



Good afternoon, Madam Chair, Members of the Senate Human Services committee. My name is Megan Hruby and I am with Blue Cross Blue Shield of North Dakota.

I am here this morning to provide some important perspective on House bill 1216, the bill relating to copay coupons and accumulator programs for prescription drugs. BCBSND is opposed to HB 1216 as currently written because despite the sponsors best intentions, this bill will not lower costs for consumers in North Dakota. We share the same goal as the advocates here today, which is more affordable prescriptions. We simply disagree on the best way to get there.

I want to start by saying clearly, whether this bill passes or fails, the coupons will remain. Anyone who receives a coupon today, will still have a coupon regardless of what happens with the bill. There was a lot of confusion about that last Session, so let's clear that up. The coupons stay no matter what. This bill only impacts how much of the cost of the coupons is shifted from pharma to health insurers.

Unfortunately, what else will stay if this bill continues as currently written is the inflated cost the people of North Dakota are paying for specialty brand-name drugs because of manufacturers' coupon schemes.

Here is what you will hear me ask you to consider today:

1. The coupons are a targeted marketing effort meant to increase profits for drug manufacturers. These coupons are not available to everyone. They are only available to the well insured. If this bill intends to help consumers, it should require companies to offer the coupons to all who could benefit from the medications, all year long.
2. This bill does not help consumers. Overall, it increases costs for everyone. If you look at the attached Harvard Magazine article, manufacturer sponsored coupons increase costs 8% or more than \$1 billion in one drug class alone.
3. This bill benefits pharmaceutical companies most. Health insurance costs in the fully insured marketplace in North Dakota are regulated by Commissioner Jon Godfread. Drug manufacturers, however, set drug prices. It is drug manufacturers who stand to profit most from this bill through maintaining higher drug costs. No commissioner or agency regulates the prices drug manufacturers charge for medication.

Myth Busting: There is no double dipping.

Proponents of HB 1216 routinely reference “double dipping”. There is no double dipping. They say that insurance companies take money from the coupons and then turn around and charge the consumer for their deductible. That is false. Insurance companies don’t see the coupons and receive no compensation for them. Coupons, by nature, have no cash value. They are a manufacturer discount intended to entice you to buy their product. The coupon is between the pharmaceutical company, the consumer and the pharmacist.

Take the example of Trikafta, as the proponents mentioned. Say that Trikafta is a drug that costs \$28,000 per month, or \$336,000 annually. Trikafta is covered by the patient’s insurance. The patient, when they shopped for insurance, signed a contract with the insurance company stating that for \$300 monthly premium (\$3,600 annually) and a \$5,000 deductible, the insurance company would pay for the patient’s health care whether it cost \$10,000 or \$1 million. The consumer then goes to the pharmacy to pick up their prescription for Trikafta. They have a coupon for \$5,000. The drug cost then becomes \$23,000. The amount the patient is responsible for is the \$5,000 deductible for which they agreed. The insurance carrier is responsible for:

- the remaining \$331,000 for the drug annually
- the costs of the patient’s doctor appointments
- any hospital stays
- emergencies
- additional health issues (pickleball injury, annual physical, car accident, etc)

The pharmacist has a contract where they are reimbursed \$28,000 for Trikafta. So, the pharmacist receives \$28,000 in reimbursement regardless of whether there is a coupon for \$5,000 off or not. The pharmacist, like the insurance company, doesn’t have any idea which consumers will come in with a coupon and which will not.

The coupons are a targeted marketing effort meant to increase pharmaceutical profits.

Pharmaceutical gift cards are not a charitable effort – they are clearly targeted at commercially insured individuals for use on a specific drug purchase. If they were using the gift card for a medical procedure, would the pharmaceutical company allow it? No. They only allow the gift card to be used if the consumer purchases the name brand drug that the company manufactures. So, if you are following with me, it is a kick back, which is why it is not allowed under TRICARE, Medicare and Medicaid. It is illegal for pharmaceutical companies to offer copay assistance for medications that you purchase

through Medicare due to the Social Security Amendments of 1972. Included in those amendments is the Anti-Kickback Statute (AKS).

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Regardless of this bill and coupons, carriers are paying the vast majority of the cost of these very expensive drugs. Speaking for BCBSND, we do it gladly. Newer drugs are improving and saving lives. Pharmaceutical spend is our fastest rising area at

20% annually, with 58% of that being on specialty drugs. Examples of these include cell and gene therapies at up to \$4 million per treatment, oncology drugs ranging between \$5,000 and \$150,000 per month and of course, GLP1 diabetic medications at over \$1,000 per member per month. If what the pharma companies are doing were truly altruistic, they would lower the cost of the drug rather than give out gift cards for thousands of dollars to a *select* population. They would also provide them to the uninsured, who arguably need them the most. But they don't. They only provide them to people who have commercial insurance because they know they can pass laws like these and recoup even more money, borne by insurance consumers via higher premiums.

This bill does not help consumers as a whole.

