Program and Administrative Office - Tampa, FL: 813-258-5929

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Media Contact: Rachel Klein: (202) 835-8373 rklein@taimail.org

Administration Finalizes Rule Which Makes Prescription Drugs More Expensive for Patients

Final Health Insurance Rule Creates Barriers to Care for Chronically Ill Patients During COVID-19 Pandemic

Washington, DC—The United States Department of Health and Human Services (HHS) finalized the 2021 Notice of Benefit and Payment Parameters (NBPP) today, which includes a provision that makes it more difficult for people with severe chronic illnesses to afford the needed medication. The final 2021 NBPP for qualified health insurance plans gives health insurance issuers discretion to disregard the value of coinsurance paid with copay assistance when calculating how much patients have paid toward their deductible and annual out-of-pocket limit.

This rule is a full reversal of official HHS policy published in the final 2020 NBPP, which was a victory for patients. As finalized, issuers would have been required to count copay assistance used for brand drugs under certain circumstances; however, Centers for Medicare & Medicaid Services, (CMS) subsequently announced that it would not enforce the provision in 2020. The reversal of policy discounts substantial feedback from patients and patient organizations explaining the harm this provision would cause the chronically ill. In the context of the COVID-19 pandemic, this move creates even more barriers preventing patients from getting the medication they need.

“Copay assistance from manufacturers is the only way that many patients can afford the high cost-sharing amounts that insurance companies charge for the drugs they need,” said Rachel Klein, Deputy Executive Director of The AIDS Institute. “Patients with serious, chronic illness such as HIV and hepatitis are facing difficult choices in this time of
health and financial insecurity. It’s unfortunate that HHS is choosing to make those
decisions even more difficult."

People living with, and at risk of, HIV, hepatitis and other serious, chronic diseases
require high-cost, specialty medications to maintain their health. But the trend in health
insurance benefit design is to shift more of the cost of health care to patients through
high deductibles and coinsurance rates. In 2020, the average deductible for a silver-
level qualified health plan is $4,600. Patients are commonly required to pay 40 - 50
percent coinsurance for a drug on a specialty tier, in addition to their deductible. In
order to afford the medicine they need, patients increasingly rely on manufacturer
copay assistance.

As patient out-of-pocket costs rise, so does the risk that they will abandon their
prescriptions. When the price tag hits the $250 mark, over 70% of new patients leave the
pharmacy empty handed. Delaying treatment, even temporarily, can have a
detrimental impact on a patient’s long-term health and end up costing the healthcare
system even more in emergency room visits or additional medical treatment. For
patients with HIV, the costs of abandoning treatment can be even greater, because it
may result in viral mutations and additional incidence of HIV infection.

“People living with HIV and hepatitis must have access to the treatments they need to
keep their immune systems strong to protect themselves from even greater risk of severe
COVID-19 infection,” said Michael Ruppal, Executive Director of The AIDS Institute.
“Patients using copay assistance are often the most vulnerable within the healthcare
system. Instead of helping people protect themselves, the federal government is
erecting new barriers to care for the people who need it the most.”

Copay cards represent a sliver of the overall prescription drug purchases in the
commercial market. Between 2013 and 2017, an analysis shows that copay cards were
only used 3.4 percent of the time, and only .4 percent of those purchases had a
generic equivalent available.

States are beginning to take action to protect patients, where the federal government
is failing them. In 2019, four states (Virginia, West Virginia, Arizona, and Illinois) enacted
legislation that will ensure copay assistance will count toward out-of-pocket costs so
patients can afford the medicine they need. We look to more states to take up similar
legislation when state legislatures meet again.

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1 Cost Sharing for Drugs Rises Sharply at Higher Tiers, March, 2019. Robert Wood Johnson Foundation
2 Medicine Use and Spending in the US: A Review of 2018 and Outlook to 2023, May, 2019. IQVIA
Institute
3 An Evaluation Of Co-Pay Card Utilization In Brands After Generic Competitor Launch, 2018. IQVIA
Institute.
The AIDS Institute is a national non-partisan, nonprofit organization that promotes action for social change through public policy, research, advocacy and education.

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