

April 5, 2022

Senator Matthew Lesser, Chair  
Representative Kerry Wood, Chair  
Insurance and Real Estate Committee  
Legislative Office Building, Room 2800  
Hartford, CT 06106

RE: Senate Bill 357 An Act Concerning Copay Accumulator Programs and High Deductible Health Plans. -Amendment request

Dear Chairman Lesser and Chairwoman Wood,

On behalf of those living in Connecticut with a chronic condition, we, the undersigned, would like to thank you for your work in support of Senate Bill 1003 in 2021. That bill, now law, ensures that when calculating a patient's overall contribution to any out-of-pocket maximum or any cost-sharing requirement, a health plan must include any amounts paid by the patient or paid on behalf of the patient by another person.

Today, we write with concerns regarding Senate Bill 357 which was referred out of the Insurance and Real Estate Committee on March 22<sup>nd</sup>. While we fully understand the intention and need for this type of legislation relating to patients impacted by SB 1003 who have HSA-HDHP, we would respectfully ask for the Senate to amend the bill when you consider it on the floor of the Senate with the following language to resolve this issue:

*If under federal law, application of subsection (A) would result in Health Savings Account ineligibility under section 223 of the federal Internal Revenue Code, this requirement shall apply only, for Health Savings Account-qualified High Deductible Health Plans with respect to the deductible of such a plan after the enrollee has satisfied the minimum deductible under section 223, except for with respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal Internal Revenue Code, in which case the requirements of subsection (A) shall apply regardless of whether the minimum deductible under section 223 has been satisfied.*

While we appreciate the effort to draft SB 357 in a way that has the narrowest effect on the scope of the AAP ban, we are concerned that this language doesn't accomplish that goal. The concern turns on the fact that the issue is not a conflict with federal law, but rather the position that the Internal Revenue Service (IRS) has taken that counting cost sharing assistance under certain circumstances makes an enrollee in a HDHP ineligible to contribute to an HSA. There is concern that the language in (2) especially could be used to apply the ban more broadly than necessary. As written currently it could be interpreted to completely exempt HSA-eligible high-

deductible health plans from the scope of the AAP ban. This is **not** what the IRS has said is necessary.

The language above more clearly articulates two important nuances to maintaining HSA-eligibility – the focus is really the minimum required deductible, not the plan deductible, and medicines considered preventive care should be explicitly protected.

This language has been universally accepted by the patient community. Accordingly, other states, such as Virginia (SB 433/HB 1081), Oklahoma (HB 4279), and Illinois (HB 4433), that have enacted accumulator bans over the last several years have been working this year to adopt that same language. States that have introduced legislation to ensure that all copays count for the first time this year have added in the above language to their bills.

For these reasons, we hope that the members of the Senate will work with the patient community to amend the bill which would align the bill with the national landscape. We are happy to meet with you to further discuss the differences between the language as written and our proposed amendment.

Thank you for your consideration of our comments and concerns.

American Cancer Society Cancer Action Network, Inc.  
American College of Rheumatology  
ALS Association Connecticut Chapter  
Arthritis Foundation  
Association for Clinical Oncology  
Bone & Joint Rheumatology Hartford Healthcare  
Coalition of State Rheumatology Organizations  
Connecticut Pharmacists Association  
Connecticut Oncology Association  
Epilepsy Foundation of Connecticut  
Hemophilia Federation of America  
Immune Deficiency Foundation  
Infusion Access Foundation (IAF)  
Lupus and Allied Diseases Association, Inc.  
National Organization of Rheumatology Management  
National Psoriasis Foundation  
National Eczema Association  
Mental Health Connecticut, Inc.  
National Hemophilia Foundation  
National Infusion Center Association (NICA)  
New England Bleeding Disorders Advocacy Coalition  
New England Hemophilia Association  
Patients Rising Now  
Rheumatology Associates PC  
Rheumatology Specialists of Connecticut  
Susan G. Komen®  
U.S. Pain Foundation

CC: Senator Martin Looney, Senate President  
Representative Michelle Cook, Deputy Speaker  
Ted Doolittle, Office of the Healthcare Advocate