

Ensuring Copay Assistance Counts for Patients: A Federal Update

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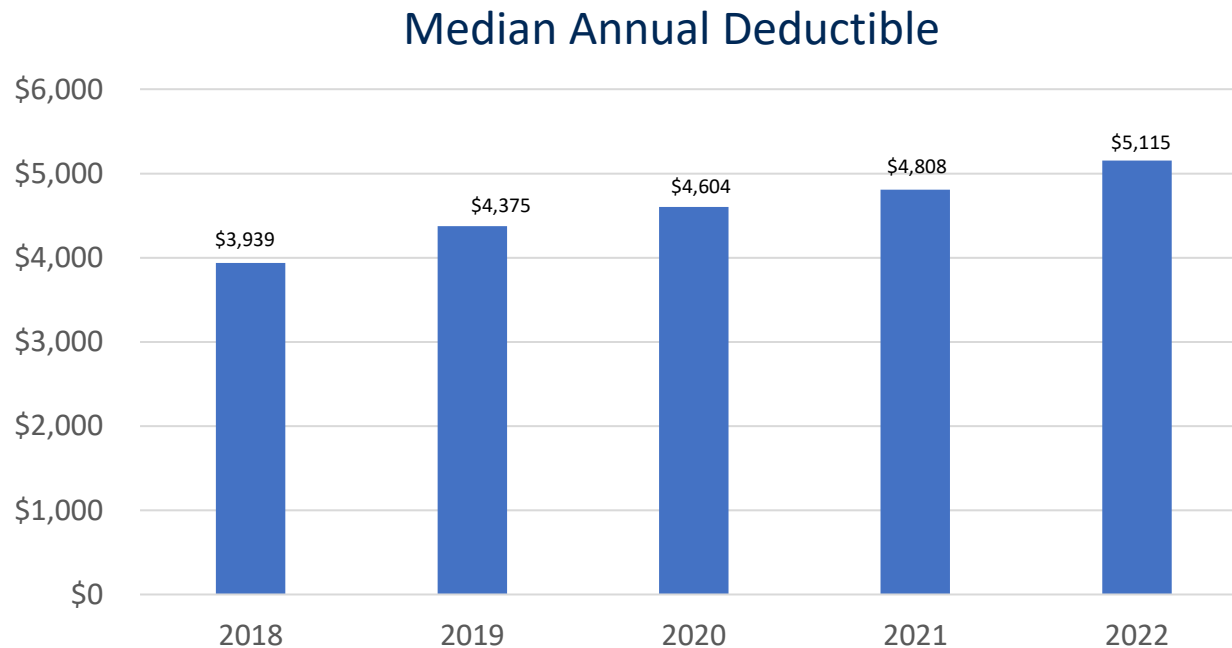


Outline of Comments

- ▶ Why Copay Assistance is Needed
- ▶ Copay Accumulators
- ▶ Federal Actions Taken to Date
- ▶ Current Advocacy Opportunities

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.

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/>

BECKER'S

Hospital CFO Report

18% of Americans skipped medical appointments, prescriptions due to finances, poll finds

