



March 19, 2025

Via Electronic Correspondence

Delegate Evan Worrell
Chair
House Committee on Health and Human Resources
1900 Kanawha Blvd. E.
Charleston, WV 25305

RE: HB 2831, A Bill to Establish the West Virginia Prescription Drug Affordability Board

Dear Chair Worrell:

Aimed Alliance is a not-for-profit health policy organization that seeks to protect and enhance the rights of healthcare consumers and providers. We are writing to provide comment on House Bill 2831, which proposes the establishment of the West Virginia Prescription Drug Affordability Board.

Aimed Alliance urges Delegates on the Committee to carefully consider the potential consequences of this legislation and consider alternative legislative approaches that directly lower prescription drug costs for consumers. **Specifically, we urge the Committee to pursue alternatives, such as PBM reform, which can have a direct impact on consumer affordability.**

I. UPLs are Experimental and Lack Guaranteed Consumer Savings

HB 2831 seeks to address rising prescription drug costs by creating the West Virginia Prescription Drug Affordability Board (PDAB), which would have the authority to set upper payment limits (UPLs) for certain medications. However, UPLs cap the amount that *payors* reimburse pharmacy benefit managers (PBM) for a prescription drugs. As such, without clear provisions ensuring that cost savings are passed down, there is no guarantee that consumers will see reduced out-of-pocket costs at the pharmacy counter.

In addition, research has revealed that UPLs may increase patient access and affordability challenges. For example, a recent study published by *Avalere* found that health plan representatives anticipate greater implementation of utilization management tactics, such as step therapy and prior authorization, in response to UPLs being set on certain prescription drugs.¹ Plan representatives also anticipate adjustments to formularies, such as reassigning selected drugs and therapeutic alternatives to different tiers.² These changes have the potential to increase costs and hinder patients' access to essential medications, underscoring the need to use caution and explore alternative approaches to enhance prescription drug affordability.

¹ Kate Sikora, et al., *Research Explores Health Plan Perceptions of PDABs and UPLs*, AVALERE (April 2, 2024), <https://avalere.com/insights/research-explores-health-plan-perceptions-of-pdabs-and-upls>.

² *Id.*



The first PDAB was established in 2019, however, no state PDAB has successfully completed the drug selection and UPL setting process. As a result, these boards remain experimental initiatives with significant upfront costs and no guarantee that any potential savings will lower costs for healthcare consumers. Given the uncertainty regarding whether these boards will lower costs for consumers, Aired Alliance urges the Committee to consider alternative legislation that can directly impact consumers' out-of-pocket expenses, such as PBM reform.

A. PBM Reform

PBMs are middlemen who negotiate with pharmaceutical manufacturers to determine which medicines will be included in health plan formularies and how much plans will pay the manufacturers for those medicines. PBMs also play a large role in determining consumers' cost-sharing requirements for medications.³ These practices are often opaque and lack transparency, which results in payors negotiating payments without a full understanding of the actual cost of the medications. Consequently, regulating and requiring increased transparency of PBM activities can help address key factors that impact consumer costs within health insurance.

Several states, including West Virginia, have recognized the need to regulate PBMs and ensure greater transparency in their practices. Aired Alliance urges the Committee to build upon these efforts by passing legislation that imposes a fiduciary duty on PBMs to act in the best interests of insurers and the consumers they serve. Enhancing consumer protections will foster a more transparent and equitable healthcare system that ensures that cost savings benefit consumers.

II. The Board Must Prioritize Patient Access and Affordability

If the Committee elects to move forward with HB 2831, Aired Alliance urges the Committee to ensure that the Board is required to prioritize patient input by including a consumer or patient representative on the Board, mandating ongoing consumer engagement, and requiring that UPL-derived savings be passed on to patients.

A. Prioritize Patients' Perspectives and Lived Experiences

Research consistently highlights the benefits of actively involving patients in healthcare decisions. For example, studies have found that patient inclusion has created positive effects on improving health outcomes, enhancing satisfaction with the care experience, and lowering health care costs.⁴ As such, including patients in health policy decisions can also improve the quality of healthcare delivery and improve accessibility.⁵

³ The House Committee on Oversight and Reform, *A View from Congress: Role of Pharmacy Benefit Managers in Pharmaceutical Markets* (Dec. 10, 2021), <https://oversight.house.gov/wp-content/uploads/2021/12/PBM-Report-12102021.pdf>.

