Insurance and Real Estate Committee
PUBLIC HEARING
Tuesday, March 15, 2022

Connecticut Association of Health Plans
Testimony in Support of

S.B. No. 357 AAC COPAY ACCUMULATOR PROGRAMS AND HIGH DEDUCTIBLE HEALTH PLANS.

The Connecticut Association of Health Plans urges the Committee's support for the "fix" contained in S.B. 357 AAC Accumulator Programs and High Deductible Health Plans.

Passage of S.B. 1003 in 2021 resulted in an unintended consequence that jeopardizes the tax-exempt status of Health Savings Accounts (HSAs) which accompany many High Deductible Health Plans (HDHPs).

HSAs, which are independent bank accounts, provide consumers a tax advantage to set aside the appropriate dollars needed to cover medical deductibles. By way of background, no tax is applied on initial HSA deposits, HSA account growth, or HSA withdrawals giving HSAs a triple tax advantage and thereby incentivizing consumers to save for such purposes.

Because the tax advantage status of HSAs is conferred upon consumers by the Internal Revenue Service (IRS), it is the IRS that is responsible for setting compliance standards. One such standard requires that deductibles be applied to all services not otherwise noted by the IRS guidelines like certain preventive care services. Because Public Act 21-14 (S.B. 1003) requires health carriers and pharmacy benefit managers to credit deductibles for payments made by outside third parties (i.e., coupons from pharmaceutical manufacturers), it runs afoul of the IRS standard and requires amendment. Unless the public act is further clarified, consumers could be ineligible to make HSA contributions and be subject to back taxes and penalties for contributions made on, and after, January 1, 2022.

The potential impact is well-recognized as evidenced by other sections of Connecticut statutes that include specific language stating the provisions of such sections shall apply only to the maximum extent provided by the federal law governing HSAs and similarly structured benefits. S.B. 357 simply extends that same provision to the copay accumulator law passed last session.

For further background on the issue, please note the attached guidance from the Illinois Department of Insurance issued in August of 2021 which reads:

The Department has received confirmation from both the U.S. Department of Treasury and the U.S. Center for Medicare and Medicaid Services that health plans that count the amount of any discount, voucher, coupon, or third-party payment toward an enrollee's deductible make an individual ineligible to contribute to a health savings account ("HSA") under 26 U.S.C. § 223. This restriction does not apply to payments for any services that the Treasury recognizes as preventive care, such as insulin, nor does it apply to any cost-sharing incurred after the deductible has been reached.

We respectfully urge passage of S.B. 357.

Thank you for your consideration.