



# Protect Patient $R_x$ Copay Assistance

*On March 30, 2022, the Ohio House unanimously passed HB 135, language supported by over 60 prominent patient advocacy and health care provider organizations. The legislation addresses discriminatory activities of PBMs and health plans that increase out-of-pocket costs of prescription drugs. Every member of the current House who was a House member last session VOTED FOR THIS LANGUAGE. The language that passed the House is now H.B. 177 and reflects what was negotiated last session between the bill sponsors and House Majority Floor Leader Bill Seitz.*

## H.B. 177

- Does not impact the use of generic medications by PBMs or health plans and will NOT raise premiums for business owners or purchasers of health care for their employees. **19 states and Puerto Rico have already passed patient protection laws such as this budget language to address unfair copayment assistance practices by PBMs and health plans.**
  - Defines changes requested by the Ohio Department of Insurance as well as clarifies that the use of a health savings account (HSA) by a consumer will not be in violation of any directive by the Internal Revenue Service. This clarification language is supported by both the Ohio Bankers League and the Ohio Credit Union League.
- 
- **Copay accumulator bans do not increase health insurance premiums.** PBMs and health insurers say manufacturer patient assistance programs (PAPs) and accumulator bans only “raise costs” and that patients need to have more “skin in the game.” PBMs already accept financial assistance directly from manufacturers in the form of rebates. Patients already face rapidly rising out-of-pocket costs including deductibles, copayments, coinsurance, tiered formularies, specialty pharmacies and other charges.
  - Studies continue to show that state laws banning accumulator and maximizer clauses in health insurance policies **have not increased** the cost of health insurance. In nineteen states, to date, these laws protect patient assistance programs (PAPs) by requiring that the financial assistance given to patients count toward their co-pays, deductibles, and out-of-pocket (OOP) maximums.
  - Ironically, PBMs and health insurers **themselves** manipulate the very same manufacturer assistance programs as part of employers’ drug coverage programs to “reduce costs” and offer “zero out-of-pocket” coverage.

## Background

When it comes to medication coverage, health plans continue to shift the cost burden to patients through:

- High deductible or co-insurance;
- Multi-tiered formularies with specialty drugs in the highest cost-sharing category.

Many drug manufacturers, as well as health foundations and charities help patients with assistance programs that cover additional costs patients are required to pay. These programs are critical for patients with chronic, complex conditions.

Co-pay or third-party assistance programs can include cash funding, as well as co-pay cards that patients use to cover out-of-pocket costs.

### What H.B. 177 DOES NOT DO

While this bill assists patients in meeting their ever-rising out-of-pocket expenses, it is also crucial to identify what this important amendment DOES NOT do:

- DOES NOT Prohibit the use of generic medications by the health plans or PBM;
- **DOES NOT Raise Health Care Premiums for Employers;**
- DOES NOT Require any health plan or PBM to cover a specific drug if third-party assistance is utilized by the patient;
- DOES NOT Interfere with a health plan from managing its drug coverage as it does under current law (this language only requires that the value of third-party assistance from other sources be applied to reducing those out-of-pocket expenses).

### Please support this legislation that helps patients

Ohioans need health insurers to count ALL payments and not discriminate against those patients living with a chronic condition or battling a life-threatening illness. When patients share of prescription costs becomes too high, many may skip doses or stop taking medication entirely, leading to higher medical costs down the road, in terms of hospitalizations, ER visits, and long-term health issues.

**The following organizations support efforts to stop discriminatory policies:**

|  |  |
|--|--|
| AiArthritis                                      | Lupus and Allied Diseases Association, Inc.                                  |
| American Association of Clinical Urologists      | Mental Health & Addiction Advocacy Coalition                                 |
| AIMED Alliance                                   | Mental Health America of Ohio  |
| ALS Association                                  | MET Crusaders  |
| ALS United Central & Southern Ohio               | Movement Disorders Policy Coalition  |
| Allergy & Asthma Network                         | National Alliance on Mental Illness – Ohio                                   |
| Alliance for Patient Access                      | National Bleeding Disorders Foundation                                       |
| American Autoimmune Related Diseases Association | National Eczema Association  |
| American Cancer Society Cancer Action Network    | National Infusion Center Association   |
| American College of Rheumatology                 | National Organization for Rare Disorders                                     |
| American Diabetes Association                    | National Organization of Rheumatology Managers                               |
| Arthritis Foundation                             | National Psoriasis Foundation  |
| American Heart Association                       | Northern Ohio Hemophilia Foundation  |
| American Kidney Fund                             | Ohio Academy of Family Physicians  |
| American Liver Foundation                        | Ohio Academy of Nutrition and Dietetics                                      |
| American Society of Clinical Oncologists         | Ohio Association of Rheumatology   |
| American Urological Association                  | Ohio Chapter, American Academy of Pediatrics                                 |
| Association for Clinical Oncology                | Ohio Chapter of the American College of Cardiology                           |
| Association of Women in Rheumatology             | Ohio Chapter of the National Association of Pediatric<br>Nurse Practitioners |
| BioOhio  | Ohio Dermatological Association  |
| Biomarker Collaborative                          | Ohio Foot and Ankle Medical Association                                      |
| BDRSA Foundation                                 | Ohio Gastroenterology Society  |
| Cancer Support Community Central Ohio            | Ohio Hematology Oncology Society   |
| Chronic Care Policy Alliance                     | Ohio Osteopathic Association   |
| Chronic Disease Coalition                        | Ohio Pharmacists Association   |
| Coalition of State Rheumatology Organizations    | Ohio Psychiatric Physicians Association                                      |
| Community Oncology Alliance                      | Ohio Psychological Association   |
| Crohns & Colitis Foundation                      | Ohio Sickle Cell and Health Association                                      |
| Crohn's Colitis Foundation – Central Ohio        | Ohio State Grange  |
| Down Syndrome Association of Central Ohio        | Ohio State Medical Association   |
| Epilepsy Foundation                              | PD-L1 Amplifieds   |
| Equitas Health                                   | Pharmacists United in Truth & Transparency                                   |
| Exon 20 Group                                    | Pompe Alliance   |
| Gaucher Community Alliance                       | Rare Access Action Project   |
| Global Healthy Living Foundation                 | Spondylitis Association of America   |
| Hemophilia Federation of America                 | The AIDS Institute   |
| HIV+HEP Policy Institute                         | The Academy of Medicine of Cleveland and Northern Ohio                       |
| ICAN, International Cancer Advocacy Network      | US Hereditary Angioedema Association   |
| Immune Deficiency Foundation                     |  |
| Infusion Access Foundation                       |  |

- **Global Healthy Living Foundation Press Release:**

States With Laws Protecting Patient Assistance Programs Have Not Seen Health Insurance Premium Hikes;  
<https://ghlf.org/copay-assistance-protection/>

- **The AIDS Institute:**

Comparison of Marketplace Average Benchmark Premiums Between States With and Without Copay;  
<https://aidsinstitute.net/documents/Copay-Assistance-Does-Not-Increase-Premiums-Final.pdf>