January 26, 2024

The Honorable Jonathan Warrey, Chair House Industry, Business and Labor Committee
The Honorable Jorin Johnson, Vice Chair House Industry, Business and Labor Committee
The Honorable Mitch Ostlie, Vice Chair House Industry, Business and Labor Committee
North Dakota House Industry, Business and Labor Committee
North Dakota State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Re: **HB 1216 – Relating to Out-of-Pocket Expenses for Prescription Drugs**
PCMA Testimony in Opposition to HB 1216

Dear Chair Warrey, Vice Chairs Johnson and Ostlie, and Members of the Committee:

My name is Michelle Mack, and I represent the Pharmaceutical Care Management Association, commonly referred to as PCMA. PCMA is the national trade association for pharmacy benefit managers (PBMs), which administer prescription drug plans for more than 275 million Americans with health coverage provided by large and small employers, health insurers, labor unions, and federal and state-sponsored health programs

PCMA appreciates the opportunity to provide testimony on HB 1216, a bill that would require insurers to count any amount paid by enrollees (directly or on their behalf) toward an enrollee's overall contribution to any out-of-pocket maximum or any cost-sharing requirement under the policy. PCMA respectfully opposes HB 1216.

I want to emphasize at the outset that **PCMA does *not* oppose true means-tested patient assistance programs that help individuals afford their prescription drugs.** There is an important difference between means-tested patient assistance programs and copay coupons, which are targeted to individuals with health insurance.

The unfettered price increases of prescription drugs put patients at risk and health plan sponsors in the difficult position of either having to cut benefits or increase premiums, copays, and deductibles. While health plans pay the vast amount of their members' prescription drug costs, drug manufacturers' price increases have forced health plans to create new benefit designs that keep monthly premiums as low as possible—but require some members to shoulder more of the cost before their deductible is met.

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A recent financial review by Deloitte Consulting LLP of this bill language for the North Dakota Public Employees Retirement System **estimated the financial impact of over $8.6 million**[1] in the 2025-2027 biennium.

Drug manufacturers encourage patients to disregard formularies and lower cost alternatives by offering "coupons" to help the patient cover that higher cost. This ultimately steers patients away from cheaper alternatives and towards more expensive brand drugs (with higher cost sharing obligations), completely undermining the formulary offered by a plan sponsor.

Here are the facts when it comes to manufacturer coupons:

- The median annual list price of new brand name drugs rose from **$2,000 in 2008** to **$180,000 in 2021**.[2]
- The prices for drugs with manufacturer coupons **increase faster (12-13% per year)** compared to non-couponed drugs (7-8% per year).[3]
- **Banning coupons** would **lower prescription drug costs** by an **estimated $1.155 billion** per year.[4]
- In the Massachusetts commercial market, **coupons increased costs by $3 million** per drug.[5]
- If Medicare's ban on coupons were not enforced, costs to the program would **increase $48 billion** over 2021 - 2030.**[6]**
- **88% of brand drugs** with manufacturer coupons **have lower-cost generics or brand alternatives**, indicating that coupons aim to drive business to the brand name drugs.[7]

By definition, copay coupons target only those who already have prescription drug coverage (i.e., those who pay copays). Copay coupons are not means-tested or designed to help the poor or uninsured. Considered illegal kickbacks in federal health programs, copay coupons are still permitted in the commercial market.

Supporters of coupons say that they decrease costs for patients. While they can decrease an individual patient's cost at the pharmacy counter, they do not reduce ***actual*** costs. **Coupons are temporary—the individual patient likely pays more when the coupon**

[1] Financial Review of Proposed Bill 25.0068.01000. Deloitte. June 27, 2024.
[2] Trends in Prescription Drug Launch Prices, 2008–2021. Rome, Egilman, and Kesselheim. JAMA Network. 2022.
[3] When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization. Leemore Dafny, Christopher Ody, and Matt Schmitt. American Economic Journal: Economic Policy 2017, 9(2): 91–123.
[4] Eliminating Prescription Drug Copay Coupons. Dafny, Ody, and Schmitt. 1% Steps for Health Care Reform.
[5] Prescription Drug Coupon Study: Report to the Massachusetts Legislature. Commonwealth of Massachusetts. July 2020.
[6] Drug Manufacturer Coupons Raise Costs in Medicare Part D, Hurting Vulnerable Beneficiaries. Visante (for PCMA). May 2020.
[7] A Perspective on Prescription Drug Copayment Coupons. Karen Van Nuys, Geoffrey Joyce, Rocio Ribero, and Dana Goldman. USC Schaeffer Center for Health Policy& Economics. 2018

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goes away, instead of being started on the formulary drug from the start. It is the manufacturer who benefits by forcing the plan (indirectly the patient) to pay for the more expensive drug.

If drug companies are concerned about patients accessing medications, they should simply lower their prices, yet drug makers have determined that it is more profitable to increase copay assistance rather than just making their medications more affordable. The simplest, most effective way to reduce patient costs on drugs is for manufacturers to drop the price of the drug.

Copay accumulator programs are health plan programs designed to thwart drug manufacturers' efforts to force employers, unions, and public programs to pay for expensive, unnecessary brand medications through the use of copay coupons. Accumulators typically disallow the counting of the manufacturer's coupon towards the patient's out-of-pocket maximum and deductible because the patient hasn't actually incurred the cost. This ensures that the patient has the incentive to use the plan formulary to get to the lowest net cost and that the plan functions as it was designed.

It is for these problematic provisions noted above that we must respectfully oppose HB 1216.

Thank you for your time and consideration. Please contact me should you have any questions or concerns.

Sincerely,

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