Rylee Wilson - 23 hours ago

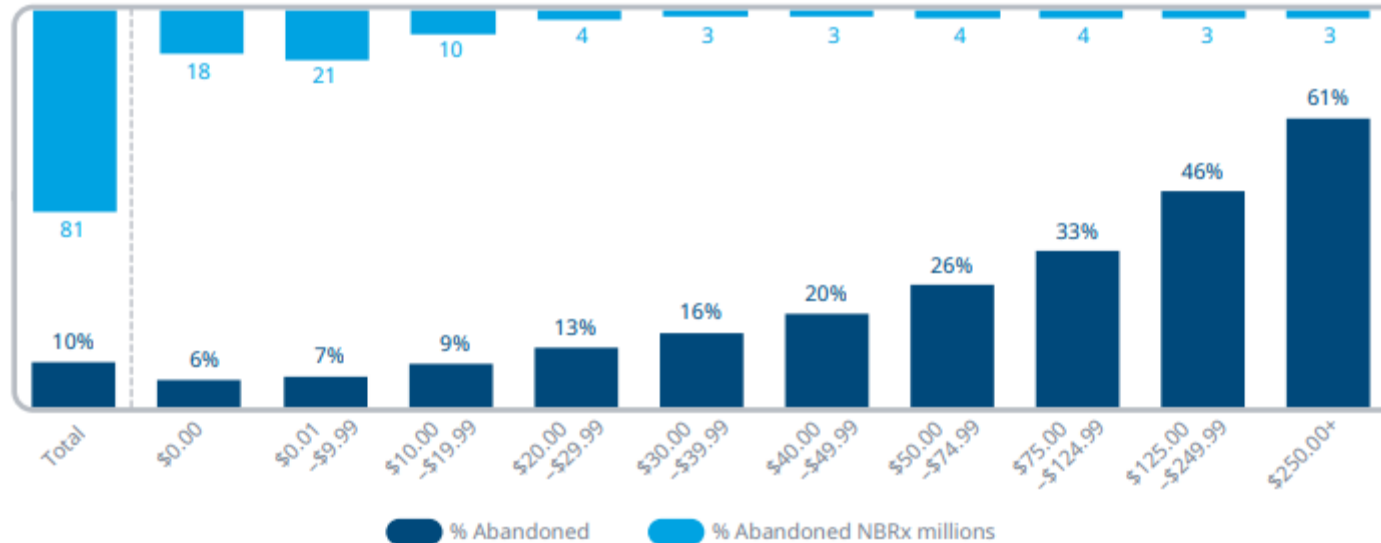


Almost 1 in 5 Americans, 18 percent, have skipped a medical appointment or filling prescription drugs in the past six months because of financial strain, a new NPR/PBS Newshour/Marist poll published Sept. 16 found.

Cost-Sharing and Rx Abandonment

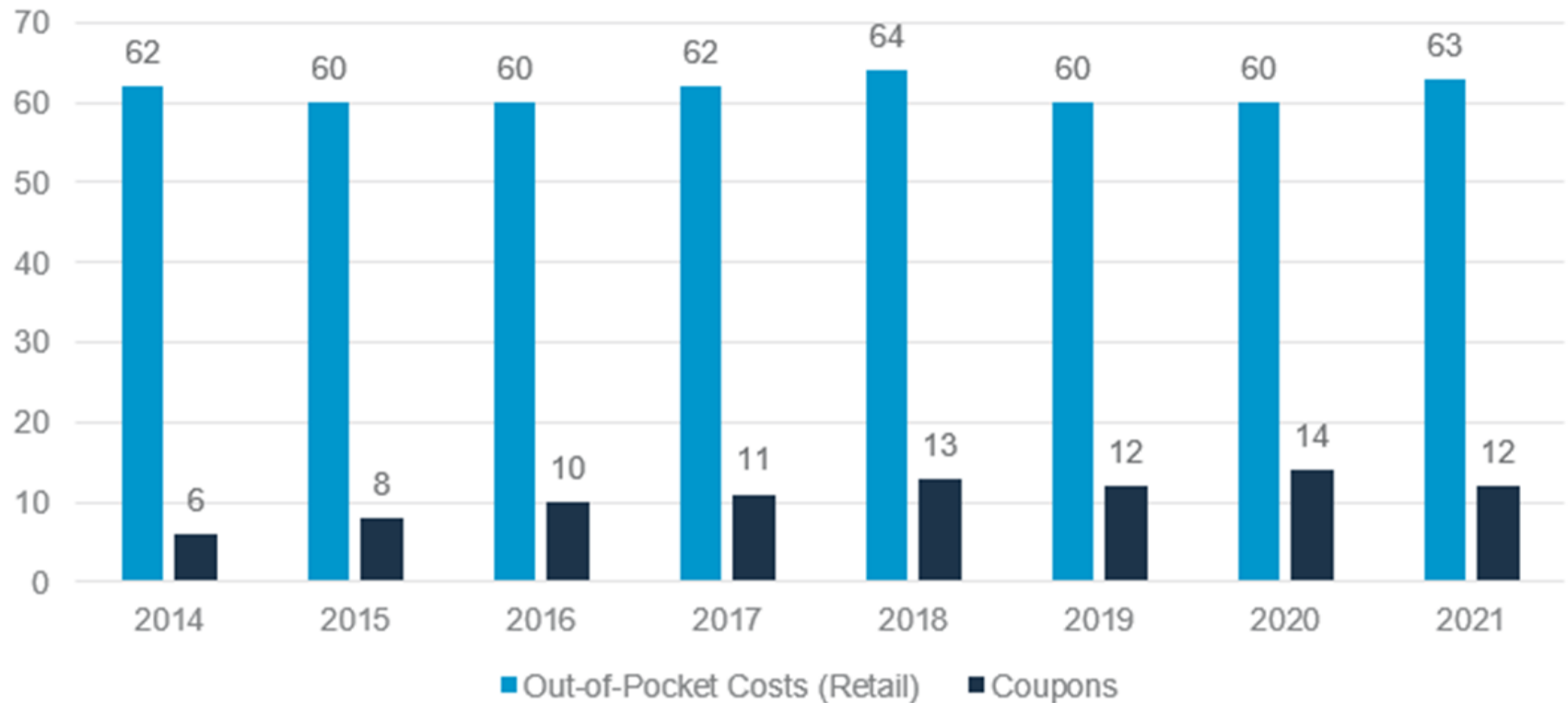
Patients starting new therapy abandoned 81Mn prescriptions at pharmacies in 2021 with increasing frequency as costs rise

Exhibit 35: 14-day abandonment share of new-to-product prescriptions by final out-of-pocket cost in 2021, all payers, all products



Source: IQVIA National Prescription Audit: New to Brand, LAAD Sample Claims Data, Dec 2021.

