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The Honorable Susan R. Donovan, Chair
Of the House Health & Human Services Committee
Rhode Island State House
Providence, RI 02903

RE: AHIP Comments on H-7364, An Act Relating to Insurance – Accident and Sickness Insurance Policies

To Chair Donovan and Members of the House Health & Human Services Committee,

America's Health Insurance Plans (AHIP) appreciates the opportunity to express our concerns with H-7364, which would cap the copay for a 30-day supply of equipment or supplies for insulin administration or glucose monitoring at $25, or per item when an item is intended to be used for longer than 30 days. It would also prohibit any deductible for the equipment and supplies.

For many patients, the rising cost of prescription drugs has created an affordability crisis that threatens their health and well-being. Out-of-control prices for prescription drugs are a direct consequence of drug makers taking advantage of a broken market for their own financial gain at the expense of patients. The lack of competition, transparency, and accountability in the prescription drug market has led to relentlessly climbing drug prices. Higher drug prices increase out of pocket costs for patients and threaten the affordability of – and access to – critically needed medicines.

While capping cost-sharing (copays, coinsurance, deductibles, referred to as "copay caps") seems like a consumer-friendly approach to hold costs down, it can have dangerous consequences that drug makers fail to share with policymakers promoting copay caps. We thus oppose H-7364 for following reasons:

- This approach does not address the underlying price of prescription drugs, equipment, or supplies. In fact, this bill will likely allow the underlying prices to increase with even less transparency.
- Copay caps allow drug makers to avoid accountability, oversight, and transparency in pricing.
- Capping copays shifts costs to the entire risk pool, raising costs for all consumers.
- There are better solutions to address prescription drug affordability.

Legislation that only places limits on cost sharing does NOT address the underlying price of prescription drugs, equipment, or supplies.

Health insurance costs are highly regulated. Health insurance providers must adhere to several federal and state laws to ensure consumers have access to affordable, quality health care coverage. These regulations act as both front end protections (rate review) and back-end protections (medical loss ratio requirements). They help ensure that increases in health insurance premiums are justified – proposed rate increases must be approved, and are often lowered, by regulators and consumers are reimbursed if premium rates are set too high. Drug manufacturers, on the other hand, are not held accountable to regulators in this way and, as a result, regularly and grossly increase their list prices without providing any explanation to consumers and purchasers.

This bill places an artificial and arbitrary cap on the end cost-sharing cost paid by consumers and does not impact the underlying costs of drug prices. Copay caps will exacerbate the cost issues because they reduce health insurance providers' ability to negotiate with drug manufacturers in a marketplace that has little to no competition. Without any sort of public pressure or accountability at the pharmacy counter, drug makers will be allowed – and even encouraged – to increase their already high prices. This approach hides the true price of prescription drugs and instead spreads the cost to other services & consumers.

Copay caps allow drug makers to avoid accountability, oversight, and transparency of drug prices.

On the surface, copay caps seem like a straightforward solution to address consumers' struggle to afford their prescription medications. However, these policies allow drug companies to continue to raise their prices without scrutiny, hiding and shifting drug costs. Consumers may see savings at the counter, but those savings are ultimately offset through higher, actuarially sound, Insurance Department-approved premium rates.

When copay caps are in place, pharmaceutical manufacturers are given a blank check to charge whatever they want because consumers do not see the increases reflected in their share of cost. Blinding the public and policymakers to drug price increases makes it harder for health insurance providers to control drug costs because public outrage about skyrocketing price increases is mitigated. When premiums rise the pressure is placed on insurers to lower costs, but without an economic incentive to for drug manufacturers to do so, it is nearly impossible for payers to lower costs on their own.

For example, in the last decade, the list prices of common types of insulin have roughly tripled, even though they're the exact same products offered 10 years ago.[1] A bipartisan investigation from the US Senate Finance Committee found that insulin manufacturers aggressively raised the list price absent significant advances in the efficacy of the drugs thanks to a lack of transparency and misaligned incentives.[2]

Instead of adopting policies that investigate drug makers' pricing tactics or correct the market imbalance that allows this behavior to occur, many states chose policy measures that allow that behavior to continue and get worse through copay cap legislation. These bills partially shield patients from insulin supplies/equipment at the pharmacy counter, but they encourage drug manufacturers to continue their bad pricing behavior.

Capping copays and prohibiting deductibles for this benefit shift these costs to the entire risk pool, raising costs for all consumers.

Though some consumers may be shielded from the immediate impact of high drug prices, copay caps will result in higher costs for other services and higher premiums for all consumers. It is important for policymakers to understand the larger market consequences before pursuing copay caps.

1. **Capped cost sharing for some services will have a "balloon squeeze" effect, causing copays for other services to rise.**

Actuarial value (AV) requirements for individual and small group markets require a set percentage of all enrollees' medical expenses to be covered by the health plan. Any time a copay is reduced for one service, it must be increased for another type of service to maintain the actuarial value for that plan. Thus, if an insurer covers more of the overall cost of prescription drugs, supplies, or equipment (by lowering consumers' cost share), they must cover less of the costs for other benefits included in the health plan to meet the AV. Simply put, enrollees will pay more for doctor visits and other benefits to offset H-7364's lower copay.

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[1] Gillett, Rachel and Shayanne Gal. *One chart reveals how the cost of insulin has skyrocketed in the US, even though nothing about it has changed*. Business Insider. September 18, 2019. Available at https://www.businessinsider.com/insulin-price-increased-last-decade-chart-2019-9.
[2] *Insulin: Examining the Factors Driving the Rising Cost of a Century Old Drug*. US Senate Finance Committee. Available at https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20(FINAL).pdf.

