Cap on Out-of-Pocket Expenses

FAIR Rx PRICES NOW

82%

A recent AARP survey showed that nearly over eighty percent (82%) of likely voters ages 50 and older describe prescription drugs as too expensive. Cost is the most common reason cited for deciding not to fill a prescription.

Description

In order to relieve consumers' financial burdens, some states have placed a cap on a consumer's out-of-pocket (OOP) prescription drug expenses. States have designed OOP caps in several ways, including applying spending limits to certain drugs or applying the cap to a consumer's overall monthly or annual prescription drug expenditures.

As of 2023, the Inflation Reduction Act caps OOP costs on insulin for Medicare Parts B & D enrollees at $35 a month, which benefits close to 3.3 million Americans. While the bill originally included this cap for all insurance plans, the final version limited it to Medicare enrollees only. Under the law, Part D enrollees also have an overall annual OOP cap of $2,000 for all their Part D drugs starting in 2025. States can pursue their own legislation to apply OOP caps to people on coverage other than Medicare Part D.

How Does it Work?

State OOP cap laws focus primarily on setting an upper limit or cap on what a consumer with a private health plan pays for a single 30-day outpatient prescription, whether through co-pays or coinsurance. Some states have enacted broad laws that cap all drugs for certain insurers or a wide range of prescription drug classes. Meanwhile other states have passed laws to limit the amount individuals pay for a 30-day supply of certain high-priced, specialty drugs to treat conditions such as multiple sclerosis or rheumatoid arthritis.

What Does This Mean for Consumers?

Lowers a consumer's out-of-pocket prescription drug costs, making prescriptions more affordable and accessible at the point of sale.

There is the potential to improve drug adherence and reduce cost-related behaviors like splitting medications or not filling a prescription at all.

There is a possibility of higher health care premiums and cost-sharing due to insurers shifting prescription drug costs.

Where Has This State Legislative Policy Been Enacted?

The insulin cap in the Inflation Reduction Act did not apply to state-regulated insurance plans. As such, states have looked for ways to cap prescription drug costs for enrollees in these plans. As of September 2024, 28 states have enacted legislation that limits consumers' prescription drug-related OOP costs. For example, in 2015 California enacted a significant and comprehensive law that caps expenses for a single 30-day outpatient prescription at $250 and at $500 for consumers with high-deductible plans.

The law also ensures that health plans do not place most, or all drugs used to treat a certain condition on the highest cost tier in their drug formularies, and that an enrollee is not required to pay more than the retail price for a prescription drug if a pharmacy's retail price is less than the applicable copayment or coinsurance amount.

In 2019, Colorado enacted legislation to limit the amount consumers pay for insulin. Since that time, the following 25 states and DC have enacted similar laws that limit out-of-pocket expenses for insulin (see map below).

At least four states (Delaware, Louisiana, Maryland, Rhode Island) and DC previously enacted laws that limit the amount private health plan enrollees must pay for a 30-day supply of high-price, specialty-tier prescription drugs. Delaware, for example, limits insured individuals' co-pays and coinsurance for a specialty-tier drug to $150 per month for a 30-day supply. Two states (Maine and Vermont) impose an annual cap on the out-of-pocket expenses an insured person must pay overall for their prescription medications. For example, Vermont's annual out-of-pocket cap is $1,300/individual and $2,600/family.

Montana administratively established a rule in 2015 that indirectly addressed high OOP costs by requiring certain health insurers to offer at least one plan that requires fixed dollar co-pays for all drugs and no deductible. Similarly, Colorado limits the ways that insurers may use coinsurance in their plans through administrative rule making.