



PRESS RELEASE

April 22, 2025

Contact: Jennifer Burke
jburke@hivhep.org
301.801.9847

Eighty Advocacy Organizations Urge Labor Secretary to Close Harmful EHB Loophole *Will Curtail Drug Middlemen from Pocketing Copay Assistance*

Washington, DC... The **HIV+Hepatitis Policy Institute**, along with more than 75 organizations representing patients, providers, and public health advocates, is urging U.S. Secretary of Labor Lori Chavez-DeRemer to issue a promised federal rule that would close a harmful loophole that allows insurers, pharmacy benefit managers (PBMs), and third-party vendors to exploit patient copay assistance programs for financial gain.

In a [letter](#) sent today, the groups call on the Department of Labor (DOL) to address a gap in the enforcement of the Essential Health Benefits (EHB) provision of federal law—one that enables insurers, PBMs, and third-party vendors to designate certain covered drugs as “non-essential,” evading cost-sharing protections for patients.

“It is ironic that insurers and their PBMs oppose manufacturer copay assistance programs while simultaneously utilizing these schemes that maximize the exploitation of assistance for themselves,” **80 advocacy organizations wrote in the letter to the DOL**. “Many insurers and their PBMs implement “copay maximizers” by designating certain covered drugs—usually the very ones with copay assistance—as “non-essential,” enabling these players to divert and split all available copay assistance among themselves.”

The letter continues, “Issuing this rulemaking clearly aligns with the Trump administration’s healthcare priorities, ensuring all patients can access and afford life-saving prescriptions and eliminating insurer and middlemen profit schemes.”

According to [2024 data](#), 47 percent of a large sample of PBMs and insurers are now using copay maximizer programs—more than double the number from 2020. An [IQVIA report](#) showed that insurers and PBMs pocketed \$4.8 billion in cost-sharing assistance for themselves through copay accumulator and copay maximizer programs in 2023.

In 2024, the Centers for Medicare & Medicaid Services (CMS) finalized a rule protecting individuals in individual and small group plans from these exploitative benefit design schemes. However, enrollees in large group and self-funded plans—which cover the majority of Americans with employer-sponsored insurance—remain unprotected.

The letter calls on DOL Secretary Chavez-DeRemer to issue the promised regulation clarifying that all covered prescription drugs in large group and self-funded markets must be considered essential health benefits, preventing insurers from evading cost-sharing rules.

The groups also urge the secretary to work with the Treasury and Health and Human Services Departments to comply with a federal court order requiring copay assistance to count as cost-sharing when no generic alternative is available.

The letter points out that when the secretary was a member of Congress, she co-sponsored legislation that would close the “non-EHB” loophole and ensure that copay assistance counts.

Read the full letter and list of signatories [here](#).

###

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.