



PRESS RELEASE

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Federal Civil Rights Office Gives Pass to Insurer for HIV Discrimination

Takes No Action Against Insurer for Placing Most HIV Drugs on Highest Tiers

Washington DC & Raleigh, North Carolina... Six months after the [HIV+Hepatitis Policy Institute](#) and the [North Carolina AIDS Action Network](#) announced that Blue Cross and Blue Shield of North Carolina dramatically lowered its tiering of HIV drugs, translating into lower costs for patients, the U.S. HHS Office for Civil Rights (OCR) sent a [letter](#) to the organizations stating that its investigation of the matter is now closed.

The letter demonstrates how insurers continue to violate the important patient protections enshrined in the ACA and the weak oversight and enforcement by regulators.

In the [discrimination complaints](#), the groups found that for at least two years, the issuer put almost all HIV antiretroviral medications, including generics, on the “highest-cost prescription medication” tiers. In response to the complaint and all the press attention it received, the issuer removed all HIV drugs from the highest tiers. Instead of 48 HIV drugs, including many generics, on Tiers 5 and 6, there were none. HIV+Hep and NCAAN issued a [press release](#) on these dramatic formulary tiering improvements in August 2023.

However, the OCR letter indicates that their investigation was not initiated until October 2023, *ten months after the discrimination complaints were filed and two months after the complainants announced that the issuer changed their formularies.*

As part of their investigation OCR said that Blue Cross Blue Shield North Carolina “stated that drugs are included in tiers based on cost and the clinical effectiveness of each drug,” and that the issuer made the tiering changes as part of “a regular quarterly review process by a clinical team,” and cited the changes as an example of how Blue Cross Blue Shield North

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Carolina “is working to achieve their goals of improving their members’ health while also lowering their health care costs.”

“While it is reassuring that OCR formally investigated our complaint, the harm to people living with HIV has been going on for years. This was blatant discriminatory plan design and the entities charged with enforcing ACA’s patient protections let Blue Cross Blue Shield North Carolina off with not even a slap on the wrist,” said **Carl Schmid, executive director** of the **HIV+Hepatitis Policy Institute**. “This is further proof that insurers are allowed to get away with as much as they can. And even when they are caught, there is no penalty. For insurance to work for people living with HIV and all patients, we need better federal and state regulation, oversight, and enforcement.”

“Thanks to our formal complaint, people living with HIV in North Carolina now can better afford their lifesaving medications, but these types of discriminatory insurance plans should have never been approved in the first place. And bad actors need to be punished,” said **Veleria Levy, executive director** of the **North Carolina AIDS Action Network**. “I don’t understand how anyone with a straight face can say this drug tier placement was made based on cost and clinical effectiveness when among the drugs on the highest tiers were 19 low-cost, rarely used generic drugs. And on top of it, the regulators bought it.”

The two HIV organizations also filed their complaint with the [North Carolina Department of Insurance](#) but have not received any response or communication from them.

The OCR letter also states that the issuer took voluntary corrective measures after they began their investigation. In November, they sent a notice to current enrollees highlighting the formulary change and posted it on their website. They also conducted targeted outreach during open enrollment to people who typically use HIV treatment drugs. Both of these actions were suggested by HIV+Hep and NCAAN.

Making HIV drugs more affordable and accessible in the state will also help address health inequities. While Black people represent 22 percent of the population of North Carolina, they represent 58 percent of all new HIV diagnoses in the state.

North Carolina Blue Cross Blue Shield is the largest insurer in the state.

To read the OCR letter click [here](#).

To review the new formulary for HIV drugs compared with the previous formulary click [here](#).

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The **HIV+Hepatitis Policy Institute** is a national, non-profit organization whose mission is to promote quality and affordable healthcare for people living with or at risk of HIV, hepatitis, and other serious and chronic health conditions.

The **North Carolina AIDS Action Network** improves the lives of people living with HIV & AIDS and affected communities through outreach and public education, policy advocacy, and community-building to increase visibility and mutual support of people living with HIV & AIDS throughout our state.