

Copay Accumulators, State Bans & IRS Issues

Carl Schmid

Executive Director

HIV+Hepatitis Policy Institute

NAIC Consumer Representative

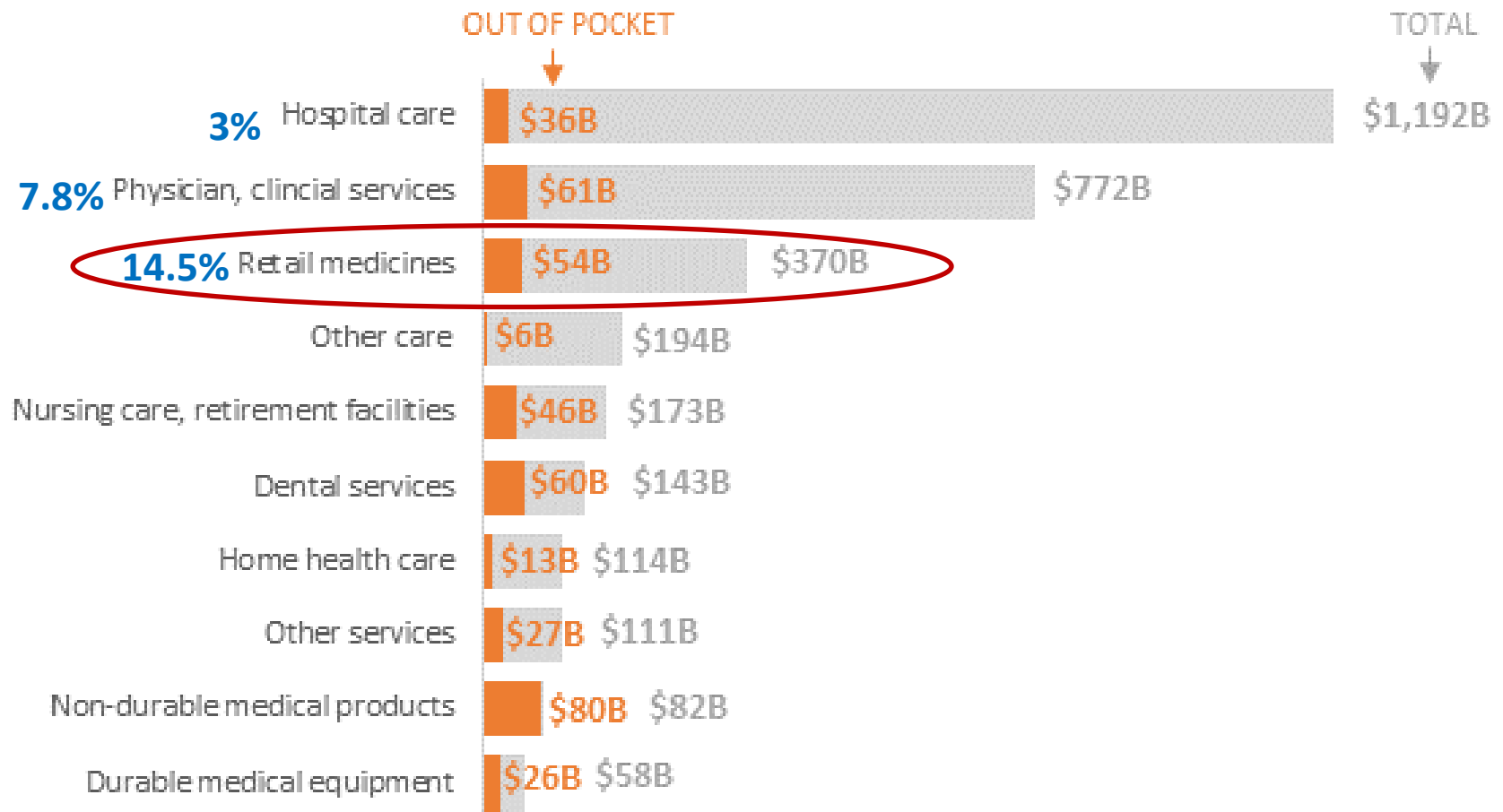
NAIC Regulatory Framework Task Force

March 23, 2022

HIV+HEP

POLICY INSTITUTE

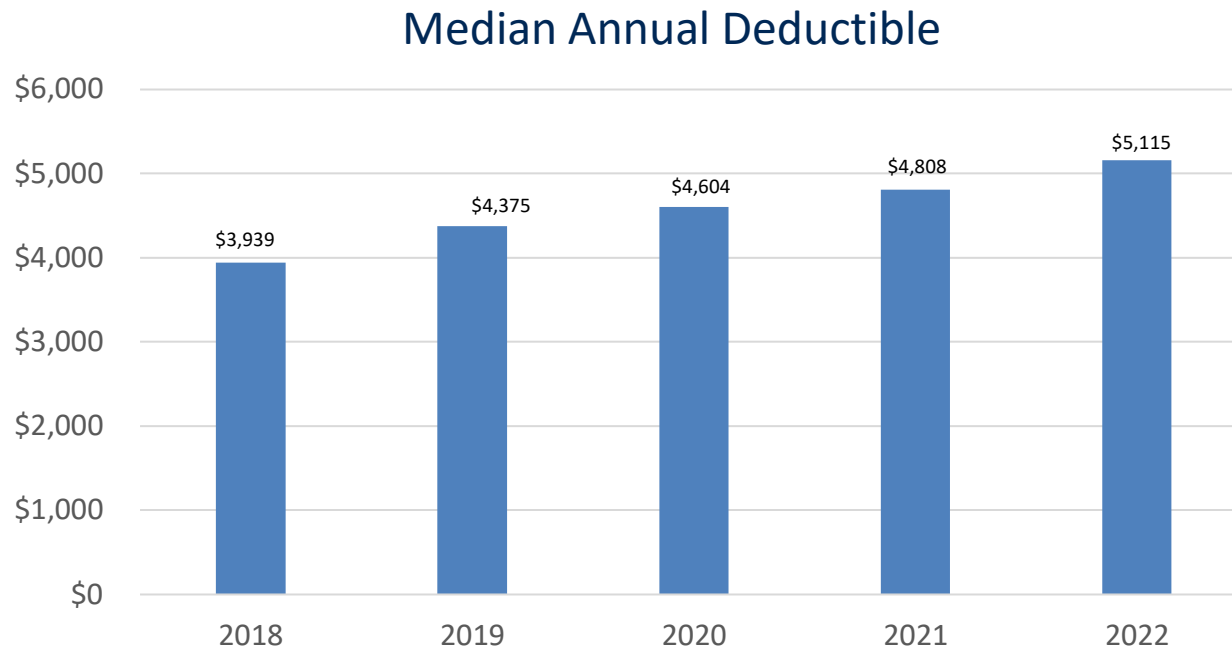
Personal Healthcare Spending – 2019



Source: CMS National Health Expenditure Data, NHE 2019.

Increasing Deductibles

Median QHP Deductibles – Silver Level



The PY22 silver plan median deductible is \$5,155, which is an increase of 6% from PY21 and 23% from PY18.

