OHIO STATE MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution No. 33 – 2025

Introduced by: Medical Student Section

Subject: Opposing Co-Pay Maximizer Programs

Referred to: Resolutions Committee No. 2

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WHEREAS, patient copay assistance programs offered by pharmaceutical manufacturers aid patients in affording medications[1]; and

WHEREAS, health insurance accumulator plans accept manufacturer copay assistance for patients but do not credit those funds toward patient deductibles or out-of-pocket (OOP) maximums[1]; and

WHEREAS, patients under accumulator plans can face an unexpected and unaffordable bill for their prescription once they use up all the funds from the manufacturer copay assistance program[1]; and

WHEREAS, in response to legislation and actions regulating accumulator adjuster strategies, health insurance companies have designed copay maximizer plans[1]; and

WHEREAS, health insurance companies categorize specific medications as non-essential health benefits (non-EHBs) to circumvent Affordable Care Act (ACA) limits on patient cost-sharing and utilize the full amount of the manufacturer copay assistance[1]; and

WHEREAS, with the non-EHB classification, health insurers can specifically set the patient's required copays for their prescription equal to the maximum value of the manufacturer's copay assistance program, above the ACA OOP limit of $9,200 for an individual and $18,400 for a family during the 2025 plan year[1,2,3]; and

WHEREAS, to avoid high cost-sharing, patients are enrolled in a copay maximizer program that extracts the full amount of the manufacturer copay assistance available but does not count the dollars towards patients' required copays for their prescription[1]; and

WHEREAS, with maximizers, the patient does not typically face a large OOP bill concerning their prescription, as the costs are shifted to the manufacturer, the patient remains exposed to their full cost-sharing for all other medical care[1,3]; and

WHEREAS, copay maximizers continue to create financial burdens, stress, and confusion for patients, especially for those with chronic diseases requiring high annual medical care spending[1]; and

WHEREAS, non-white, historically marginalized populations are significantly more likely to be enrolled in a maximizer program than White patients[4]; and

WHEREAS, although maximizers should not increase cost-sharing for the patient's prescription compared to standard plans, the average OOP costs for medications in conditions like multiple sclerosis still more than doubled under maximizer programs, leading to increased costs of over $250 annually for each patient enrolled[5]; and

WHEREAS, there has been a substantial increase in maximizer prevalence nationwide from 14% of commercially insured patients enrolled in such a plan design in 2018 to 72% in 2023[6]; and

WHEREAS, copay maximizer prevalence has more than tripled since 2019 in specialties like oncology, where medications are critical for patients' health outcomes[7]; and

WHEREAS, copay maximizers have amounted to $2.7 billion, approximately a quarter of total patient support spent in the country[7]; and

WHEREAS, the pharmacy benefit managers (PBMs) that oversee maximizer programs earn 25% or more of the value of a manufacturer copay assistance program[8]; and

WHEREAS, more than 100 employers take part in maximizer programs with non-EHB designation loophole for their sponsored health insurance plans, including employers based in or have operations in Ohio, such as the Ohio State University, Ohio University, State Teachers Retirement System of Ohio, and Clermont County, OH[9]; and

WHEREAS, two-thirds of health plan sponsors view manufacturer copay assistance programs as a mechanism to save money for themselves[10]; and

WHEREAS, SaveOnSP, a maximizer program, is managed by Express Scripts, a PBM, which is owned by Cigna health insurance, which has contracts with major health systems in Ohio such as the Ohio State Wexner Medical Center and Cleveland Clinic[11,12,13]; and

WHEREAS, Ohio has yet to join the 21 states that have implemented legislation addressing copay adjustment by insurers[14]; and

WHEREAS, Ohio House Bill 135 (HB 135) by the 134th General Assembly would prohibit harmful health insurance cost-sharing practices was passed by the House but never made it out of the Senate Health Committee in 2022[15]; and

WHEREAS, Ohio HB 135 received written testimony from the Ohio State Medical Association (OSMA) in support of its passage, highlighting the OSMA's commitment to reduce the cost of prescriptions for patients[16]; and

WHEREAS, despite the existing state-level bans, accumulators remain in states with bans, and maximizers have risen at a higher rate (+272%) compared to states without any bans (+243%) due to the state's omission of maximizer programs in the bills and failure to take action on their bans[5]; and

WHEREAS, the HELP Copays Act (H.R. 830) would require health plans to count all payments made by or on behalf of patients, for all covered items or services, toward patient deductibles and OOP but has not left the U.S. House of Representatives Subcommittee on Health since 2023[17]; and therefore be it

RESOLVED, that our OSMA supports the restriction of insurance companies' ability to adjust copay costs based on a patient's participation in a manufacturer's assistance program.

Fiscal Note: $ (Sponsor)
$ 500+(Staff)

References:

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17. H.R.830 - HELP Copays Act. Congress. Accessed December 5, 2024. https://www.congress.gov/bill/118th-congress/house-bill/830.

Relevant OSMA Policy:
Policy 25 – 2020 – Co-Pay Accumulators

1. The OSMA takes legislative actions to mandate that the value of any vouchers provided to patients by pharmaceutical and durable medical equipment companies and submitted by patients, be counted towards patient's deductibles or out of pocket maximum (Co-Pay Accumulators).

Relevant AMA and AMA-MSS Policy:
Co-Pay Accumulators D-110.986

1. Our AMA will develop model state legislation regarding Co-Pay Accumulators for all pharmaceuticals, biologics, medical devices, and medical equipment, and support federal and state legislation or regulation that would ban co-pay accumulator policies, including in federally regulated ERISA plans.