



Protect Patient R_x Copay Assistance

On March 30, 2022, the Ohio House unanimously passed HB 135, language supported by over 60 prominent patient advocacy and health care provider organizations. The legislation addresses discriminatory activities of PBMs and health plans that increase out-of-pocket costs of prescription drugs. Every member of the current House who was a House member last session VOTED FOR THIS LANGUAGE. The language that passed the House is now H.B. 177 and reflects what was negotiated last session between the bill sponsors and House Majority Floor Leader Bill Seitz.

H.B. 177

- Does not impact the use of generic medications by PBMs or health plans and will NOT raise premiums for business owners or purchasers of health care for their employees. **19 states and Puerto Rico have already passed patient protection laws such as this budget language to address unfair copayment assistance practices by PBMs and health plans.**
 - Defines changes requested by the Ohio Department of Insurance as well as clarifies that the use of a health savings account (HSA) by a consumer will not be in violation of any directive by the Internal Revenue Service. This clarification language is supported by both the Ohio Bankers League and the Ohio Credit Union League.
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- **Copay accumulator bans do not increase health insurance premiums.** PBMs and health insurers say manufacturer patient assistance programs (PAPs) and accumulator bans only “raise costs” and that patients need to have more “skin in the game.” PBMs already accept financial assistance directly from manufacturers in the form of rebates. Patients already face rapidly rising out-of-pocket costs including deductibles, copayments, coinsurance, tiered formularies, specialty pharmacies and other charges.
 - Studies continue to show that state laws banning accumulator and maximizer clauses in health insurance policies **have not increased** the cost of health insurance. In nineteen states, to date, these laws protect patient assistance programs (PAPs) by requiring that the financial assistance given to patients count toward their co-pays, deductibles, and out-of-pocket (OOP) maximums.
 - Ironically, PBMs and health insurers **themselves** manipulate the very same manufacturer assistance programs as part of employers’ drug coverage programs to “reduce costs” and offer “zero out-of-pocket” coverage.

Background

When it comes to medication coverage, health plans continue to shift the cost burden to patients through:

- High deductible or co-insurance;
- Multi-tiered formularies with specialty drugs in the highest cost-sharing category.

Many drug manufacturers, as well as health foundations and charities help patients with assistance programs that cover additional costs patients are required to pay. These programs are critical for patients with chronic, complex conditions.

Co-pay or third-party assistance programs can include cash funding, as well as co-pay cards that patients use to cover out-of-pocket costs.

What H.B. 177 DOES NOT DO

While this bill assists patients in meeting their ever-rising out-of-pocket expenses, it is also crucial to identify what this important amendment DOES NOT do:

- DOES NOT Prohibit the use of generic medications by the health plans or PBM;
- **DOES NOT Raise Health Care Premiums for Employers;**
- DOES NOT Require any health plan or PBM to cover a specific drug if third-party assistance is utilized by the patient;
- DOES NOT Interfere with a health plan from managing its drug coverage as it does under current law (this language only requires that the value of third-party assistance from other sources be applied to reducing those out-of-pocket expenses).

Please support this legislation that helps patients

Ohioans need health insurers to count ALL payments and not discriminate against those patients living with a chronic condition or battling a life-threatening illness. When patients share of prescription costs becomes too high, many may skip doses or stop taking medication entirely, leading to higher medical costs down the road, in terms of hospitalizations, ER visits, and long-term health issues.

The following organizations support efforts to stop discriminatory policies:

American Association of Clinical Urologists	National Alliance on Mental Illness – Ohio
AIMED Alliance	National Bleeding Disorders Foundation
Allergy & Asthma Network	National Eczema Association
Alliance for Patient Access	National Infusion Center Association
American Autoimmune Related Diseases Association	National Organization for Rare Disorders
American Cancer Society Cancer Action Network	National Organization of Rheumatology Managers
American Diabetes Association	National Psoriasis Foundation
Arthritis Foundation	Northern Ohio Hemophilia Foundation
American Heart Association	Ohio Academy of Family Physicians
American Kidney Fund	Ohio Academy of Nutrition and Dietetics
American Liver Foundation	Ohio Association of Rheumatology
American Society of Clinical Oncologists	Ohio Chapter, American Academy of Pediatrics
American Urological Association	Ohio Chapter of American College of Cardiology
Association of Women in Rheumatology	Ohio Chapter of the National Association of Pediatric Nurse Practitioners
Cancer Support Community Central Ohio	Ohio Dermatological Association
Chronic Care Policy Alliance	Ohio Foot and Ankle Medical Association
Chronic Disease Coalition	Ohio Gastroenterology Society
Coalition of State Rheumatology Organizations	Ohio Hematology Oncology Society
Community Oncology Alliance	Ohio Life Sciences
Crohns & Colitis Foundation	Ohio Osteopathic Association
Crohn's Colitis Foundation – Central Ohio	Ohio Pharmacists Association
Epilepsy Foundation	Ohio Psychiatric Physicians Association
Equitas Health	Ohio Psychological Association
EveryLife Foundation for Rare Diseases	Ohio Sickle Cell and Health Association
Gaucher Community Alliance	Ohio State Grange
Global Healthy Living Foundation	Ohio State Medical Association
HIV+HEP Policy Institute	Pharmacists United in Truth & Transparency
Immune Deficiency Foundation	Pompe Alliance
Infusion Access Foundation	Rare Action Access Project
Lupus and Allied Diseases Association, Inc.	Spondylitis Association of America
Mental Health & Addiction Advocacy Coalition	The AIDS Institute
Mental Health America of Ohio	The Academy of Medicine of Cleveland and Northern Ohio
Movement Disorders Policy Coalition	US Hereditary Angioedema Association

- **Global Healthy Living Foundation Press Release:**

States With Laws Protecting Patient Assistance Programs Have Not Seen Health Insurance Premium Hikes;
<https://ghlf.org/copay-assistance-protection/>

- **The AIDS Institute:**

Comparison of Marketplace Average Benchmark Premiums Between States With and Without Copay;
<https://aidsinstitute.net/documents/Copay-Assistance-Does-Not-Increase-Premiums-Final.pdf>