Bronze plans will have an especially difficult time complying with AV standards if copay caps are adopted:

- A Milliman analysis confirms that certain caps on bronze plans would cause them to fall out of compliance with AV rules and force the plans to be redesigned, which would entail significant increases in cost-sharing for other services, such as a 35% increase in specialty copayments, 40% increase in primary care co-pays, and/or 60% increase in generic drug copayments.[3]
- When adopting its standard benefit designs, Covered California determined that a prescription drug copay cap for bronze plans had to be $250 higher than the cap for other metal levels to meet AV requirements.[4]

2. **Copay caps shift costs from patients taking prescription drugs to the entire risk pool.**

Passing on some costs to the entire risk pool requires health insurance providers to increase premiums to compensate for higher costs. Eventually, all members bear these higher costs through higher premium rates. Studies have repeatedly found that copay caps raise the cost of insurance for all consumers:

- The Kentucky Department of Insurance found that copay caps would add approximately $10-13 million to private market insurance premiums annually. These price controls could cost each enrollee almost $50 a year in increased premiums.[5]
- In the state of Washington, an Oliver Wyman analysis found that a $250 copay cap per 30-day script would shift costs to health plans and consumers by $900 million over five years.[6]
- A Milliman analysis found that imposing copay caps would increase the cost of bronze coverage by nearly 5 percent[7] – a large amount for price-sensitive consumers in search of affordable coverage.

There are better solutions to address prescription drug affordability.

Placing arbitrary caps on consumer cost sharing is not the right way to achieve lower costs for consumers. Our members support market-based solutions that hold drug makers accountable for high list prices and put downward pressure on prescription drug prices through competition, consumer choice, and open and honest drug pricing.

- **Improving Drug Pricing Transparency:** Understanding drug prices is critical to affordable health care coverage. Rather than enacting copay caps, policymakers should instead focus on passing transparency laws that provide insight into manufacturers' pricing practices to better understand what causes high launch prices and increases on existing prescription drugs. Copay

[3] *Pharmacy Cost Sharing Limits for Individual Exchange Benefit Plans: Actuarial Considerations*. Milliman, Inc., NY, commissioned by The Leukemia & Lymphoma Society. March 5, 2015. Available at https://www.lls.org/sites/default/files/National/USA/Pdf/Milliman%20Report%20on%20Prescription%20Cost%20Sharing%20Limits%20for%20Exchange%20Plans.pdf.
[4] *Covered California Policy and Action Items*. May 21, 2015. Available at http://board.coveredca.com/meetings/2015/5-21/PPT%20-Covered%20California%20Policy%20and%20Action%20Items_May%2021,%202015.pdf
[5] *SB 31, Fiscal Impact Statement*. Kentucky Department of Insurance. 2015. Available at https://apps.legislature.ky.gov/record/15RS/sb31/HM.pdf.
[6] *Cost-sharing Caps Don't Solve the Problem of High Drug Prices*. PCMA. Available at https://www.pcmanet.org/wp-content/uploads/2017/04/CoPay-Cap_infographic_FINAL-1.pdf
[7] *Pharmacy Cost Sharing Limits for Individual Exchange Benefit Plans: Actuarial Considerations.* Milliman, Inc.

caps cannot be allowed to distract from addressing the root causes of increased costs for prescription drugs to consumers.

- **Partnerships:** By working together under innovative arrangements, pharmaceutical companies and health insurance providers can lower the costs of prescription drugs for consumers. In 2020, CMS launched a voluntary Medicare initiative, the "Part D Senior Savings Model" that encourages collaboration between pharmaceutical companies and health plans to lower costs for insulin and ensure those cost savings pass through to consumers. In this initiative, CMS recognized that lower prescription drug costs for seniors were possible if pharmaceutical companies reduced the cost of insulin by increasing their discounts. Health plans then use those savings to reduce the out-of-pocket costs for seniors at the point of sale. We think this approach represents a balanced solution that avoids the cost-shifting consequences of cap-the-copay legislation.
- **Value and Competition:** Nine states currently have CMS approval to enter into outcomes/value-based purchasing agreements for drugs purchased through the Medicaid program. In late December 2020, CMS issued a final rule that makes it easier for state Medicaid programs, commercial insurers, and pharmaceutical companies to enter into these types of agreements. We believe that increasing the number of value-based arrangements for states and commercial insurers will lead to lower costs and better outcomes.
- **Banning Pay for Delay:** The pharmaceutical market is notorious for patent abuses, which harm consumers by giving higher-priced brand name drugs longer periods of exclusivity. States should follow California's lead and pass legislation banning pay for delay agreements, where drug manufacturers pay or incentivize a competing company to keep cheaper generic drugs off the market.[8]

Health insurance providers are strongly committed to ensuring that patients have access to affordable prescription drugs. Although capping copayments for prescription drugs may bring temporary relief for some, they will lead to added costs for all patients in the form of higher premiums and higher copays, while allowing drug manufacturers to continue to raise prices year-over-year with no accountability. We encourage the legislature to adopt solutions for high priced drugs without the unintended consequences of copay caps.

For these reasons, AHIP opposes H-7364.

AHIP and its members appreciate the opportunity to provide these comments and look forward to continued discussions with you on this important issue.

Sincerely,

America's Health Insurance Plans

Terrance S Martiesian

By:____________________________
Terrance S. Martiesian

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[8] *California SB 814* (2019).