

House Bill 1216
North Dakota Senate Health and Human Services Committee
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).

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 cents¹ out of every dollar of premium spent on health care.

Unfortunately, HB 1216 does nothing to control the soaring prices of prescription drugs set by pharmaceutical manufacturers. Instead, it would financially reward drug manufactures for steering patients towards more expensive brand-name drugs, increase premiums, and reduce wages for North Dakotans.

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

Drug manufacturers acknowledge their drugs are unaffordable for patients. But rather than addressing this by lowering their prices, they instead 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, even 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 drug².

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 Committee³, Harvard⁴, the Congressional Research Service⁵, 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 such as copay coupons.

Employers and purchasers of health care have worked hard to develop guardrails to hold drug

¹ *Where Does Your Health Care Dollar Go?* America's Health Insurance Plans. October 2024. <https://www.ahip.org/health-care-dollar/>

² 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.

³ 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>

⁴ 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

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

companies accountable for their problematic pricing schemes and keep costs low for North Dakotans. These employer and health plan guardrails do not result in higher costs for patients but instead maximize the value of coupons to benefit all patients and plan sponsors and reduce drug manufacturers' ability to avoid fair negotiations on prices.

AHIP commissioned the actuarial firm Wakely⁶ to analyze the impact of requiring health plans to count all third-party payments towards an enrollee's cost sharing obligations. Wakely found that bills like these will:

- **Increase premiums**, with the largest increases in the individual marketplace
- **Result in adverse selection** into lower premium plans, such as Bronze plans, resulting in **higher premiums and consumers dropping their coverage**.
- **Reduce wages** for workers who receive coverage at work, due to **higher employer costs**.
- **Encourage use of more expensive drugs** over cheaper alternatives.

Legislation like this will reduce manufacturers' incentives to offer lower prices because they can continue to replace real price reductions with coupons. As a result, drug companies will make more money while North Dakota families and businesses continue to foot the bill through lower wages, higher premiums, and higher out-of-pocket expenses.

The legislature should focus on solutions that forbid market manipulation.

Instead of taking away the few tools that health plans and employers use to address ever increasing drug prices, we recommend that North Dakota legislators focus on fixing the market distortion caused by drug manufacturer 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 <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=0938-AV41&meetingId=628923&acronym=0938-HHS/CMS>