AHIP
Guiding Greater Health

601 Pennsylvania Avenue, NW
South Building, Suite 500
Washington, D.C. 20004

T 202.778.3200
F 202.331.7487
ahip.org

April 21, 2022

Representative Liz Snyder, Co-Chair
House Health & Social Services Committee
Alaska State Capitol
120 4th Street 120 4th Street
Juneau, Alaska 99801

Representative Tiffany Zulkosky, Co-Chair
House Health & Social Services Committee
Alaska State Capitol
120 4th Street
Juneau, Alaska 99801

Re: HB 382, Insulin Coverage

Dear Co-Chair Snyder and Co-Chair Zulkosky,

I am writing on behalf of AHIP concerning our opposition to HB 382. AHIP is opposed to HB 382 because it would increase health care costs for Alaskans while allowing drug manufacturers to continue to raise prices year-over-year with no accountability.

For many patients, including patients with diabetes, the rising price of prescription drugs, has created an affordability crisis that threatens their health and well-being. Out-of-control prices for prescription drugs are a direct consequence of drug makers taking advantage of a broken market for their own financial gain at the expense of patients. The lack of competition, transparency, and accountability in the prescription drug market has created extended, price-dictated monopolies with economic power that exists nowhere else in the U.S. economy. The result is that everyone pays more – from patients, businesses, taxpayers, to hospitals, doctors, and pharmacists.

While capping the cost-sharing (copays, coinsurance, deductibles, referred to as "copay caps") for insulin products seems like a consumer-friendly approach to hold costs down for patients with diabetes, copay cap policies can have dangerous consequences that drug makers fail to disclose with policymakers. AHIP is strongly opposed to copay caps for the following reasons:

- This approach does not address the underlying price of prescription drugs. In fact, this approach will likely allow the underlying prices to increase with even less transparency.
- Copay caps allow drug makers to skirt accountability, oversight, and transparency in pricing.
- Capping copays raises costs for all consumers.
- There are better public policy solutions to address prescription drug affordability.

HB 382 does nothing to address the underlying price of insulin.

Since 2006, while the number and supply of insulin products has grown, the list price of insulin products has increased exponentially. Between 2002 and 2013, the list price of insulin nearly tripled with regular price increases each year from the three main companies that manufacture insulin and the annual costs per patient for insulin nearly doubled from 2012 to 2016.[1] Notably, these increases are not attributed to any advances in the drug itself. Insulin has been an effective and available therapy for individuals with diabetes for almost a century.

Capping the cost of insulin allows drug manufacturers to hide the real prices of their drugs from consumers while raising costs for everyone. A recent multi-year bipartisan investigation by the U.S. Senate Finance Committee on rising insulin costs found that skyrocketing prices are due to a lack of transparency and misaligned incentives among insulin manufacturers where these three drug companies were raising and keeping insulin prices high through "shadow pricing".[2]

> *"The investigation found that insulin manufacturers aggressively raised the list price of their insulin products absent significant advances in the efficacy of the drugs. In particular, the investigation found that Novo Nordisk and Sanofi not only closely monitored the others' price increases, but they also actually increased prices in lockstep – sometimes within hours or days of each other—a practice known as "shadow pricing." These efforts kept a high price floor for their products, and left consumers paying more for insulin at the pharmacy counter."*[3]

The U.S. House of Representatives Committee on Oversight and Reform also found that insulin manufacturers have manipulated the market to keep prices high and competition low.

> *The three insulin companies have engaged in strategies to maintain monopoly pricing and defend against competition from biosimilars. These strategies include manipulating the patent system and the marketing exclusivities granted by the Food and Drug Administration (FDA), pursuing tactics to switch patients to new formulations of their products before losing exclusivity, and engaging in shadow pricing (confirming U.S Senate Finance Committee findings detailed above) which keeps prices high.*[4]

Copay caps allow drug makers to avoid accountability, oversight, and transparency of drug prices.

When copay caps are in place, pharmaceutical manufacturers are provided a blank check to charge whatever they want because consumers do not see the increases reflected in their cost share. If a pharmaceutical company increases the cost of a prescription drug, health insurance providers are limited in how they can address these increases while also adhering to state and federal laws and regulations.

[1] https://insurance.illinois.gov/Reports/Docs/Insulin-Pricing-Report-November-2020.pdf
[2] https://www.finance.senate.gov/chairmans-news/grassley-wyden-release-insulin-investigation-uncovering-business-practices-between-drug-companies-and-pbms-that-keep-prices-high
[3] Ibid.
[4] https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DRUG%20PRICING%20REPORT%20WITH%20APPENDIX%20v3.pdf

Health insurance providers must adhere to several federal and state laws to ensure consumers have access to affordable, quality health care coverage. Health insurance regulations act as both front end protections (rate review) and back-end protections (medical loss ratio requirements). Increases in health insurance costs must be justified to regulators and consumers must be compensated if premium rates were set too high.

Drug manufacturers are not accountable to regulators in this way and, as a result, regularly increase their list prices without providing any explanation to consumers. Without any sort of public pressure or accountability at the pharmacy counter, drug makers will be allowed – and even encouraged – to increase their already high prices. Copay caps hide the true price of prescription drugs and instead spread the cost to other services and consumers.

Capping copays will raise costs for Alaskans.

Though some consumers may be shielded from the immediate impact of high drug prices, copay caps will result in higher costs for other services and higher premiums for Alaskans.

