



August 7, 2025

Chair Jamaal T. Bailey
Senate Insurance Committee
New York State Capitol Building
Albany, NY 12224

RE: Opposition to S7900/A8136 – Legislation Permitting Copay Maximizer Programs

Dear Chair Bailey,

The **HIV+Hepatitis Policy Institute** is a leading national 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. While we share your commitment to addressing the high cost of prescription drugs, **we strongly oppose S7900/A8136, legislation that would explicitly authorize the use of copay maximizer programs in New York’s health insurance market.**

Copay Maximizers Endanger Patient Copay Assistance

Copay maximizer programs like their counterpart, copay accumulators, are insurer and pharmacy benefit manager (PBM) benefit designs that block manufacturer copay assistance from counting toward a patient’s deductible or annual out-of-pocket maximum. These programs designate certain medications as “non-Essential Health Benefits” to bypass ACA cost-sharing protections. This allows plans to set very high cost-sharing that would not otherwise be allowed so that they can drain and pocket all available manufacturer copay assistance.

The growing use of maximizers threatens the long-term viability of copay assistance programs, which saved patients an estimated \$23 billion in prescription drug costs in 2023 alone. Without this critical support, many patients would face unaffordable costs for life-saving medications.

These Programs Conflict with Federal Protections

S7900/A8136 would put New York law in direct conflict with federal law for the individual and small group markets. In the final 2025 Notice of Benefit and Payment Parameters (NBPP), the Centers for Medicare & Medicaid Services (CMS) clarified the long-held policy that any prescription drugs covered in excess of the state Essential Health Benefits (EHB) benchmark must be treated as an EHB, closing the loophole exploited by copay maximizers. When the rule was issued it only applied to the individual and small group markets, however, the NBPP stated it was CMS’s intention to close the loophole in the large group and self-insured markets as well.

HIV+HEPATITIS POLICY INSTITUTE

1602B Belmont Street NW | Washington DC 20009 | 202-462-3042 | 202-365-7725 (cell) HIVHep.org | Twitter: @HIVHep | Facebook: HIVHep

S7900/A8136 Is a Step Backward for Patients

New York has already enacted strong protections to shield patients from harmful insurance benefit designs. In 2022, the state prohibited the use of copay accumulator programs in fully insured health plans, ensuring that manufacturer assistance counts toward a patient's out-of-pocket obligations. New York has also implemented robust PBM oversight laws to promote transparency and accountability in drug pricing and benefit design.

S7900/A8136 would undermine these existing safeguards. Copay maximizers function similarly to accumulators by blocking assistance in the calculation of patient cost-sharing. Codifying maximizers in statute would create a direct conflict with federal and New York law, offer insurers a new avenue to sidestep the state's cost-sharing protections and perpetuate a dangerous loophole that allows insurers to drain copay assistance meant for patients.

Access to Life-Saving Treatment Is at Risk

Copay assistance programs exist to help patients afford the high costs of essential medications. For people living with HIV and hepatitis B, lifelong daily treatment is required. For hepatitis C, a curative treatment is available but often comes with a high upfront cost. Without assistance that counts toward out-of-pocket limits, patients in high-deductible or high-cost-sharing plans may be forced to go without treatment.

Allowing maximizer programs to flourish, particularly under the false premise that they benefit patients, only reinforces barriers to treatment. In today's economic environment, where rising healthcare costs already strain families, New York should be working to protect patients, not insurers.

We urge you to reject S7900/A8136.

If you have any questions or need any additional information, please do not hesitate to reach out to our Government Affairs Manager, Zach Lynkiewicz, at zlynkiewicz@hivhep.org.

Sincerely,



Carl E. Schmid II
Executive Director

cc: Members of the Senate Insurance Committee