

All Copays Count Coalition

February X, 2021

The Honorable Xavier Becerra
Secretary Designee
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Re: Patient Cost Sharing and Prescription Drug Access

Dear Secretary Designee Becerra,

The All Copays Count Coalition (ACCC) would like to welcome you to the US Department of Health and Human Services, we look forward to working with you to improve access to health care and treatment and guarantee comprehensive health insurance coverage. The ACCC is comprised of more than 60 organizations serving the interest of people with serious and complex chronic health conditions who rely on copay assistance to afford necessary and life-saving medications. We write to you today to request that you take quick action to correct a policy enacted by the Trump Administration in the 2021 Notice of Benefit and Payment Parameters that undercuts this assistance, increasing costs for patients in the midst of an unprecedented pandemic and beyond with enormous health and economic impact on individuals and families across the nation.

The 2021 Notice of Benefit and Payment Parameters, issued as final in May 2020, permitted health insurance issuers and pharmacy benefit managers (PBMs) to adopt a practice referred to as a “copay accumulator adjustment program.” Under these arrangements, insurance issuers and PBMs are allowed to receive double payments - accepting patients’ manufacturer copay assistance for specialty medications, but not counting such payments toward the patient’s annual deductible or out-of-pocket limit. Most patients are unaware of this practice until they are faced with the daunting choice of paying a pharmacy bill that could be thousands of dollars or foregoing the medication they need to stay healthy or prevent deterioration of their condition.

We urged HHS to reverse this decision (itself a reversal of policy adopted in the 2020 Notice of Benefit and Payment Parameters) in the 2022 Notice of Benefit and Payment Parameters, which was issued as final on January 19, 2021. That did not happen. As part of the Department’s implementation of President Biden’s Executive Order on Strengthening Medicaid and the Affordable Care Act, **we urge you to use your authority to ban the practice of copay accumulator adjustment programs and require health insurance issuers and PBMs to count all cost-sharing payments made by or on behalf of a patient toward that patient’s annual deductible and out-of-pocket maximum.**

We applaud the Biden Administration’s demonstrated commitment to expanding access to health care, strengthening patient protections, and addressing out-of-pocket costs. Over the past decade, insurance benefit design has increasingly shifted costs to patients through higher deductibles, more cost-sharing tiers for prescription drugs, and use of coinsurance based on list price rather than flat dollar copayments for higher-cost health care services, including prescription drugs. The out-of-pocket limit, once considered a backstop to ensure that people with health insurance could afford medications without trading the ability to meet their basic needs, has increased so significantly it is well beyond the ability of most Americans to meet it. We urge you to take action to ensure vulnerable patients who struggle to afford their essential specialty medications will be able to meet the high copays and co-insurance, get their prescriptions at the pharmacy counter, and maintain their health.

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This solution would also resolve a related issue within the “Medicaid best price” rule that was finalized by CMS in December 2020. CMS revised the best price exclusion criteria to provide expressly that patient assistance can only be excluded from the calculation if “the manufacturer ensures the full value of the assistance or benefit is passed on to the consumer or patient.” Entities providing copay assistance to a patient cannot guarantee how issuers and PBMs apply the financial assistance with copay accumulator programs in place.

We appreciate your attention to this issue of prescription drug access, and would like to work with you to identify better solutions and new opportunities to lower health care costs for patients, such as ensuring all copays counts. Should you have any questions please do not hesitate to reach out to any of the undersigned ACCC steering committee members.

Respectfully,

Rachel Klein, Deputy Executive Director, AIDS Institute, RKlein@taimail.org

Kollet Koulianos, Senior Director Payer Relations, National Hemophilia Foundation
kkoulianos@hemophilia.org

Kim Czubaruk, JD, Senior Director, Policy and Advocacy, Cancer Support Community,
kczubaruk@cancersupportcommunity.org

Anna Hyde, Vice President of Advocacy and Access, Arthritis Foundation, ahyde@arthritis.org

Kim Calder, Senior Director of Health Policy, National MS Society, Kimberly.Calder@nmss.org

Lindsay Gill, Associate Director of State Policy & Advocacy, American Kidney Fund, lgill@kidneyfund.org

All Copays Count Coalition Members

CC:

Liz Richter, Acting Administrator, CMS

Jeff Wu, Acting Director CCIIO, CMS

Jeff Grant, Acting Director CCIIO