high and rising out-of-pocket costs for prescription drugs, recognizing the “market

¹ <https://www.axios.com/drug-copay-cards-research-ms-640b9f8f-74f1-472a-8238-bd2ea113bca5.html>

² Id.

³ https://www.nber.org/system/files/working_papers/w29735/w29735.pdf



Guiding Greater Health

distortion effects related to direct drug manufacturer support amounts when consumers select a higher-cost brand name drug over an equally effective, medically appropriate generic drug.”

Assembly 184 will Statutorily Incentivize Drug Manufacturers to Increase their Already Excessive and Unaffordable High Prices. Under this bill, drug companies will make more

money while consumers and businesses will continue to foot the bill through higher premiums, higher out-of-pocket expenses, and higher federal insurance subsidies. For one cancer treatment, one manufacturer projected a potential rate of return of \$8.90 for every \$1 spent on their copay assistance program.

AHIP believes employers, families, and patients want lower, not higher, health care costs. AHIP and our member plans stand ready to partner with you to hold drug manufacturers accountable for out-of-control prices and lower health care costs for employers, families, and patients.

Thank you for the opportunity to speak to you today about our work to do just that.



Written Testimony Opposing Assembly Bill 184

Relating to Drug Coupons

Cheryl DeMars, CEO

Assembly Health Committee

February 16, 2022

Thank you Chairman Sanfelippo and members of the Assembly Health Committee for the opportunity to share our concerns about Assembly Bill 184. This legislation would require health plans to apply the value of drug coupons to enrollees' deductibles and out of pocket costs.

The Alliance is a cooperative of over 300 large and mid-size employers that self-fund their employee health benefits, with most of them headquartered in Wisconsin. The Alliance assists these self-funded employers by contracting directly with health systems and independent physicians to provide access to health care for thousands of employees and dependents across Wisconsin and reaching into four other states. We also help employers with plan design and analytics to help them identify and steer care to the highest value health care they can buy to care for their employees.

Typically, state legislation that impacts the way self-funded employers design their benefits is preempted by the federal Employee Retirement Income Security Act (ERISA) with a few exceptions, such as non-federal government plans. ERISA has been in place for almost 50 years in part to ensure that multi-state employers can offer uniform benefits to their employees.

However, a recent Supreme Court ruling calls ERISA preemption into question when state bills such as AB 184 attempt to regulate entities such as Pharmacy Benefit Managers (PBMs) and Third-Party Administrator (TPAs) that work with self-funded plans to administer benefits. While we are fairly confident that AB 184 would be preempted by ERISA, it is not something we want to spend legal dollars on to determine this with certainty. If this legislation should move forward, we would strongly encourage you to amend AB 184 to explicitly exempt ERISA plans from this legislation.

Furthermore, we are very concerned that AB 184 would cause Health Savings Account (HSA) contributors that must be enrolled in high-deductible health plans to inadvertently violate IRS rules that prohibit them from applying the value of drug coupons to deductibles or maximum out of pockets before required minimums are met. This prohibition is described in IRS Information Letter 2021-0014 and stipulates those HDHP/HSA participants can use drug coupons and discounts provided the value of the coupon or discount does not count towards their minimum deductible.

Most importantly, we encourage you to oppose 184 as well-meaning but unintentionally bad public policy. AB 184 puts incentives in place for drug manufacturers to increase prices in order to maximize the value of coupons to entice individuals to try high-cost medications and adds costs to benefit plans. It reinforces a scheme that allows pharmaceutical companies to shield consumers from unaffordable prices until health plans are the ones paying. Employers need the legislature to be working with employers to take costs out of health benefits instead of putting them in, and we look forward to working with you in the future to share ideas that will do just that.

In the meantime, if you have any questions for us about this testimony, please do not hesitate to contact Melissa Duffy at (608) 334-0624.



February 15, 2022

Representative Joe Sanfelippo, Chair
Representative Rob Summerfield, Vice-Chair
Assembly Committee on Health
State Capitol Room 417 North
2 East Main Street
Madison, Wisconsin 53703

Dear Chairman Sanfelippo and Vice Chairman Summerfield,

On behalf of the nearly 700 people with cystic fibrosis (CF) in Wisconsin, we write to express our support for AB 184, which would require insurers to apply third-party assistance to out-of-pocket maximums and other patient cost-sharing requirements. While copay assistance is a short-sighted fix for systemic issues that face our health care system, solutions to address affordability and sustainability cannot come at the expense of patients' health and financial wellbeing.