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



Sources:
IQVIA National Prescription Audit, Formulary Impact Analyzer, Jan 2019.
IQVIA Xponent, IQVIA LAAD Sample Claims Data, Dec 2021; IQVIA Institute, Mar 2022; CMS National Health Expenditures, Dec 2020.

Reports:
Medicine Use and Spending in the U.S. – A Review of 2018 and Outlook to 2033. IQVIA, May 2019.
Medicine Spending and Affordability in the United States – Understanding Patients’ Costs for Medicines. IQVIA, August 2020.
The Use of Medicines in the U.S. – Spending and Usage Trends and Outlook to 2025. IQVIA, May 2021.
The Use of Medicines in the U.S. 2022 – Usage and Spending Trends and Outlook to 2026. IQVIA, April 2022.

Copay Accumulator Programs

- ▶ Instituted by insurers and pharmacy benefit managers (PBMs) that prevent manufacturer copay assistance contributions from counting towards a beneficiary's deductible and maximum out-of-pocket spending limits

- 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	\$780	\$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



THE AIDS INSTITUTE

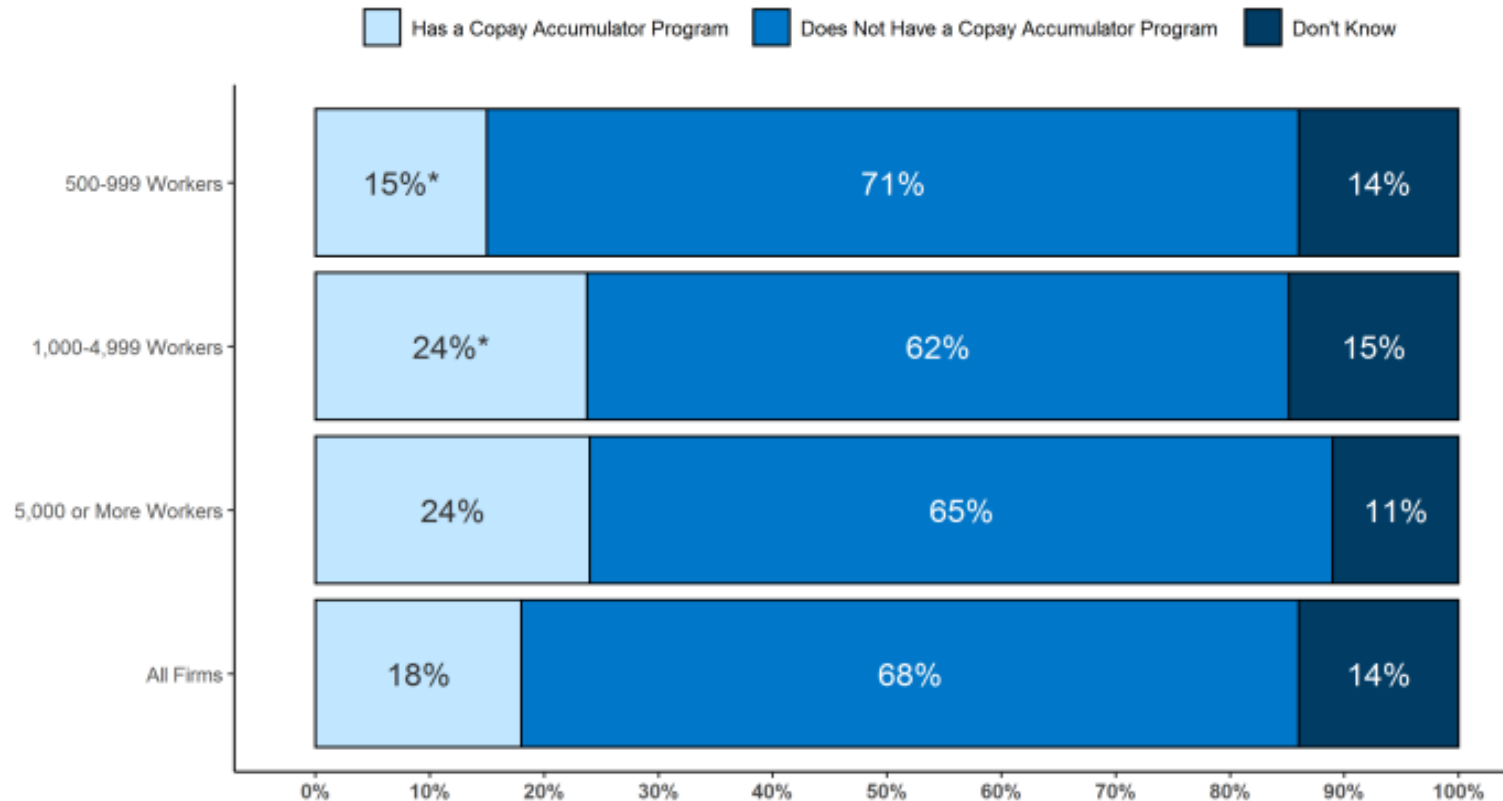
Discriminatory
Copay Policies
Undermine
Coverage for
People with
Chronic
Illnesses

