



**MAINE ASSOCIATION
OF
HEALTH PLANS**

**Testimony of Katherine Pelletreau
to the Joint Standing Committee on Health Coverage, Insurance and Financial
Services**

In Opposition To

**LD 1783 An Act to Require Health Insurance Carriers and Pharmacy Benefit
Managers to Appropriately Account for Cost-sharing Amounts Paid on Behalf of
Insureds**

January 11, 2022

Good morning, Senator Sanborn, Representative Tepler, Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services:

My name is Katherine Pelletreau, and I am the Executive Director of the Maine Association of Health Plans (MeAHP). MeAHP has six members including Aetna/CVS Health, Anthem Blue Cross and Blue Shield, Cigna, Community Health Options, Harvard Pilgrim Health Care, and UnitedHealth Group. Collectively, MeAHP's members provide or administer health insurance coverage to over 600,000 Maine people. The organization's mission is to improve the health of Maine people by promoting affordable, safe and coordinated healthcare.

This legislation mandates carriers to credit prescription drug coupons towards a policyholder's deductible and maximum out of pocket expense.

MeAHP opposes this bill because its target is misplaced thereby not effectively addressing drug affordability and undercutting plan design to the detriment of consumers.

There are such strong arguments against prescription drug coupons that they have been banned by Medicare and Medicaid as well as in states such as Massachusetts. The IRS has even issued guidance for high deductible health plans and health savings accounts that "the minimum annual deductible may only be satisfied by actual medical expenses the covered individual incurred", not by any discount, rebate, or coupon.¹ But this legislation does not

¹ <https://www.irs.gov/pub/irs-wd/21-0014.pdf>

address whether or not coupons should exist but rather how they should be allocated within an insurance policy.

While coupons or other discount programs from manufacturers may help to offset plan members' out-of-pocket costs, they can also circumvent a payor's plan design. Coupons may lower the cost for some patients, but they have negative consequences for all patients purchasing coverage because they undermine tools, such as formularies, that employers, states, and health insurance providers rely on to negotiate with drug manufacturers and lower costs for all health care consumers.

Health plans are not fans of couponing but they have learned to live with them, even connecting their members with available coupons, but coordinating in a way that allows coupons to count as payment, but **not** as part of the member's accumulators.

This legislation would force health plans to treat a tool that manufacturers deliberately use to steer usage, as a substitute for consumer cost sharing. Doing so would subvert the actuarial value of a plan, speeding those with specialty drug coupons into 100% plan paid status.

Accumulator adjustment programs currently in place with many insurers allow copay assistance to be used and patients to receive that benefit, but they ensure that patients' actual out-of-pocket spending is accurately represented. The patient is still obtaining their medication at the rate negotiated by the plan with the manufacturer—which is typically lower than the listed price, even if the cost-sharing assistance is not counted toward the out-of-pocket limit. These programs protect the entire risk pool from the market manipulation and higher costs caused by copay assistance programs.

Background information on prescription drug coupons

Health plans use formulary placement to incent providers to prescribe, and patients to request, generic and/or lower-cost medications where clinically appropriate to do so. Manufacturers and other third-party payers use discounts, product vouchers, and other types of “copay coupons” to steer consumers into higher cost, brand name products when safe, effective, clinically equivalent alternatives are often available.

These coupons are offered only to a narrow set of patients, for a narrow selection of drugs, and often only for a limited period, until the patient has hit their deductible. By offering coupons for just a few months to help a patient reach their deductible, drug makers are shifting the costs so that patients still pay these very high prices in the form of higher premiums, rather than at the pharmacy counter.

The Massachusetts Health Policy Commission published a report to the Legislature in July 2020 that included in its findings the results of their study of 14 brand name drugs that do not have generic equivalents but have at least one generic close therapeutic substitute. The excess spending attributable to coupons for the 14 drugs studied totaled \$44.8M per year.

The Report estimated that for the average premium in the Group Insurance Commission²(similar to Maine’s State Employee Health Plan), approximately \$18 of the annual single premium and \$52 of the annual family premium could be attributable to the availability of coupons for these 14 drugs.³

Massachusetts prohibits manufacturers from offering coupons and discounts on any prescription drug that has an “AB rated” generic equivalent as determined by the FDA.⁴

The federal government considers copay coupons illegal kickbacks in Medicare and Medicaid, because these coupons induce a patient to use a specific drug.⁵

Because the commercial market is the only market where drug manufacturers may offer copay coupons, they are aggressively pushing policy proposals like this one, that would ensure their ability to continue these practices rather than addressing the root cause of high drug costs which is the price set by the manufacturer.

MeAHP urges the Committee to oppose this bill for the reasons outlined.

Thank you for your consideration of these comments.

² The Group Insurance Commission (GIC) provides and administers health insurance and other benefits to the Commonwealth's Employees and Retirees, and their dependents and survivors.

³ <https://www.mass.gov/doc/prescription-drug-coupon-study/download>, p. 3, July 2020

⁴ Ibid.

⁵ <https://www.policymed.com/2014/09/anti-kickback-alert-pharmaceutical-manufacturer-copayment-coupons-and-medicare-part-d.html>