Source: <https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2022QHPPremiumsChoiceReport.pdf>

Patient Affordability Study

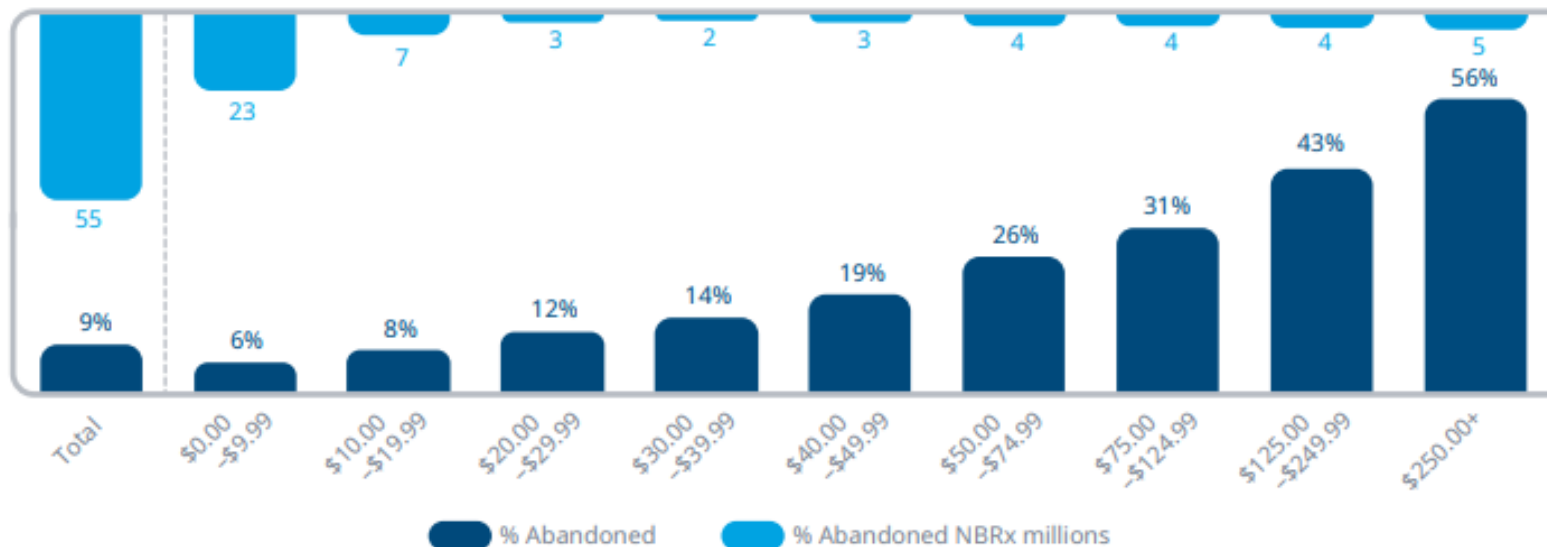
- ▶ **About a third (32%) of single-person households with private insurance in 2019 could not pay a \$2,000 bill, and half (51%) could not pay a \$6,000 bill.**
- ▶ **Over 40% of multi-person households can't cover a mid-range employer family plan deductible of \$4,000, and 61% don't have enough to cover a high-range deductible.**
- ▶ **With an average out-of-pocket maximum for single coverage of \$4,272 in 2021 the study concludes: “Most households do not have enough liquid assets to meet the typical out-of-pocket maximum.”**

Gregory Young, Matthew Rae, Gary Claxton, Emma Wager, and Krutika Amin, Peterson-KFF Health System Tracker (Mar. 10, 2022), <https://www.healthsystemtracker.org/brief/many-households-do-not-have-enough-money-to-pay-cost-sharing-in-typical-private-health-plans/>

Cost-Sharing and Rx Abandonment

Patients starting new therapy abandoned 55 million prescriptions at pharmacies in 2020 with increasing frequency as costs rise