2022 Report Findings

- 35 states: at least 1 plan with a CAAP
- 8 states: every plan has a CAAP
- 30 states: 1/2 or more plans have CAAPs
- 3 states + DC: have no CAAPs
- 12 States + PR: have laws prohibiting CAAPs

Figure 13.19

Among Firms with 500 or More Employees Offering Prescription Drug Coverage, Percentage of Firms That Have a Copay Accumulator Program, 2021









* Estimate is statistically different from estimate for all other firms not in the indicated size category ($p < .05$).

NOTE: Copay accumulator program do not count enrollees' spending from copay cards or drug manufacturer's coupons towards either the deductible or the out-of-pocket maximum

SOURCE: KFF Employer Health Benefits Survey, 2021

Federal Government Can Solve Issue

▶ Annual Notice of Benefit and Payment Parameters Rule

- 2020: Copay assistance must count in most situations 
 - May limit for brand name Rx when generic exists
 - Suspended August 2019 
- 2021: Rule Allowed Copay Accumulators 
 - But allows states to decide
- 2022: No mention 
- 2023: No mention 
- 2024: 

Congressional Response (HR 5801)



U.S. Congressman A. Donald

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McEachin, Davis Introduce Bipartisan Legislation to Prevent Increased Prescription Drug Costs

November 1, 2021 | Press Release

Washington, D.C. – Today, Congressman A. Donald McEachin (VA-04) and Congressman Rodney Davis (IL-13) introduced the Help Ensure Lower Patient (HELP) Copays Act to protect patients from increased out-of-pocket prescription drug costs.

The bipartisan bill builds on previous efforts to lower out-of-pocket (OOP) costs for patients by prohibiting the use of copay accumulator programs, ensuring insurers cannot exclude the value of pharmaceutical manufacturer cost-sharing assistance from counting toward an enrollee's annual cost-sharing limit.

"Access to life-saving prescription drug medications should not be complicated by undue financial barriers," said **Rep. McEachin (VA-04)**. "As Americans continue navigating the coronavirus pandemic, we must take steps to protect them from undue out-of-pocket expenses. I am proud to

Administrative Procedures Act Complaint

- ▶ **HIV+Hep, DLC & DPAC filed [APA Complaint](#) v. HHS against 2021 NBPP Rule**
 - **ACA Violations**
 - Insurers collect more than cost sharing caps
 - ACA Definition of cost-sharing:
 - “deductibles, coinsurance, copayments, or similar charges; *and any other expenditure required of an insured individual* which is a qualified medical expense.”
 - ACA regulations for cost-sharing
 - “any expenditure required by *or on behalf of an enrollee* with respect to essential health benefits,” including deductibles, coinsurance, copayments, or similar charges”

Administrative Procedures Act Complaint

▶ **Arbitrary & Capricious**

- Allows insurers to decide if copay assistance can count or not
- 2019 Rule Abandoned w/o explanation
 - Failed to present options

▶ **Requested Relief**

- Set aside provision in 2021 NBPP rule allowing copay accumulators
- Declare that copay accumulators are illegal

Current Federal Advocacy Actions

- ▶ **Section 1557 Nondiscrimination Proposed Rule**
 - Comments are due October 3rd.
 - Patient Group Sign on letter
 - Sign on here
- ▶ **Notice of Benefits and Payment Parameters Rule**
 - Expected this Fall, Groups should weigh in now with HHS and White House
 - Patient Stories, Media
 - Use legal arguments & current economic hardships, inflation
- ▶ **Seek sponsors of Federal Legislation**

Thank you!

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