



July 18, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Re: Support for S.5299-A/A.1741-A so that Patients can Afford their Prescription Medications

Dear Governor Hochul,

The **HIV+Hepatitis Policy Institute** is a leading HIV and hepatitis policy organization promoting quality and affordable healthcare for people living with or at risk of HIV, hepatitis, and other serious and chronic health conditions. **We strongly support S.5299-A/A.1741-A, which would require health insurers to accept and count payments made on behalf of patients towards deductibles and out-of-pocket maximums. We urge you to sign this legislation into law as soon as possible.**

Copay accumulators are harmful policies that many insurance plans, employers, and pharmacy benefits managers (PBMs) are implementing in which copay assistance does not count towards a beneficiary's out-of-pocket costs and deductible. By passing this bill, New York will join 14 other states (Arkansas, Arizona, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Maine, North Carolina, Oklahoma, Tennessee, Virginia, Washington, and West Virginia) and Puerto Rico in protecting consumers purchasing insurance on the private market by assuring their copay assistance will count towards cost-sharing obligations.

People with HIV, hepatitis, and others with serious and chronic conditions rely on medications to remain healthy and alive. People with HIV and hepatitis B rely on drug regimens that they must take for the rest of their lives, while people with hepatitis C can be cured of their disease in as little as 8 to 12 weeks. However, even though people may have health insurance, access to these medications is still insurmountable for many due to high deductibles and cost-sharing, often in terms of co-insurance. Copay assistance is critical for patients to afford and adhere to their medications. It is particularly important during these difficult times when so many individuals and families are facing increased costs and inflation.

When implementing copay accumulator adjustment programs the insurer collects the copay assistance from the drug manufacturer and the patient is able to pick up their medication, but that copay assistance is not counting towards the beneficiary's deductible or out-of-pocket obligation. Then, later in the year, when the beneficiary goes to pick up their drug, they find out that copay assistance did not count and they are stuck with a huge, unexpected copay. In order to pick up their drug they are forced to come up with often thousands of dollars, which few people have. Insurers are double dipping: first they receive the copay assistance from the drug manufacturer and then they collect it again from the beneficiary.

HIV + HEPATITIS POLICY INSTITUTE

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We do not understand the opposition by insurers and PBMs to this legislation. Federal regulations define cost-sharing as “any expenditure required by *or on behalf of* an enrollee.” By implementing these cruel policies insurers are forcing people to pay more for their drugs. People are already complaining about how much they pay for their drugs. The insurers will still be able to collect the out-of-pocket costs that they require. Insurers should want patients to be able to take the medications providers prescribe to stay healthy and alive. This is the purpose of health insurance. There are no “cheap alternatives” to HIV, hepatitis, and many other drugs, and insurers already make formulary decisions and institute utilization management controls before a patient can access a certain drug.

For the benefit of patients who rely on prescription drugs to maintain their health, we urge you to sign into law S.5299-A/A.1741-A. If you have any questions or need any additional information, please do not hesitate to reach out via phone at (202) 462-3042 or email at cschmid@hivhep.org.

Thank you very much.

Sincerely,



Carl E. Schmid II
Executive Director