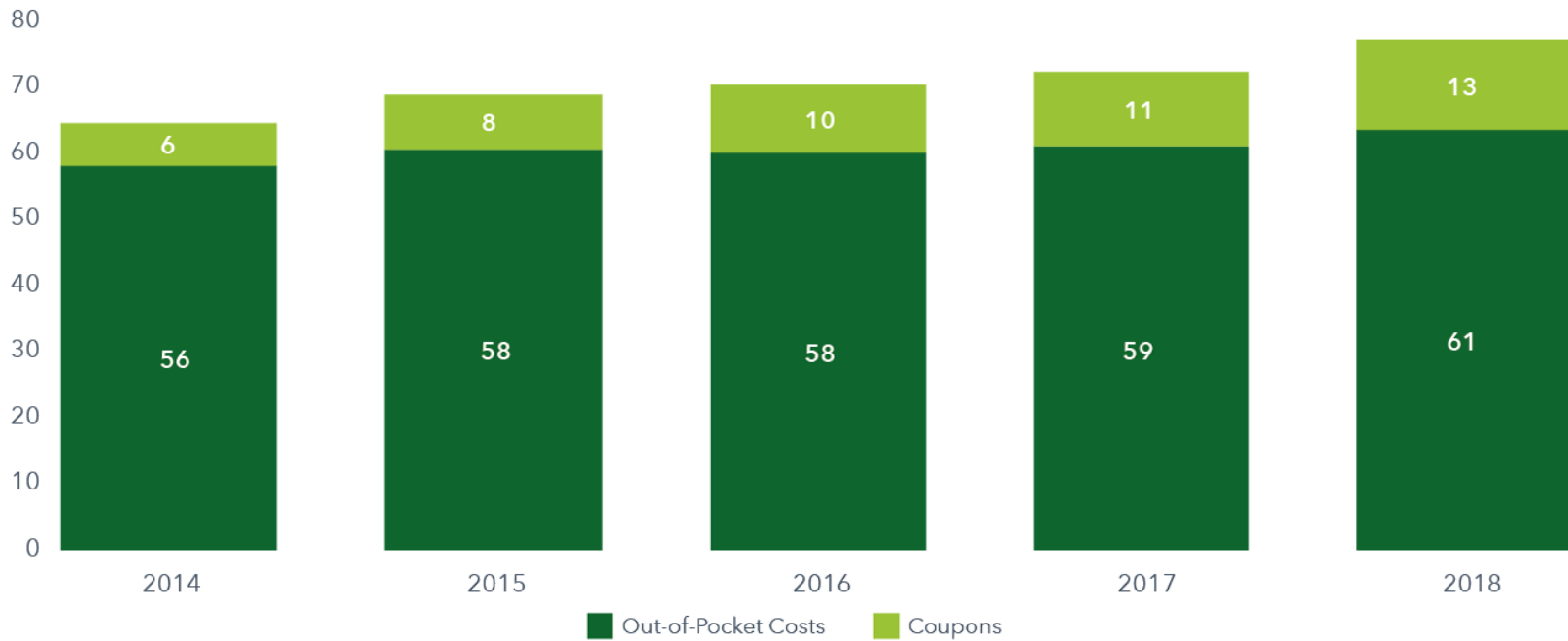
Exhibit 45: 14-day Abandonment Share of New-to-Product Prescriptions by Final Out-of-Pocket Cost in 2020, All Payers, All Products



Source: IQVIA LAAD Sample Claims Data, Dec 2020

Role of Copay Assistance

Patient Out-of-Pocket Cost for Prescriptions in Aggregate and Value Offset by Coupons, \$Bn