Cystic fibrosis is a life-threatening genetic disease that affects more than 30,000 children and adults in the United States. CF causes the body to produce thick, sticky mucus that clogs the lungs and digestive system, which can lead to life-threatening infections. Cystic fibrosis is both serious and progressive; lung damage caused by infection is irreversible and can have a lasting impact on length and quality of life. As a complex, multi-system condition, CF requires targeted, specialized treatment and medications. While advances in CF care are helping people live longer, healthier lives, we also know that the cost of care is a barrier to access for many people with the disease.

Accumulator programs—which prevent third-party payments from counting towards deductibles and out-of-pocket limits—can have a direct, negative effect on treatment adherence for people with CF and lead to adverse health outcomes. According to a survey conducted by George Washington University of over 1,800 people living with CF and their families, nearly half reported delaying or forgoing care—including skipping medication doses, taking less medicine than prescribed, delaying filling a prescription, or skipping a treatment altogether—due to cost concerns. Because CF is a progressive disease, patients who delay or forgo treatment face increased risk of lung exacerbations, irreversible lung damage, and costly hospitalizations.

Accumulator programs also place additional financial strain on people with CF who are already struggling to afford their care. More than 70 percent of respondents in the aforementioned survey said paying for health care has caused financial problems such as being contacted by a collection agency, filing for bankruptcy, experiencing difficulty paying for basic living expenses like rent and utilities, or taking a second job to make ends meet. And while three quarters of people received some form of financial assistance in 2019 to pay for their health care, nearly half still reported problems paying for at least one CF medication or service in that same year.

We understand the challenge insurers face in managing the rising cost of drugs, and that copay assistance programs mask bigger cost and affordability issues in the health care system. However, cost containment strategies that place a further burden on patients are unacceptable. The CF Foundation supports efforts that allow third-party assistance to count toward deductibles and out-of-pocket limits, particularly for patients with chronic conditions like CF. The Foundation urges health insurers and pharmaceutical manufacturers to come to the table to discuss long-term solutions that do not place disproportionate financial pressure on patient and families.

We urge you to support AB 184. By supporting this bill, you will help ensure continued access to quality, specialty care for people with CF. The Cystic Fibrosis Foundation appreciates your attention to this important issue for the CF community in Wisconsin.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary B. Dwight', written in a cursive style.

Mary B. Dwight
Chief Policy & Advocacy Officer
Senior Vice President, Policy & Advocacy
Cystic Fibrosis Foundation



To: Chairperson Joe Sanfelippo
Members, Assembly Committee on Health

From: R.J. Pirlot, Executive Director
Rebecca Hogan

Date: February 16, 2022

Re: Opposition to AB 184, application of prescription drug payments to health insurance cost-sharing requirements

The Alliance of Health Insurers (AHI) is a nonprofit state trade advocacy organization created to promote essential and effective health insurance industry regulations that serve to foster innovation, eliminate waste, and protect Wisconsin health care consumers. We oppose Assembly Bill 184 and appreciate the opportunity to share our concerns with the Assembly Committee on Health.

We are here today because drug prices are high. No one disputes that. Unfortunately, the solutions that are often presented in the legislature, including the other bills being heard today, regularly pit vulnerable constituencies with real health care needs against health insurers and businesses attempting to control costs to offer affordable coverage.

As the cost of care rises – with drug coverage now costing more than 20 cents of every premium dollar – your constituents and advocates are looking to you for solutions. This bill will only exacerbate the cost of drug coverage, will force increases in premiums and copayments, and businesses will struggle to pay for the health care coverage they offer to compete for workers during an already strained workforce shortage.

Our specific objection to this legislation is that it would require our member companies to apply to any calculation of an out-of-pocket maximum the amount a drug manufacturer provides to a patient through a prescription drug coupon. The use of copay cards undermines elements of plan design implemented to curb costs and accelerates members meeting deductibles and out of pocket maximums, thus increasing costs to the businesses offering health insurance coverage.

Health insurers must guarantee that a plan's benefits function as intended and that the benefits work the same for everyone enrolled. Members in a plan have the same coverage rules, and coverage is designed to be affordable for every member of the plan. If coupons are applied to out-of-pocket maximums, businesses may then be forced to increase out-of-pocket maximums and deductibles for everyone, regardless of their medical needs.

These coupons also lead to higher use of brand name drugs. These coupons typically are not offered for generics or therapeutic substitutes. The coupons are for brand drugs, so of course a

patient will take the more expensive brand drug instead of an equally effective, significantly less expensive generic drug or therapy. When patients are enticed to use expensive brand drugs, someone still must pay the high costs.