Pharmaceutical drug makers provide coupons for brand medications to market new drugs and encourage prescribers and patients to utilize their products. I linked to my testimony an article from Harvard Magazine entitled "How Coupons Keep Drugs Costly." In it, the authors discuss a recent study conducted by Rauner professor of business administration Leemore Dafny. Dafny and her colleagues estimated that "if you banned coupons, multiple sclerosis (MS) drug prices would be 8 percent lower, which in the U.S. means about a billion dollars less in spending" — That estimate is for MS prescriptions alone. <https://www.harvardmagazine.com/2022/12/right-now-coupons-keep-drugs-costly>

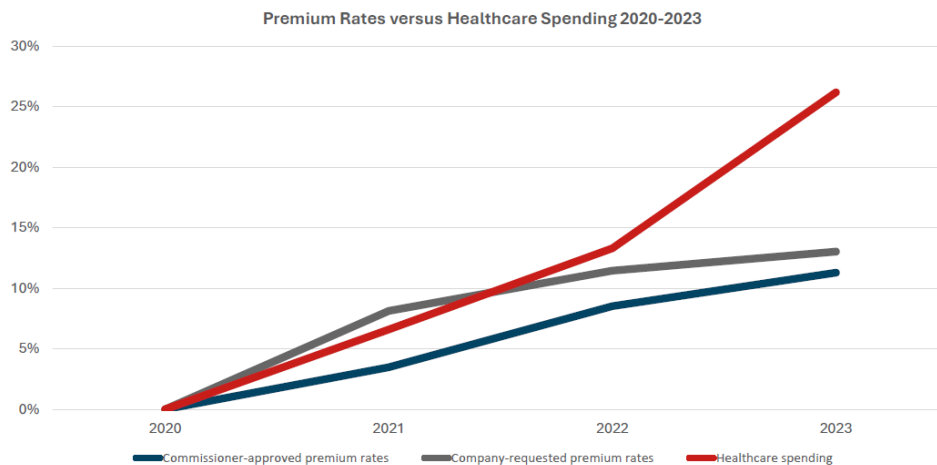
The Dafny study also shows that the share of brand-name prescription drug spending that included a coupon rose from 26 percent in 2007 to 90 percent in 2017. And the number of drugs with available coupons rose from about 200 in 2008 to more than 800 in 2018.

This bill is a balloon squeezer. Passing this bill will "lower" initial costs for commercially insured North Dakotans who receive a copay coupon at the expense of commercially insured North Dakotans who do not receive coupons.

The entities this bill benefits most are the pharmaceutical companies.

In the United States, there is no regulation of prescription drug pricing. Rather drug companies set their own prices. In contrast, in North Dakota, carrier premium rates are reviewed and approved by the North Dakota Insurance Department. What that means is that health insurance carriers must share two to five years of data to justify each year's premium rate. The Commissioner almost always cuts the rate we ask for, and then approves those rates. Carriers cannot charge more than the rate approved. One thing of note is that this legislation would not apply to self-funded ERISA plans, as it has a direct tie to and impact on ERISA plan benefit administration and therefore has an "impermissible connection with" ERISA plans that has consistently been struck down by federal courts, including the U.S. Supreme Court.

Health Insurance Rates vs. Spending



I've heard the sponsors of the bill say that insurers would "pocket money from your grandma or church if they helped you pay..." I will share very clearly with you that if our members get a gift of money from their grandmother, charitable websites, their church, or the like, and use it towards their copay, BCBSND 100% applies and counts it toward your deductible, because they could use it for anything; an MRI, hospital stay, or a doctor's visit – it isn't tied to use for a brand-name pharmaceutical. And let's also be clear, Grandma isn't raising the price of her cookies to recover the costs of her gift to you nor is Grandma requiring you or BCBSND to go purchase her cookies to get the assistance. Grandma doesn't benefit monetarily.

As stated, BCBSND opposes this bill. However, BCBSND could potentially support HB 1216 with the following amendments.

1. Amend the bill to require pharmaceutical companies extend the coupons to the insured and uninsured, twelve months of the year (to ensure that folks can receive their medications whenever they need them, not just once they get a few cycles in) with an accountability measure in place to prove that the manufacturers are doing so.
2. Amend the bill to mirror the proponents' intent and ban the offering of copay coupons for brand-name drugs with a biologically equivalent, generic therapeutic alternative or biosimilar drug available.

The spending on consumer coupons for prescription drugs is substantial, with figures reaching into the billions of dollars annually. Passage of this bill allows drug manufacturers to pick winners (those on their newest, brand name drugs receiving a coupon) and losers (the uninsured, those on government programs like TriCare, Medicare, and Medicaid; and those policy holders who do not receive a copay coupon but will have to pay for the increased costs.) The best and most altruistic solution would be to eliminate coupons altogether and have pharmaceutical companies lower the price of their drugs by an equivalent amount. But since that option isn't on the table, BCBSND respectfully asks for consideration of the amendments or a Do Not Pass vote.

Thank you for your consideration and I will stand for any questions.