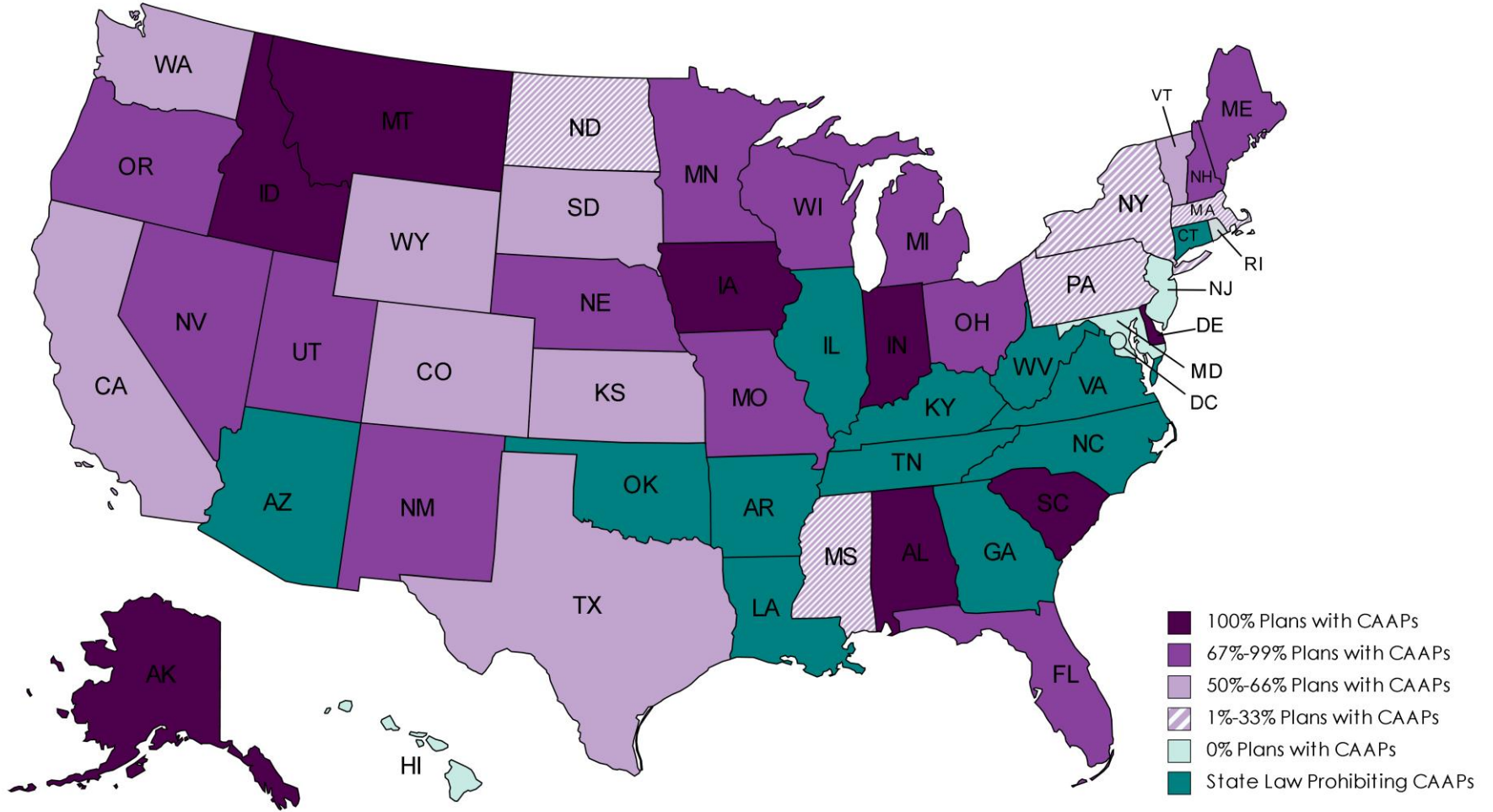
Source: IQVIA National Prescription Audit, Formulary Impact Analyzer, Jan 2019

Chart notes: OOP (out-of-pocket) costs estimated based on prescription volumes and observed OOP costs. OOP costs projected from sample in FIA to a national estimate using national adjusted prescriptions which were backprojected to estimate the trend prior to the trend break after 2016 due to restatement of NPA volumes (see Methodology section for more details).

