March 18, 2024

The Honorable Melissa Wicklund, Chair, Health and Human Services Committee
Minnesota Senate Health and Human Services Committee Members
Minnesota Senate
Room 1100 Minnesota Senate Building
St. Paul, MN 55155

RE: SF 4602 Debt collection, garnishment and consumer finance provisions modifications; debtor protections authorization; related statutory review requirement: Opposed

Dear Chair Wicklund and Members of the Senate Health and Human Services Committee:

Thank you for the opportunity to comment on SF 4602. I represent Prime Therapeutics (Prime), a pharmacy benefit manager (PBM) owned by nineteen not-for-profit Blue Cross and Blue Shield Insurers, subsidiaries, or affiliates of those Insurers, including Blue Cross & Blue Shield of Minnesota. Drug coupons are a marketing tool used by drug manufacturers to increase market share by steering patients from lower-cost options to the higher-priced drug. These drug coupons are considered unlawful inducements under the federal Anti-kickback Statute and banned in Medicare, Medicaid, and military and veterans' federal health plans. SF 4602 requires health plan companies to apply the manufacturer drug coupons to an enrollee's out-of-pocket maximum or cost sharing amount. For this reason, Prime **opposes** SF 4602.

Prime helps people get the medicine they need to feel better and live well by managing pharmacy benefits for health plans, employers, and government programs including Medicare and Medicaid. Our company manages pharmacy claims for more than thirty million people nationally and offers clinical services for people with complex medical conditions. Our business model relies on transparency and advocating for simpler, lowest-net-cost pricing for drugs.

Drug coupons raise drug costs for everyone while increasing profits for manufacturer.
Drug manufacturer coupons are a marketing strategy to steer insured patients to use a more expensive brand name drug instead of an equally effective, more affordable, generic, or brand alternative. Drug coupons usually are time-limited and aren't available for every drug on the market. So, patients with chronic conditions who use or switch to branded drugs will eventually be required to pay the full price for the drug once their coupon expires. As more patients use or switch to brand-name drugs when lower-cost alternatives are available, the overall cost of pharmacy benefits increases, resulting in higher premiums and cost sharing for everyone.

National Bureau of Economic Research Findings on the Profitability of Manufacturer Drug Coupons[1]

- For every $1 million in manufacturer cost-sharing coupons for brand drugs (that competed against a generic), manufacturers reaped more than $20 million in profits.
- The prices of drugs for which manufacturers offer coupons are going up 12-13% per year, as compared to 7-8% for non-couponed drugs.

[1] Leemore Dafny, Christopher Ody, and Matt Schmitt. When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization. The National Bureau of Economic Research. October 2016. https://www.nber.org/papers/w22745

- Coupons cause an average of 3.4 percentage point reduction in generic drug utilization (in preference of branded drug with coupon).
- Drugs without coupons experience real price growth of 7–8 percent per year, while drugs with coupons experience price growth of 12–13 percent per year.

Drug coupons undermine insurance design, diminishing competitive pressure to lower prices, and ultimately shifting higher costs back to payers.

Benefit design tools like formularies and drug tiers are designed to make sure patients receive the most appropriate medications at the lowest possible price. Benefit design tools accomplish this by reducing the utilization of unnecessary drugs, incentivizing members to use lower cost options such as generic drugs, and price negotiations with drug manufacturers in exchange for preferred placement on a formulary. These savings benefit members through lower cost-sharing amounts and lower premiums.

Drug coupons undermine the value of a tiered copay system for drugs by steering patients from lowest tiers of competitor lower-cost drugs to the higher, more expensive tiers.

Drug coupons are considered unlawful inducements under the federal Anti-kickback Statute.

In 2021, the Department of the Treasury, International Revenue Service (IRS), released a letter sharing the determination that High Deductible Health Plan (HDHP) co-pay and deductible amounts must be met by the member, third party-payments may not apply.[2]

> *Notice 2004-50, 2004-33 I.R.B. 196, Q&A-9, provides that an individual covered by an HDHP who also has a discount card for health care services or products, may still contribute to an HSA provided that the individual is required to pay the costs of the covered health care until the minimum annual deductible for the HDHP is satisfied. In other words, the minimum annual deductible may only be satisfied by actual medical expenses the covered individual incurred. For example, if a covered individual is prescribed a drug that costs $1,000, but a discount from the drug manufacturer reduces the cost to the individual to $600, the amount that may be credited towards satisfying the deductible is $600, not $1,000. This same principle also applies to a third-party payment, such as a rebate or coupon, that has the same effect as a discount.*

Furthermore, Coupons are banned in Medicare, Medicaid, and military and veterans' federal health plans, but are still allowed in the commercial market including the ACA exchange/Obamacare marketplace, with some exceptions. If Medicare's ban on coupons were not enforced, taxpayer costs would increase by $48 billion over a 10-year period.[3]

[2] Trujillo, D. (2021). IRS Information Letter https://www.irs.gov/pub/irs-wd/21-0014.pdf

[3] Visante. Drug Manufacturer Coupons Raise Costs in Medicare Part D, Hurting Vulnerable Beneficiaries. May 2020.

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Member cost sharing is not debt.
For the prescription drug benefit, member cost sharing is the amount that the member must contribute to the cost of their prescription drug. This amount is owed at the point of sale and not collected by the health plan or PBM. The cost sharing amount is not medical debt.

I welcome the opportunity to further discuss these concerns and work towards evidence-based solutions to help people get the medicine they need to feel better and live well. Thank you for your time and consideration.

Respectfully,

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