



RHEUM FOR ACTION

Fed Worker Health Plans Ban Maximizers and Copay Accumulators: Why Not for the Rest of the US?

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By [Madelaine \(Mattie\) A. Feldman, MD](#)

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The escalating costs of medications and the prevalence of medical bankruptcy in our country have drawn criticism from governments, regulators, and the media. Federal and state governments are exploring various strategies to mitigate this issue, including the Inflation Reduction Act (IRA) for drug price negotiations and the establishment of state [Pharmaceutical Drug Affordability Boards](#) (PDABs). However, it's uncertain whether these measures will effectively reduce patients' medication expenses, given the tendency of pharmacy benefit managers (PBMs) to favor more expensive drugs on their formularies and the implementation challenges faced by PDABs.

The question then arises: How can we promptly assist patients, especially those with multiple chronic conditions, in affording their healthcare? Many of these patients are enrolled in high-deductible plans and struggle to cover all their medical and pharmacy costs.

A significant obstacle to healthcare affordability emerged in 2018 with the introduction of Copay Accumulator Programs by PBMs. These programs prevent patients from applying manufacturer copay cards toward their deductible and maximum out-of-pocket (OOP) costs. The impact of these policies has been devastating, leading to decreased adherence to medications and delayed necessary medical procedures, such as colonoscopies. Copay accumulators do nothing to address the high cost of medical care. They merely shift the burden from insurance companies to patients.

There is a direct solution to help patients, particularly those burdened with high pharmacy bills, afford their medical care. It would be that all payments from patients, including manufacturer copay cards, count toward their deductible and maximum OOP costs. This should apply regardless of whether the insurance plan is fully funded or a self-insured employer plan. This would be an immediate step toward making healthcare more affordable for patients.

Copay Accumulator Programs

How did these detrimental policies, which have been proven to harm patients, originate? It's interesting that health insurance policies for federal employees [do not allow these programs](#) and yet the federal government has done little to protect its citizens from these egregious policies. More on that later.

In 2018, insurance companies and PBMs conceived an idea to introduce what they called copay accumulator adjustment programs. These programs would prevent the use of manufacturer copay cards from counting toward patient deductibles or OOP maximums. They justified this by arguing that manufacturer copay cards encouraged patients to opt for higher-priced brand drugs when lower-cost generics were available.

However, [data from IQVIA](#) contradicts this claim. An analysis of copay card usage from 2013 to 2017 revealed that a mere 0.4% of these cards were used for brand-name drugs that had already lost their exclusivity. This indicates that the vast majority of copay cards were not being used to purchase more expensive brand-name drugs when cheaper, generic alternatives were available.

Another argument put forth by one of the large PBMs was that patients with high deductibles don't have enough "skin in the game" due to their low premiums, and therefore don't deserve to have their deductible covered by a copay card. This raises the question, "Does a patient with hemophilia or systemic lupus who can't afford a low deductible plan not have 'skin in the game'? Is that a fair assessment?" It's disconcerting to see a multibillion-dollar company dictating who deserves to have their deductible covered. These policies clearly disproportionately harm patients with chronic illnesses, especially those with high deductibles. As a result, many organizations have labeled these policies as discriminatory.

Following the implementation of accumulator programs in 2018 and 2019, many patients were unaware that their copay cards weren't contributing toward their deductibles. They were taken aback when specialty pharmacies informed them of owing substantial amounts because of unmet deductibles. Consequently, patients discontinued their medications, leading to disease progression and increased costs. The only downside for health insurers and PBMs was the negative publicity associated with patients losing medication access.

Maximizer Programs

By the end of 2019, the three major PBMs had devised a strategy to keep patients on their medication throughout the year, without counting copay cards toward the deductible, and found a way to profit more from these cards, sometimes quadrupling their value. This was the birth of the maximizer programs.

Maximizers exploit a “loophole” in the Affordable Care Act (ACA). The ACA defines Essential Healthcare Benefits (EHB); anything not listed as an EHB is deemed “non-essential.” As a result, neither personal payments nor copay cards count toward deductibles or OOP maximums. Patients were informed that neither their own money nor manufacturer copay cards would count toward their deductible/OOP max.

One of my patients was warned that without enrolling in the maximizer program through SaveOnSP (owned by Express Scripts), she would bear the full cost of the drug, and nothing would count toward her OOP max. Frightened, she enrolled and surrendered her manufacturer copay card to SaveOnSP. Maximizers pocket the maximum value of the copay card, even if it exceeds the insurance plan’s yearly cost share by threefold or more. To do this legally, PBMs increase the patient’s original cost share amount during the plan year to match the value of the manufacturer copay card.

Combating These Programs

Nineteen states, the District of Columbia, and Puerto Rico have outlawed copay accumulators in health plans under state jurisdiction. I personally testified in Louisiana, leading to a ban in our state. CSRO’s award-winning [map tool](#) can show if your state has passed the ban on copay accumulator programs. However, many states have not passed bans on copay accumulators and self-insured employer groups, which fall under the Department of Labor and not state regulation, are still unaffected. There is also proposed federal legislation, the “[Help Ensure Lower Patient Copays Act](#),” that would prohibit the use of copay accumulators in exchange plans. Despite having bipartisan support, it is having a hard time getting across the finish line in Congress.

In 2020, the Department of Health and Human Services (HHS) issued a rule prohibiting accumulator programs in all plans if the product was a brand name without a generic alternative. Unfortunately, this rule was rescinded in 2021, allowing copay accumulators even if a lower-cost generic was available.

In a positive turn of events, the US District Court of the District of Columbia overturned the 2021 rule in late 2023, reinstating the 2020 ban on copay accumulators. However, HHS has yet to enforce this ban.

Double Standard

Why is it that our federal government refrains from enforcing bans on copay accumulators for the American public, yet the US Office of Personnel Management (OPM) in its [2024 health plan](#) for federal employees has explicitly stated that it “will decline any arrangements which may manipulate the prescription drug benefit design or incorporate any programs such as copay maximizers, copay optimizers, or other similar programs as these types of benefit designs are not in the best interest of enrollees or the Government.”

If such practices are deemed unsuitable for federal employees, why are they considered acceptable for the rest of the American population? This discrepancy raises important questions about healthcare equity.

In conclusion, the prevalence of medical bankruptcy in our country is a pressing issue that requires immediate attention. The introduction of copay accumulator programs and maximizers by PBMs has led to decreased adherence to needed medications, as well as delay in important medical procedures, exacerbating this situation. An across-the-board ban on these programs would offer immediate relief to many families that no longer can afford needed care.

It is clear that more needs to be done to ensure that all patients, regardless of their financial situation or the nature of their health insurance plan, can afford the healthcare they need. This includes ensuring that patients are not penalized for using manufacturer copay cards to help cover their costs. As we move forward, it is crucial that we continue to advocate for policies that prioritize the health and well-being of all patients.

Dr. Feldman is a rheumatologist in private practice with The Rheumatology Group in New Orleans. She is the CSRO's vice president of Advocacy and Government Affairs and its immediate past president, as well as past chair of the Alliance for Safe Biologic Medicines and a past member of the American College of Rheumatology insurance subcommittee. You can reach her at rhnews@mdedge.com.

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