Report: Medicine Use and Spending in the U.S. – A Review of 2018 and Outlook to 2023. IQVIA Institute for Human Data Science, May 2019

National Overview

Percent of Plans in States with Copay Accumulator Policies



- Plan deductible: \$4,600
- Annual out-of-pocket maximum: \$8,550
- Cost-sharing for specialty tier prescription: 50% after deductible is met
- Monthly medication cost: \$1,680
- Copay assistance total: \$7,200

Scenario 1: Plan Without a Copay Accumulator Program

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Insurer collects
Copay Assistance	\$1,680	\$1,680	\$1,240	\$840	\$840	\$840	\$80	\$0	\$0	\$0	\$0	\$0	\$7,200	\$8,550
Remaining Deductible	\$2,920	\$1,240	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
Consumer Pays	\$0	\$0	\$0	\$0	\$0	\$0	\$760	\$590	\$0	\$0	\$0	\$0	\$1,350	
	Deductible is met			Copay assistance limit is met				Out-of-Pocket maximum is met						

Scenario 2: Plan With a Copay Accumulator Program

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Insurer collects
Copay Assistance	\$1,680	\$1,680	\$1,680	\$1,680	\$480	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,200	\$15,160
Remaining Deductible	\$4,600	\$4,600	\$4,600	\$4,600	\$3,400	\$1,720	\$40	\$0	\$0	\$0	\$0	\$0		
Consumer Pays	\$0	\$0	\$0	\$0	\$1,200	\$1,680	\$1,680	\$40	\$840	\$840	\$840	\$840	\$7,960	

Patient Scenarios

Perceived Conflicts with IRS Law

- ▶ **IRS FAQ (2004-pre ACA)**
 - Pertains to Employers who offer drug discount cards (which reduce overall price of the drug)
- ▶ **IRS Letter to Illinois (2021)**
 - Equated drug discount to copay assistance (which changes *how* you pay and not the price of the drug)
 - “**may still contribute** to an HSA provided that the individual is required to pay the costs of the covered health care **until the minimum annual deductible** for the HDHP is satisfied”

State Actions

▶ Illinois Bulletins (2021)

- Initially indicated copay accumulator state ban conflicted with HSA w/HDHP
 - If receive copay assistance would make them ineligible to contribute to an HSA
- Revised to indicate copay accumulator ban conflict only until minimum deductible met (\$1,400 individual; \$2,800 family)

All Copays Count HSA Model Language

- ▶ (C) If under federal law, application of subsection (A) would result in Health Savings Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall apply only, for Health Savings Account-qualified High Deductible Health Plans with respect to the deductible of such a plan *after the enrollee has satisfied the minimum deductible* under section 223, except for with respect to items or services that are preventive care....

Allow Beneficiary to Choose

Choose to contribute to their HSA AND **not apply copay assistance and other support** towards their deductible and out-of-pocket costs until their minimum is met.

OR

Choose to apply copay assistance and other support towards their deductible and out-of-pocket costs AND **not contribute to an HSA.**

Recent State Actions

- ▶ **Oklahoma [Bulletin](#) (2021)**
 - When enrollee in HDHP & HSA receives credit from 3rd party and/or financial assistance before meeting deductible, individual ineligible to contribute to HSA
- ▶ **Kentucky Bulletin (2021)**
 - State ban does not apply until deductible met in HDHPs with HSA
- ▶ **Louisiana [Bulletin](#) (2022)**
 - Encourages all beneficiaries that participate in HSA plans not to use copay assistance
- ▶ **Overly expansive & endangers patient affordability and access to Rx**

Conclusion

- ▶ **Until Improved Insurance Benefit Design, Patients Must Rely on Copay Assistance to Afford their Rx**
- ▶ **Copay Accumulators Increase Patient Cost-sharing & States Moving to Ban Them**
- ▶ **Any Perceived Conflict w/IRS Laws relative to HSA's linked to HDHP can be mitigated & Must Not Be Used as a Reason to Ban Copay Assistance**

Thank you!

Carl Schmid

Executive Director

HIV + Hepatitis Policy Institute

cschmid@hivhep.org

Follow: @HIVHep

HIV + HEP

POLICY INSTITUTE