That is why the federal government does not allow these coupons to be used in their programs, as it is considered to be an illegal kickback if used by someone enrolled in Medicare or Medicaid. Their reasoning is that because the coupons incent a patient to use a specific drug, usually an expensive one, the rest of the cost is picked up ultimately by the taxpayer.

As one of AHI's partners has stated in the past, "If the drug companies, and the advocacy groups they partner with, are concerned about patients accessing medications, manufacturers should simply lower their prices. Drug makers have determined that it is more profitable to increase copay assistance rather than just making their medications more affordable. The simplest, most effective way to reduce patient cost on drugs is for manufacturers to drop the price of the drug."

Thank you for this opportunity to submit testimony today and we respectfully ask you oppose Assembly Bill 184.



Date: February 16, 2022

To: Members of the Assembly Committee on Health

From: Heather Cascone, Assistant Vice President, State Affairs for the Pharmaceutical Care Management Association (PCMA)

RE: Testimony in opposition to Assembly Bill 184 – Cost-sharing Requirement

Chairman Sanfelippo and members of the Assembly Committee on Health, thank you for the opportunity to provide testimony to Assembly Bill (AB) 184, a bill which would require application of prescription drug payments to health insurance cost-sharing requirements.

The Pharmaceutical Care Management Association (PCMA) respectfully submits the following comments for consideration in opposition to AB 184. PCMA is the national trade association representing America's pharmacy benefit managers (PBMs), which administer prescription drug plans for more than 270 million Americans with health coverage provided through employers, health insurance plans, labor unions, Medicaid Medicare, Federal Employees Health Benefit Programs, and other public programs.

PCMA does not oppose true means-tested patient assistance programs that help individuals afford their prescription drugs. There is an important difference between means-tested patient assistance programs and copay coupons, which are targeted to individuals with health insurance.

The unfettered price increases of prescription drugs put patients at risk and health plan sponsors in the difficult position of either having to cut benefits or increase premiums, copays and deductibles. While health plans pay the vast amount of their members' prescription drug costs, drug manufacturers' price increases have forced health plans to create new benefit designs that keep monthly premiums as low as possible—but require some members to shoulder more of the cost before their deductible is met.

Drug manufacturers encourage patients to disregard formularies and lower cost alternative by offering "coupons" to help the patient cover that higher cost. This ultimately steers patients away from cheaper alternatives and towards more expensive brand drugs (with higher cost sharing obligations), completely undermining the formulary offered by a plan sponsor.

Here are the facts when it comes to manufacturer coupons:

- The prices for drugs with manufacturer coupons **increase faster (12-13% per year)** compared to non-couponed drugs (7-8% per year).¹
- If Medicare's ban on coupons were not enforced, costs to the program would **increase \$48 billion** over the next ten years.²

¹Leemore Dafny, Christopher Ody, and Matt Schmitt. When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization. The National Bureau of Economic Research. October 2016.

²Visante. Drug Manufacturer Coupons Raise Costs in Medicare Part D, Hurting Vulnerable Beneficiaries. May 2020.

- Coupons were responsible for a **\$32 billion increase** in spending on prescription drugs for commercial plans.³
- For every \$1 million in manufacturer coupons for brand drugs, **manufacturers reap more than \$20 million in profits (20:1 return).**⁴

By definition, copay coupons target only those who already have prescription drug coverage (i.e., those who pay copays). Copay coupons are not means-tested or designed to help the poor or uninsured. Considered illegal kickbacks in federal health programs, copay coupons are still permitted in the commercial market.

Copay accumulator programs are health plan programs designed to thwart drug manufacturers' efforts to force employers, unions, and public programs to pay for expensive, unnecessary brand medications through the use of copay coupons. Accumulators typically disallow the counting of the manufacturer's coupon towards the patient's out-of-pocket maximum and deductible because the patient hasn't actually incurred the cost. This ensures that the patient has the incentive to use the plan formulary and that the plan functions as it was designed.

Coupons only reduce short term costs. Coupons are temporary—the individual patient likely pays more when the coupon goes away, instead of being started on the formulary drug from the start. It is the manufacturer who benefits by forcing the plan (indirectly the patient) to pay for the more expensive drug.

If drug companies are concerned about patients accessing medications, they should simply lower their prices, yet drug makers have determined that it is more profitable to increase copay assistance rather than just making their medications more affordable. The simplest, most effective way to reduce patient cost on drugs is for manufacturers to drop the price of the drug.

³ Visante. How Copay Coupons Could Raise Prescription Drug Costs By \$32 Billion Over the Next Decade. November 2011.

⁴ Dafny et al. October 2016