

HIV+HEP
POLICY INSTITUTE
PRESS RELEASE

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**After Court Victories, HIV+Hep Calls on State Insurance
Regulators to Enforce Copay Assistance Rule**
*Copay Assistance Must Be Counted by Insurers for Most Prescription
Drugs*

Washington DC... After two victories in the District Court for the District of Columbia and the U.S. Government’s withdrawal of its appeal, the **HIV+Hepatitis Policy Institute**, one of the lead plaintiffs in the litigation, sent a [letter](#) to all state insurance commissioners urging them to take immediate steps to ensure that copay assistance for prescription drugs actually benefits patients, as required by the federal rule that was reinstated by the court.

In the letter, **Carl Schmid, executive director** of the **HIV+Hepatitis Policy Institute** and a consumer representative to the National Association of Insurance Commissioners (NAIC), urged the state regulators to promptly enforce the court ruling. The letter reads in part, **“We write to urge you to immediately enforce this decision and the rule that it reinstated, issue a bulletin advising insurers that they are obligated to comply with the reinstated rule, and take necessary enforcement actions against insurers that are not in compliance.”**

As the NAIC convenes in Phoenix later this week, **HIV+Hep** details to the insurance commissioners the importance of copay assistance, how insurers siphon off that assistance for themselves by implementing copay accumulator programs, and the federal rules relative to copay assistance and the court decision.

The letter summarizes the current situation by saying, “[U]nder 2020 NBPP [Notice of Benefit and Payment Parameters] rule that applies by virtue of the court’s vacatur of the 2021 rule, *an insurer is required to recognize deductible, copayment, coinsurance, and other payments made by or on behalf of a patient, unless the drug at issue has a generic equivalent.*”

Unfortunately, since the [court ruling](#) nearly six months ago, we continue to hear from patients complaining that insurers are not counting the copay assistance that they receive, and are being saddled with thousands of dollars in unanticipated out-of-pocket costs for

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their prescription drugs. Some insurers have told their enrollees that they will not enforce the court ruling without regulator action or a court order.

The letter concludes, **“Given the known, harmful impact on patients of these programs, including the discontinuation of life-saving therapies, we urge you to act to ensure insurers in your state are in compliance with the law. We ask that you issue a bulletin to insurers and take appropriate enforcement action against those insurers that are in violation of their obligations.”**

Nineteen states, DC, and Puerto Rico have already outlawed copay accumulators in state regulated plans and there is legislation pending before the Congress that would ban them nationwide ([HR 830](#), [S.1375](#)).

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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.