CSRO
Coalition of State Rheumatology Organizations

555 E. Wells Street, Suite 1100
Milwaukee, WI 53202-3823
Phone: 414.918.9825
Email: info@csro.info
Website: www.csro.info

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House Subcommittee on Insurance
600 Dr. M.L.K. Jr Blvd
Nashville, TN 37243

Re: Support HB 870 – Ban Alternative Funding Programs and Maximizers

Chair Helton-Haynes and members of the House Subcommittee on Insurance:

The Coalition of State Rheumatology Organizations (CSRO) supports HB 870, which would ban the use of alternative funding programs and maximizer programs for prescription drugs. CSRO serves the practicing rheumatologist and is comprised of over 40 state rheumatology societies nationwide with a mission of advocating for excellence in the field of rheumatology and ensuring access to the highest quality of care for the management of rheumatologic and musculoskeletal disease.

Rheumatologic diseases, such as rheumatoid arthritis, psoriatic arthritis and lupus, are systemic and incurable, but innovations in medicine over the last several decades have enabled rheumatologists to better manage these conditions. With access to the right treatment early in the disease, patients can generally delay or even avoid damage to their bones and joints, as well as reduce reliance on pain medications and other ancillary services, thus improving their quality of life.

Alternative Funding Programs Harm Patients

This legislation would also prohibit the use of alternative funding programs (AFPs), which are run by third-party vendors and utilized by health plans for *specialty* medications. Specialty medications are commonly more expensive as they are used to treat rare, complex and/or chronic conditions, including many rheumatologic diseases. They are usually placed in the highest tier of the prescription drug formulary. These programs profit off patient assistance programs and non-profit foundation funding that are intended as a safety net for truly uninsured patients, simultaneously delaying patient access to essential prescription medications.

The AFP works with the health plan to carve out specialty drugs from the plan's coverage and claims that specialty medications are non-essential health benefits (EHBs). This can allow the patient to appear uninsured, making the patient eligible to obtain their medication through an alternative source, including non-profit foundations, manufacturer patient assistance programs or international importation. If the AFP is unable to secure the medication from an alternative source, the health plan can choose to cover the medication as a normal pharmacy benefit, making the entire process for naught. In other cases, the health plan may still choose not to cover the medication, and the insured patient is required to pay out-of-pocket for the full cost of the drug.

AFPs Delay Patient Access to Essential Medications
Patients are often compelled to sign up for an AFP or else they are forced to pay the full price of the drug out-of-pocket. Once the patient enrolls in the AFP, there is often a significant delay in obtaining the medication as the AFP works to secure their medication from an alternative source. At times that alternative source may be a pharmacy outside of the United States, which means the drug is not subject to the same integrity standards as U.S. medications. It is important to note that in 2023, the FDA stated that it would take action against any AFPs that "import or offer [to] import illegal products." [i]

Patients that suffer from complex chronic conditions, such as rheumatoid arthritis and other rheumatologic diseases, require continuity of care to successfully manage their condition. Any disease progression caused by a delay or complete loss of access to an appropriate treatment can be irreversible, life threatening, and cause the patient's original treatment to lose effectiveness. AFPs work to game the system at the expense of the patient's health and maintenance of their health condition.

AFPs Exacerbate Patient Out-of-Pocket Costs
CSRO is particularly concerned about how AFPs impact patients with rheumatic conditions, such as rheumatoid arthritis, lupus and psoriatic arthritis, as well as other inflammatory conditions, such as multiple sclerosis and inflammatory bowel disease. These patients often require complex, and thus more expensive, medications. Since the medication is classified as a non-EHB, any outside assistance secured by the AFP does not count towards the patient's cost sharing responsibility. This exacerbates patient out-of-pocket costs, as the assistance does not count towards the patient's cost sharing.

Maximizers Increase Patient Out-of-Pocket Costs
This legislation would also ban the use of copay maximizer programs, which were developed for the health plan and PBM to "maximize" and capture the full value amount of the manufacturer copay card. These programs have become all too common, with 47% of covered lives across the country enrolled in plans with a maximizer.[ii] Through these programs, patients essentially surrender their copay cards to the maximizer program. The health plan or PBM then adjusts the patient's cost sharing to equal the card value. At times, the PBM may collect beyond the patient's original cost sharing responsibility if they are able to drain the full value of the card from the manufacturer through these maximizer programs. These programs are harmful to patients because the amounts collected by the maximizer do not count toward the patient's deductible or maximum out-of-pocket limit. Thus, they require patients to pay out-of-pocket longer and can make it difficult for patients to afford their medications.

Both AFPs and copay maximizer programs are harmful to patients and drive patient out-of-pocket costs. As the legislature continues to consider opportunities to address the cost of medications for patients throughout Tennessee, we encourage you protect patients and support HB 870. We thank you for your consideration and are happy to further detail our comments to the Committee upon request.

Respectfully,

Aaron Broadwell

Aaron Broadwell, MD, FACR
President
Board of Directors

Feldman

Madelaine A. Feldman, MD, FACR
VP, Advocacy & Government Affairs
Board of Directors

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[i] U.S. Food & Drug Administration. Letter to the Aimed Alliance. April 2023.
[ii] Drug Channels. "Why Plan Sponsors and PBMs Are Still Falling Hard for Copay Maximizers." February 2025.