

House Bill 1216
North Dakota House Committee on Industry, Business, and Labor
January 21, 2025
AHIP Testimony

Thank you for the opportunity to speak before you today. My name is Alex Kelsch, and I am testifying today on behalf of America's Health Insurance Plans (AHIP).¹

AHIP respectfully opposes HB 1216 because it restricts health plans' ability to hold down drugs costs.

Everyone should be able to get the medications they need at a cost they can afford. However, drug prices continue to rise out of control, and pharmacy costs now represent over 24 cents² out of every dollar of premium spent on health care.

Unfortunately, HB 1216 does nothing to control the soaring prices of prescription drugs for patients. Instead, it would financially reward drug manufactures for steering patients towards more expensive brand-name drugs.

Drug manufacturers intentionally use copay coupons to keep drug prices high.

Drug manufacturers acknowledge their drugs are unaffordable for patients. But rather than simply lowering their prices, they offer copay coupons to hide the actual cost of those drugs.

Drug manufacturers offer these promotions only to very specific patients for a very short period of time. Once a patient hits their deductible, drug manufacturers discontinue the patient's coupons – which hides the underlying prices from patients, enticing them to continue with the most expensive drug, when there are less expensive drugs available.

It is important to note, the federal government considers copay coupons to be an illegal kickback if used by an enrollee in Medicare or Medicaid because they induce a patient to use a specific drug³.

In the commercial market, coupons are often offered only for a limited time – once the patient hits their deductible, drugmakers discontinue the patient's assistance.

These promotions are used to increase sales, raising costs for everyone.

There are multiple studies by the U.S. House Oversight Committee⁴, Harvard⁵, the Congressional

¹ 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.

² *Where Does Your Health Care Dollar Go?* America's Health Insurance Plans. October 2024. <https://www.ahip.org/health-care-dollar/>

³ 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.

⁴ U.S. House Committee on Oversight and Reform; Drug Pricing Investigation, Majority Staff Report. December 10, 2021. <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/DRUG%20PRICING%20REPORT%20WITH%20APPENDIX%20v3.pdf>

⁵ 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

Research Service⁶, 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.

Purchasers of health care use guardrails to hold drug manufacturers accountable for pricing schemes.

Employers and purchasers of health care have worked hard to develop programs to hold drug companies accountable, to shed light on these pricing schemes, and keep costs low for North Dakotans.

The Centers for Medicare & Medicaid Services (CMS) agrees that these programs are important to protect taxpayers. In addition to deeming coupons illegal kickbacks in federal programs, CMS explicitly allowed such programs to continue in the Exchange Marketplaces.⁷

Legislation banning these programs by requiring health plans to count all third-party payments towards an enrollee's cost sharing obligations will eliminate incentives for drug companies to lower prices. As a result, drug companies will make more money while North Dakota families and businesses continue to foot the bill through higher premiums, higher out-of-pocket expenses, and higher federal insurance subsidies.

The legislature should focus on solutions that forbid market manipulation.

Instead of taking away the few tools that health plans have to lower drug spending, we recommend that North Dakota legislators focus on fixing the market distortion caused by pricing schemes, including copay coupons.

AHIP stands ready to work together with policymakers on real solutions to ensure every patient has access to the high-quality drugs that they need and improve health care affordability.

⁶ Prescription Drug Discount Coupons and Patient Assistance Programs (PAPs). Congressional Research Service. June 15, 2017. <https://crsreports.congress.gov/product/pdf/R/R44264/5>.

⁷ Notice of Benefit and Payment Parameters for 2021. Centers for Medicare & Medicaid Services. June 13, 2020. <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-10045.pdf>.