⁴ Lisa Baumann, et al., *Public and patient involvement in health policy decision-making on the health system level – A scoping review*, 126 HEALTH POL. 1023-38 (Oct. 2022), <https://www.sciencedirect.com/science/article/pii/S0168851022001919>.

⁵ *Id.*



Moreover, given that patients are the intended beneficiaries of these medications, their perspectives are essential for accurately assessing the value and benefit of these medications. Involving patients in the decision-making process can also provide insights into disease management, access challenges, treatment preferences, and other pertinent considerations associated with various medications.⁶ These firsthand experiences can help ensure that healthcare policies address the needs of those they aim to serve.⁷ It also enables the Board to access a wealth of firsthand knowledge that is essential for making well-informed and patient-centered decisions about prescription drug affordability and value.⁸

To ensure the patient, caregiver, and provider perspectives are appropriately valued and considered, Aired Alliance urges the Committee to ensure that the proposed legislation mandates that the Board include a patient representative. Providing permanent and formal positions for this perspective will ensure that the development of surveys, questions, and processes are consumer-friendly and inclusive.⁹

Recently, the federal government has recognized the value of ensuring a permanent position for the patient perspective by requiring all Pharmacy & Therapeutics (P&T) Committees to include *at least* one patient representative as a member of the Committee. In making this decision, the government recognized that consumer representatives can provide “insights into real consumer experiences unknown to P&T committees.”¹⁰ Thus, a similar permanent position could be equally as valuable and beneficial for the Board.

B. Mandate a Continuous Consumer Engagement and Oversight Process

The obligation to engage the patient, provider and caregiver community should not be satisfied simply by creating a Board member position for a patient representative. Any drug selection and UPL-setting process should have a continuous obligation to actively seek input from a broad range of stakeholders, including patients, caregivers, and community representatives. The continuous inclusion of these voices and perspectives can help ensure the development of a fair and comprehensive drug review framework.

Furthermore, it is imperative to acknowledge that the governmental entity responsible for developing the drug selection process has a shared responsibility in engaging these communities. Patients and caregivers must manage work and family commitments and their treatment regimens, while striving to navigate complex healthcare systems to ensure optimal care for themselves or their loved ones. Therefore, the responsibility to be aware of and engage in the

⁶ Alex Krist, et al., *Engaging patients in decision-making and behavior change to promote prevention*, 240 STUDENT HEALTH TECH. INFO. 284-302 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6996004/>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Ctrs. For Medicare & Medicaid, Dep’t of Health and Human Servs., and Dep’t of Treasury, *Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025*, 89 FR 26218 (Apr. 15, 2024); See also, Lisa Baumann, et al., *Public and patient involvement in health policy decision-making on the health system level – A scoping review*, 126 HEALTH POL. 1023-38 (Oct. 2022), <https://www.sciencedirect.com/science/article/pii/S0168851022001919>.



drug selection and UPL-setting process cannot rest solely on consumers to advocate for their needs; the Board must have an affirmative obligation to engage these communities.

Additionally, the engagement process must extend beyond the initial review stage. Once the Board establishes a UPL, the Board should continuously monitor its impact on access and affordability. Establishing clear channels for consumers to voice concerns and grievances regarding any access barriers stemming from pricing policies is critical to ensuring equitable access to essential medications. By fostering a culture of transparency and responsiveness, the Board can effectively address emerging challenges following the adoption of UPLs.

C. Require Payors and PBMs to Pass UPL-derived Cost Savings to Patients

UPLs serve as a cap on what *payors* can reimburse for a drug. Without precise legislative language mandating that any potential savings are passed down to consumers, payors are likely to retain any potential saving without alleviating the financial burden on patients. Therefore, the legislation should incorporate statutory language requiring any cost savings resulting from UPLs to be passed on to consumers through meaningfully reduced prescription drug costs, cost-sharing requirements, or premiums.

Therefore, Aimerd Alliance urges the Committee to modify the current bill language to include specific language that requires any UPL savings to be passed down to beneficiaries in the form of meaningful reductions to premiums or prescription drug costs.

III. Conclusion

In conclusion, Aimerd Alliance urges the Committee to consider alternatives, such as additional PBM reform, which can have a direct impact on consumer affordability. Moreover, if the Committee does move forward with HB 2831, Aimerd Alliance urges the Committee to ensure that the legislation prioritizes patients' perspectives and lived experiences, establishes a continuous consumer engagement and oversight process, and requires payors and PBMs to pass UPL-derived cost savings to patients.

Please contact us at policy@aimedalliance.org if you have any questions or would like to further discuss our concerns.

Sincerely,

Olivia Backhaus
Staff Attorney