



April 19, 2024

The Honorable Jeff Rude
Wyoming Insurance Department
106 E. 6th Avenue
Cheyenne, WY 82002-0440

Re: Patients are vulnerable to copay diversion policies in Wyoming 2024 marketplace plans

Dear Commissioner Rude:

The patient advocacy and provider organizations of the All Copays Count Coalition (ACCC) are concerned about patients in Wyoming who continue to be subjected to harmful copay diversion policies applied by insurers and pharmacy benefit managers (PBMs), despite a federal regulation prohibiting the practice. Individuals with serious, chronic conditions who purchase their health insurance through the marketplace are experiencing needless barriers to accessing their medications and treatments that enable them to stay healthy. On behalf of the millions of patients represented by the ACCC, we respectfully ask that you enforce the federal rule requiring insurers to count payments made by, or on behalf of, enrollees when calculating an enrollee's out-of-pocket amount.¹

In January 2024, the US District Court for the District of Columbia clarified its ruling that §156.130(h)(2) US Department of Health and Human Services' Notice of Benefit and Payment Parameters (NBPP) for 2020 is in effect and enforceable.² However, health insurers in your state remain out of compliance as they continue to sell policies that do not count copay assistance payments made on behalf of an enrollee toward that enrollee's cost-sharing requirement.

This matter is critically important to the patients we serve. As deductibles have ballooned and coinsurance has expanded, people living with cancer, hemophilia, multiple sclerosis, and other serious chronic conditions often rely on copay assistance to help cover the cost-sharing for their

¹ HHS, *Notice of Benefit and Payment Parameters for 2020*, ii. Cost-Sharing Requirements and Drug Manufacturers' Coupons, <https://www.federalregister.gov/documents/2019/04/25/2019-08017/patient-protection-and-affordable-care-act-hhs-notice-of-benefit-and-payment-parameters-for-2020>

² US District Court for the District of Columbia, Memorandum Opinion: HIV and Hepatitis Policy Institute, et. al v US Department of Health and Human Services, September 29, 2023, https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2022cv2604-42

specialty drugs. For these individuals, there are no generic or lower-cost alternatives. Insurers and PBMs are collecting the copay assistance payments but refusing to count those funds toward the patient's cost-sharing obligations; this amounts to profiteering off the most vulnerable citizens.

A recent report found that 1 plan in Wyoming has some form of copay diversion policy.³ This leaves many patients in the state without the option to select a health plan that will honor their copay assistance. Despite having health insurance, more people are finding it hard to afford their medications. A survey found that one in four adults taking prescription medications have difficulty affording their drugs.⁴ Copay assistance is a life-line for people living with chronic disease.

We ask that you address this issue for all state-regulated plans that are subject to the Affordable Care Act. We urge you to take swift action to protect your constituents living with chronic illness who count on their health insurance to provide access to the care they need by warning health insurance issuers that they must comply with §156.130(h)(2) per the DC District Court's decision. Furthermore, patients who use copay assistance for specialty drugs should be informed of this policy and appropriately compensated for copayments that were inappropriately charged since the date of the court ruling.

On behalf of the millions of patients living with serious, chronic conditions, we appreciate your attention to this important issue.

Thank you,

Epilepsy Foundation of Colorado & Wyoming
AiArthritis
Aimed Alliance
Alliance for Gout Awareness
Alliance for Headache Disorders Advocacy
Alliance for Patient Access
Alliance for Women's Health and Prevention
ALS Association
American Academy of Neurology
American Headache Society
Arthritis Foundation
Association for Clinical Oncology
Cancer Support Community
CancerCare
Caregiver Action Network

Chronic Care Policy Alliance
Chronic Migraine Awareness, Inc.
Coalition of State Rheumatology Organizations
Cystic Fibrosis Research Institute
Diabetes Leadership Council
Diabetes Patient Advocacy Coalition
Dravet Syndrome Foundation
Endocrine Nurses Society
Epilepsy Foundation
Global Healthy Living Foundation
GO2 for Lung Cancer
Good Days
Headache Cooperative of the Pacific
HealthyWomen
Hemophilia Federation of America

³ The AIDS Institute, Unchecked: Copay Accumulator Adjustment Policies in 2024, February 29, 2024, <https://aidsinstitute.net/documents/TAI-2024-Report-2.27.pdf>.

⁴ Emma Wager, Imani Telesford, Cynthia Cox, Krutika Amin, Kaiser Family Foundation, What are the recent and forecasted trends in prescription drug spending? September 15, 2023, <https://www.healthsystemtracker.org/chart-collection/recent-forecasted-trends-prescription-drug-spending/#:~:text=KFF%20polling%20from%20July%202023,less%20than%20%2440%2C000%20per%20year.>

HIV+Hepatitis Policy Institute
Infusion Access Foundation
Immune Deficiency Foundation
LUNGevity Foundation
Lupus and Allied Diseases Association, Inc.
Migraine at School
Miles for Migraine
Movement Disorders Policy Coalition
National Bleeding Disorders Foundation
National Eczema Association
National Infusion Center Association (NICA)
National MS Society
National Organization for Rare Disorders

National Psoriasis Foundation
Patient Access Network (PAN) Foundation
Pulmonary Hypertension Association
Rheumatology Nurses Society
Southern Headache Society
Spondylitis Association of America
Supernus Pharmaceuticals
The AIDS Institute
The Michael J. Fox Foundation for Parkinson's
Research
Tourette Association of America
Triage Cancer
Vision Health Advocacy Coalition