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The Honorable Joseph J. Solomon Jr., Chairman
Of the House Corporations Committee
State House
Providence, RI 02903

RE: AHIP Comments on H-6159, An Act Relating to Insurance – Prescription Drug Benefits

To Chairman Solomon and Members of the House Corporations Committee,

America's Health Insurance Plans (AHIP) appreciates the opportunity to comment on H-6159, legislation that would require any costs paid by an enrollee or on behalf of an enrollee by a third party when calculating an enrollee's overall contribution to any out-of-pocket maximum or cost sharing requirement. We respectfully oppose this bill because it does nothing to address the rising cost of prescription drugs. Rather, it endorses drug manufacturers' egregious pricing behavior.

We strongly share the Committee's concerns that drug prices are excessive, unreasonable, and out-of-control. Everyone should be able to get the medications they need at a price they can afford. Today, more than 22 cents of every health care dollar spent on health insurance premiums goes to pay for prescription drugs – more than any other individual category.¹ One of the many tools health insurance providers use to help control health care costs for all Rhode Islanders, is using copay accumulator programs, which H-6159 bans. As a result, this bill would increase costs for Rhode Island businesses and consumers.

Health insurance providers and pharmacy benefit managers (PBMs) aggressively negotiate with drug manufacturers to reduce the impact of out-of-control drug prices. However, the problem with prescription drugs is the price, which pharmaceutical manufacturers alone set and control, without any parameters or oversight. Pharmaceutical companies continue to raise their prices year after year – even several times a year – which is making health care more expensive for everyone.

Data Proves that Drug Coupons Are Used by Drug Manufacturers to Keep Drug Prices High, Raising Costs for Everyone.

AHIP has strong concerns that H-6159 endorses practices drug manufacturers employ that are explicitly forbidden in federal health programs, like Medicare and Medicaid, because they have been deemed as illegal kickbacks.²

¹ Where Does Your Health Care Dollar Go? America's Health Insurance Plans. September 6, 2022.
<https://www.ahip.org/resources/where-does-your-health-care-dollar-go>.

² See 42 U.S.C § 1320a-7b; Special Advisory Bulletin: Pharmaceutical Manufacturer Copayment Coupons. Department of Health and Human Services, Office of the Inspector General. September 2014. Available at https://oig.hhs.gov/fraud/docs/alertsandbulletins/2014/SAB_Copayment_Coupons.pdf.

Drug manufacturers acknowledge their drugs are unaffordable for patients. But rather than simply lowering their prices, they offer copay coupons, vouchers, discounts, or payments to offset cost-sharing expenses (collectively, “copay coupons”) to hide their exorbitant prices.

There are multiple academic studies by Harvard³, the Congressional Research Service⁴, the National Bureau of Economic Research⁵, and others, that found that drug manufacturers use patient assistance programs as a sales tool – focusing on their rates of return, encouraging patients to stay on branded drugs after a generic is introduced, and subsidizing third-party foundations to drive sales and attract patients who otherwise might not have used the high-priced drug.

The December 2021 report from the U.S. House Committee on Oversight and Reform, which was the result of a two-year investigation into drug pricing, strongly concluded that drug companies utilize copay coupons and patient assistance programs to increase sales. The Committee stressed that these programs “do not provide sustainable support for patients and do not address the burden that the company’s pricing practices have placed on the U.S. health care system.”⁶

Drug manufacturers strategically offer these promotions to a narrow set of patients, for a narrow selection of drugs, and often only for a limited period. After deductibles are met, drugmakers end the coupons and pass along the whole cost of the drug to insurance – raising health care costs for everyone. When this happens, the drugmaker is clearly just trying to get insurance to pay for the full price of the drug more quickly. They keep their prices high, and they reap higher profits over the course of the year – and employers, consumers, and taxpayers pick up the tab through higher premiums.

Accumulator Programs Hold Drug Manufacturers Accountable for High-Priced Drugs.

Employers and health insurance providers have worked hard to develop programs that hold drug manufacturers accountable for uncontrolled prices. Accumulator programs aim to better reflect patients’ actual out-of-pocket spending on drugs and to shed light on pharmaceutical manufacturer pricing schemes.⁷ It is critical to have guardrails in place against this kickback system to ensure we’re able to keep health care affordable for every Rhode Islander.

These programs help to restore the balance in the system by allowing the patient to benefit from the use of manufacturer coupons at the pharmacy counter, but not counting the coupon towards the deductible –

³ Dafny, et. al. When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization. American Economic Journal: Economic Policy 9, no. 2 (May 2017): 91–123. https://www.hbs.edu/ris/Publication%20Files/DafnyOdySchmitt_CopayCoupons_32601e45-849b-4280-9992-2c3e03bc8cc4.pdf.

⁴ Prescription Drug Discount Coupons and Patient Assistance Programs (PAPs). Congressional Research Service. June 15, 2017. <https://crsreports.congress.gov/product/pdf/R/R44264/5>.

⁵ Dafny, et.al. How do copayment coupons affect branded drug prices and quantities purchased? National Bureau of Economic Research. February 2022. https://www.nber.org/system/files/working_papers/w29735/w29735.pdf.

⁶ Drug Pricing Investigation: Majority Staff Report. US House Committee on Oversight and Reform. December 2021. <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DRUG%20PRICING%20REPORT%20WITH%20APPENDIX%20v3.pdf>.

⁷ Humer, Caroline and Michael Erman. Walmart, Home Depot adopt health insurer tactic in drug copay battle. Reuters. November 13, 2018. Available at <https://www.reuters.com/article/us-usa-healthcare-employers/walmart-home-depot-adopt-health-insurer-tactic-in-drug-copay-battle-idUSKCN1N1F1>.

since the drug manufacturer is paying the amount of the coupon. The cost savings achieved by these programs are then utilized to lower costs for everyone.

A case study conducted by economists at Harvard, Northwestern, and UCLA, on the effect of copay coupons in Massachusetts (who had banned coupons) and their neighboring state New Hampshire (which allowed coupons) found:

- Prices for brand name drugs with copay coupons rose 12-13% per year compared to price increases of 7% to 8% per year on brand name drugs that did not offer coupons. And after a generic alternative entered the market, coupons increased spending on branded drugs by \$30-\$120 million per drug over 5 years.
- After reviewing a sample of 23 medications, coupons increased total spending by \$700 million in the five years after generic entry.⁸

A ban on accumulators will reduce incentives for drug companies to lower prices, allowing them to replace real price reductions with coupons as a work-around to health plan cost-sharing. As a result, drug companies will make more money while consumers and businesses will continue to foot the bill through higher premiums, out-of-pocket expenses, and federal insurance subsidies.

Thank you for your consideration of our concerns. AHIP and our members plans are eager to continue to work to fight for more affordable medications for Rhode Islanders and patients, families, and employers across the country. H-6159 would undermine these efforts and we ask the Committee to not pass this bill.

Sincerely,
America's Health Insurance Plans



By: _____
Terrance S. Martiesian

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health.

⁸ Dafny, et. al. When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization. American Economic Journal: Economic Policy, no. 2 (May 2017): 91–123. Available at: https://www.hbs.edu/ris/Publication%20Files/DafnyOdySchmitt_CopayCoupons_32601e45-849b-4280-9992-2c3e03bc8cc4.pdf.