

# COPAY ASSISTANCE THREATENED IN 32 STATES

## Copay Assistance Diversion Programs Expanding in Marketplace Plans

### Copay Accumulators 101

Millions of Americans endure long and expensive medical journeys to get the medications that best treat their needs. Copay accumulator adjustment policies and copay maximizer programs are schemes from insurers and pharmacy benefit managers (PBMs) that prevent patient assistance funds from counting toward a patient's out-of-pocket maximums, or deductibles. These policies undermine patient access to life-saving prescription drugs, making it more difficult for people living with serious, complex, chronic illnesses to adhere to a treatment plan.

### Findings for 2023 Marketplace Plans Nationwide

Our review of health insurance plans offered to individuals and families through the ACA marketplaces for 2023 found that copay accumulator adjustment policies are widespread.

- Nationwide, almost **two-thirds** (64%) of all individual health plans available on the marketplace include CAAPs. But there is wide variation from state to state.
- In **18** states and **Washington DC**, zero plans include CAAPs, ensuring that enrollees' copay assistance is used for its intended purpose. These states scored a **Grade A** for 2023.
- In **16** states plus Puerto Rico, state law prohibits CAAPs in 2023 (AR, AZ, CT, DE, GA, IL, KY, LA, ME, NC, NY, OK, TN, VA, WA, WV).
- In **2** states and **DC**, all plans voluntarily opted not to include CAAPs (HI, NJ).
  - In **32** states, there is **at least one plan** with a copay accumulator adjustment policy.
    - In **2** states, **25%** of available plans have a copay accumulator policy (MA, MD). These states earned a **Grade B** for 2023.
    - In **6** states, **between 25% and 50%** of plans include a CAAP (CA, CO, MS, ND, RI, VT). These states earned a **Grade C** for 2023.
    - In **14** states, **50% to 75%** of available plans include a CAAP (AL, FL, KS, NE, NH, NM, NV, OH, OR, PA, SD, TX, UT, WI). These states earned a **Grade D** for 2023.
    - In **10** states, **75% to 100%** of plans include a copay accumulator adjustment policy: (AK, IA, ID, IN, MI, MN, MO, MT, SC, WY). These states earned a **Grade F** for 2023.

### Need for State & Federal Action

This issue can be addressed through federal rulemaking, congressional action, or state legislation:

- HHS can rule through the Notice of Benefit and Payment Parameters requiring insurers to count the value of copayments made by, or on behalf of, patients toward their deductible and annual out of pocket limit.
- Congress can pass legislation that updates the Affordable Care Act definition of cost-sharing to include third party payments.
- States can enact legislation like AR, AZ, CT, DE, GA, IL, KY, LA, ME, NC, NY, TN, VA, WA, WV, and Puerto Rico have done, that requires insurers to count third party payments, including copay assistance, toward patient cost-sharing limits.

The All Copays Count Coalition suggests the following state bill language to combat this problem: "When calculating an enrollee's overall contribution to any out-of-pocket maximum or any cost sharing requirement under a health plan, an insurer or pharmacy benefit manager shall include any amounts paid by the enrollee or paid on behalf of the enrollee by another person."



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