

Insurance and Real Estate Committee JOINT FAVORABLE REPORT

Bill No.: SB-357

AN ACT CONCERNING COPAY ACCUMULATOR PROGRAMS AND HIGH

Title: DEDUCTIBLE HEALTH PLANS.

Vote Date: 3/22/2022

Vote Action: Joint Favorable

PH Date: 3/15/2022

File No.: 355

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SPONSORS OF BILL:

Insurance and Real Estate Committee

REASONS FOR BILL:

This bill fixes a technical issue between Public Act 21-14, and federal regulations concerning qualified high deductible plans and health savings account eligibility. Under federal law, counting the amount of financial assistance provided towards the minimum statutory deductible is technically considered disqualifying "first dollar coverage." Therefore, if a participant receives credit for the financial assistance before satisfying their annual deductible, the participant becomes ineligible to contribute to their HSA. This bill will address the issue by clarifying that cost-sharing requirements apply to high deductible health plans only to the maximum extent that is permitted by federal law.

RESPONSE FROM ADMINISTRATION/AGENCY:

Ted Doolittle, Healthcare Advocate, Office of the Healthcare Advocate while not persuaded that negative tax consequences would necessarily befall consumers who use a copay assistance program to meet their HDHP deductibles, supports the currently proposed language of SB 357, as it would strike the right balance between minimizing the theoretical negative tax consequences of Public Act 21-14, while also preserving both the benefits to consumers of copay assistance programs and HSA tax incentives - irrespective of further interpretations of, or changes to, the tax code.

Martin M. Looney, President Pro Tempore, Connecticut State Senate - **Supports** this bill as a technical adjustment to PA 21-14 which will ensure that members of high deductible health plans do not suffer adverse federal income tax consequences.

NATURE AND SOURCES OF SUPPORT:

Stephanie Amato, President, The Connecticut Benefit Brokers, A Chapter of NAHU notes the issue of a previous bill (Public Act 21-14, An Act Prohibiting Certain Health Carriers and Pharmacy Benefits Managers from Employing Copay Accumulator Program) conflicting with federal regulations concerning qualified high deductible plans and health savings account eligibility. This bill will address the issue by clarifying that cost-sharing requirements apply to high deductible health plans only to the maximum extent that is permitted by federal law. The Connecticut Benefit Brokers supports this fix.

Mahesh Bhaya, Connecticut ENT Society, Connecticut Society of Eye Physicians, Connecticut Urology Society and Connecticut Dermatology and Dermatologic Surgery Society - **Supports** this bill because it will place some reasonable limits for these High Deductible plans, which he says do not work for patients or physicians, especially in the area that he works in.

Wyatt Bosworth, Assistant Counsel, CBIA urges the committee to exempt HSA-compatible HDHPs from Public Act 21-14 to avoid the scenario of Connecticut receiving enforcement guidance, and all HSA-compatible HDHPs in the state not being permitted to advertise as a qualified HDHP and employees enrolled in those plans losing access to contributing and spending HSA funds on qualified medical expenses.

Connecticut State Medical Society understands the importance of ensuring that state laws do not run afoul and are compatible with federal laws but asks this Committee to ensure that the protections afforded by the original Senate Bill 1003 remain in place and that this legislation is not used as a jumping off point to reopen debate on copay accumulator programs.

Connecticut Association of Health Plans - **Supports** this bill for the “fix” contained in S.B. 357. 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). 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. Other sections of Connecticut statutes 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.

Susan G. Komen, American Cancer Society Cancer Action Network, Arthritis Foundation, Immune Deficiency Foundation, Hemophilia Federation of America, Lupus and Allied Diseases Association, National Multiple Sclerosis Society, National Psoriasis Foundation, National Eczema Association, Mental Health Connecticut, New England Bleeding Disorders Advocacy Coalition, New England Hemophilia Association, Patients Rising Now have concerns regarding Senate Bill 357. Although they understand the intention and need for this type of legislation relating to patients impacted by SB 1003 who have HSA-HDHP, they ask for the committee to instead move forward with another version of language that can be found in their full testimony. Their suggested language has not only been universally accepted by the patient community but also has been accepted by the National Council of

Insurance Legislators (NCOIL). Accordingly, other states, such as Virginia, Oklahoma, and Illinois have been working this year to adopt that same language.

Sam Hallemeier, State Affairs Director, PCMA has concerns which would require health insurers to count all payments made by patients (directly or on their behalf) toward an insured's or enrollee's cost-sharing liability for a covered benefit. PCMA does not oppose true means-tested patient assistance programs that help individuals afford their prescription drugs. There is an important difference between means-tested patient assistance programs and copay coupons, which are targeted to individuals with health insurance.

Laura Hoch, Senior Manager of Advocacy, National Multiple Sclerosis Society understands the intent behind SB 357 and the need for a legislative update in light of issues raised for those on a high deductible health plan (HDHP) with a health savings account (HSA), but suggests alternative language that would better fix the issue while still guaranteeing protections for all of those eligible, which can be found in the full testimony. The language has been reviewed and approved by many patient advocacy groups across the country as well as NCOIL. This same language is currently moving through legislative bodies in several other states including Virginia, Illinois, and Oklahoma, who have all enacted copay accumulator laws over the last several years similar to the one adopted last year in Connecticut.

Carl Moeller, Connecticut ENT Society, Connecticut Society of Eye Physicians, Connecticut Urology Society and Connecticut Dermatology and Dermatologic Surgery Society asks that you **support** this bill, which will place some reasonable limits for these High Deductible plans. Many plans value cost containment over quality of care and access. Please do consider who is benefitting from these plans – patients, insurance company CEO's, or their shareholders? The providers of medical care for these patients receive no benefit from the rules and stipulations which actually degrade the patient-physician relationship.

Roy Ramthun, President, HSA Consulting Services **supports** the passage of Senate Bill 357 because it would prevent Connecticut residents that own and contribute to Health Savings Accounts from needing to re-file their income tax returns, because of the unintended consequences from a law passed by Connecticut last year, Senate Bill 1003 which became Public Act 21-14. Since this law has already gone into effect, Health Savings Account owners in this state are at risk unless the law is amended retroactively to the beginning of this year. It is also important that the law be amended as soon as possible so that account owners, employers, and financial institutions have the certainty they need to manage their Health Savings Accounts during the balance of 2022.

Steven Schultz, State Legislative Affairs Director, Arthritis Foundation has concerns regarding Senate Bill 357. Although they understand the intention and need for this type of legislation relating to patients impacted by SB 1003 who have HSA-HDHP, they ask for the committee to instead move forward with another version of language that can be found in their full testimony. Their suggested language has not only been universally accepted by the patient community but also has been accepted by the National Council of Insurance Legislators (NCOIL). Accordingly, other states, such as Virginia, Oklahoma, and Illinois have been working this year to adopt that same language.

Scott Walter, Connecticut ENT Society, Connecticut Society of Eye Physicians, Connecticut Urology Society and Connecticut Dermatology and Dermatologic Surgery Society - Supports this bill because it will place limits for these High Deductible plans. Many plans value cost containment over quality of care and access. Please do consider who is benefitting from these plans – patients, insurance company CEO's, or their shareholders? The providers of medical care for these patients receive no benefit from the rules and stipulations which actually degrade the patient-physician relationship.

NATURE AND SOURCES OF OPPOSITION:

David Godbout **opposes** the bill.

Reported by: Daniil Toropov

Date: 3/29/2022