- **Capped cost sharing for some services will have a "balloon squeeze" effect, causing copays for other services to rise.** Federal law dictates the actuarial value (AV) requirements for the individual and small group markets. Under federal law, a set percentage of medical expenses must be covered by the enrollee. Any time a copay is reduced for one service, it must be increased for another type of service to maintain the AV for that plan. Thus, if an insurer covers more of the overall cost of prescription drugs (by lowering the consumers' cost share), the plan must cover less of the costs for other benefits included in the health plan in order to comply with the AV requirements. Simply put, enrollees will pay more for doctor visits and other benefits to offset lower prescription drug copays.
- **Copay caps shift costs from patients taking prescription drugs to the entire risk pool.** Passing on some costs to the entire risk pool requires health insurance providers to increase premiums to compensate for higher costs. Eventually, all members bear these higher costs through higher premium rates. Studies have repeatedly found that copay caps raise the cost of insurance for all consumers:
    - The Kentucky Department of Insurance found that copay caps would add approximately $10-13 million to private market insurance premiums annually. These price controls could cost each enrollee almost $50 a year in increased premiums.[5]

[5] *SB 31, Fiscal Impact Statement*. Kentucky Department of Insurance. 2015. Available at https://apps.legislature.ky.gov/record/15RS/sb31/HM.pdf.

- In the state of Washington, an Oliver Wyman analysis found that a $250 copay cap per 30-day script would shift costs to health plans and consumers by $900 million over five years.[6]
- A Milliman analysis found that imposing copay caps would increase the cost of bronze coverage by nearly 5 percent[7] – a large amount for price-sensitive consumers in search of affordable coverage.

Last month, the U.S. House of Representatives passed a bill to cap consumers' monthly cost-sharing for insulin products without any measures to hold drug companies accountable for their price setting schemes. According to estimates from the Congressional Budget Office, this bill would increase government spending by $6.6 billion over 10 years and decrease government revenues by $4.8 billion over ten years.[8]

There are better solutions to address prescription drug affordability.

Placing arbitrary caps on consumer cost sharing is not the right way to achieve lower drug prices. AHIP members support market-based solutions that hold drug makers accountable for high list prices and put downward pressure on prescription drug prices through competition, consumer choice, and open and honest drug pricing.

- **Improving Drug Pricing Transparency:** Understanding drug prices is critical to affordable health care coverage. Rather than enacting copay caps which allow drug manufacturers to hide their price, policymakers should instead focus on passing transparency laws that provide insight into manufacturers' pricing practices to better understand what causes high launch prices and increases on existing prescription drugs. Copay caps cannot be allowed to distract from addressing the root causes of increased costs for prescription drugs to consumers.
- **Partnerships:** By working together under innovative arrangements, pharmaceutical companies and health insurance providers can lower the costs of prescription drugs for consumers. In 2020, the Centers for Medicare and Medicaid Services (CMS) launched a voluntary Medicare initiative, the "Part D Senior Savings Model" that encourages collaboration between pharmaceutical companies and health plans to lower costs for insulin and ensure those cost savings pass through to consumers. In this initiative, CMS recognized that lower prescription drug costs for seniors were possible if pharmaceutical companies reduced the cost of insulin by increasing their discounts. Health plans then use those savings to reduce the out-of-pocket costs for seniors at the point of sale. This balanced solution avoids the cost-shifting consequences of cap-the-copay legislation.

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[6] *Cost-sharing Caps Don't Solve the Problem of High Drug Prices*. PCMA. Available at https://www.pcmanet.org/wp-content/uploads/2017/04/CoPay-Cap_infographic_FINAL-1.pdf
[7] *Pharmacy Cost Sharing Limits for Individual Exchange Benefit Plans: Actuarial Considerations.* Milliman, Inc.
[8] https://www.cbo.gov/system/files/2022-03/hr6833.pdf

- **Value and Competition:** Nine states currently have CMS approval to enter into outcomes/value-based purchasing agreements for drugs purchased through the Medicaid program. In late December 2020, CMS issued a final rule that makes it easier for state Medicaid programs, commercial insurers, and pharmaceutical companies to enter into these types of agreements. AHIP believes that increasing the number of value-based arrangements for states and commercial insurers will lead to lower costs and better outcomes.
- **Banning Pay for Delay:** The pharmaceutical market is notorious for patent abuses, which harm consumers by giving higher-priced brand name drugs longer periods of exclusivity. As the U.S. House of Representatives Committee on Oversight and Reform's report showed, this is particularly true in the insulin market. States should follow California's lead and pass legislation banning pay for delay agreements, where drug manufacturers pay or incentivize a competing company to keep cheaper generic drugs off the market.[9] State policymakers can also support efforts at the national level to prohibit these types of abuse practices.

Health insurance providers are strongly committed to ensuring that patients have access to affordable prescription drugs, including insulin. Although capping copayments for prescription drugs may appear to bring temporary relief for some, they will lead to added costs for all patients in the form of higher premiums and higher copays for other health care services, while allowing drug manufacturers to continue to raise prices year-over-year with no accountability. We do not believe HB 382 is the correct solution for Alaskans and respectfully oppose this legislation.

We appreciate the opportunity to share our concerns and your consideration of our comments. Please do not hesitate to contact me at ktebbutt@ahip.org should you have any questions.

Sincerely,

Karlee Tebbutt
Regional Director, State Affairs
AHIP – Guiding Great Health

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health.

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9 *California SB 814* (2019).