



September 18, 2025

Representative Ken DeGraaf
200 E Colfax RM 307
Denver, CO 80203

Re: HB25B-1012 Prescription Drug Benefit Information Transparency

Dear Representative DeGraaf:

Aimed Alliance is a 501(c)(3) not-for-profit health policy organization that seeks to protect and enhance the rights of health care consumers and providers. Aimed Alliance is staffed by a team of attorneys who leverage their experience and understanding of the law to inform state and federal legislatures about practices that violate consumer rights.

With this in mind, we are reaching out regarding the recent bill you introduced related to prescription drug sourcing, also known as alternative funding programs (AFPs).¹ While we applaud your efforts to improve prescription drug affordability and transparency, we urge you to reconsider certain provisions that are not in the best interest of consumers and employers.

I. Disclosures from Third-Party Businesses and PBMs to Employers and Employees

Aimed Alliance applauds the bill's recognition that AFPs can constitute unfair and deceptive acts and practices under state law. The bill appropriately recognizes that pharmacy benefit managers and health care consultants cannot knowingly make or disseminate false or misleading information or claims to employers, plan sponsors, or policyholders regarding the legality or safety of the alternative prescription drug sourcing program. Aimed Alliance urges your office to amend this bill to also prohibit these third parties from misrepresenting their interests. For example, some alternative funding programs identify themselves as "patient advocacy organizations."

Patient advocacy groups are organizations that represent, support, and advocate on behalf of patients, caregivers, and families living with rare, chronic, complex, or other specific conditions. These organizations often retain 501(c)(3) or 501(c)(4) status designations as non-profit organizations. These organizations aim to advocate on behalf of their community to ensure their voices, concerns, and stories are heard and responded to by actors within the health care system including, but not limited to, hospitals, health care providers, employers, health insurers, legislatures, and regulators. Patients, caregivers, and consumers rely on patient advocacy organizations to act in the best interest of the patient and help them navigate the health care system to ensure they can access their necessary care and treatments. Managing a chronic illness and receiving a new diagnosis can be a challenging experience for individuals and their families; thus,

¹ HB25B-1012, <https://leg.colorado.gov/bills/hb25b-1012>.

patients need to have trusted organizations that they can turn to and rely on to act in their best interest.²

Alternative funding programs are not the above-described programs, as these companies are for-profit companies whose interests are focused on making a profit by sourcing drugs from alternative pathways. Importantly, the profitability of alternative funding programs is dependent on their alternative sourcing pathway being successful, and their payment is not influenced by patient outcomes, hospitalizations, or other negative consequences that may arise from alternative sourcing. As such, it is misleading to consumers for alternative funding programs to identify as acting in the patient's interest as patient advocacy organizations. Therefore, Aimerd Alliance requests that the bill be amended to specifically prohibit this type of misleading branding.

II. Importation from Outside the United States

The bill recognizes that alternative funding programs may import prescription drugs from outside the United States in a manner consistent with federal law. As explained in Aimerd Alliance's 2024 Citizen Petition to the Food and Drug Administration (FDA), federal law does not permit third-party programs to mandate consumers to import their prescription drugs from outside the United States.³

While states can develop prescription drug importation programs under Section 804 of the Food, Drug, and Cosmetic Act, these programs must be approved by the FDA before being implemented. Colorado has proposed a program under Section 804, but has not yet received approval. As such, any importation done within Colorado by an alternative funding program is currently inconsistent with federal law.

Moreover, while the FDA does recognize that it will use its enforcement discretion when an individual consumer imports prescription drugs from outside the United States, this policy is not intended to allow third-party programs *to mandate* consumers import their prescription drugs from outside the United States. As such, under current federal law, there are no legally permissible pathways for alternative funding programs to import prescription drugs from outside the United States on behalf of consumers. Therefore, Aimerd Alliance urges your office to amend the bill text to clarify that importation outside of the Section 804 program is impermissible under Colorado law.

² Letter to PayerMatrix, https://media.cancercare.org/documents/344/original/Response-to-Payer-Matrix_Final-8.17.23.pdf.

³ Aimerd Alliance, *Citizen Petition*, <https://aimerdalliance.org/wp-content/uploads/2024/04/Aimerd-Alliance-Citizen-Petition-3.1.24.pdf>.

III. Clarify Pharmacy Stewardship Programs Cannot Be Burdensome or Invasive on Consumers' Rights

Alternative funding programs often require consumers to complete paperwork in a misleading or false manner so that the consumer appears eligible for the patient assistance programs (PAPs). For example, in one AFP FAQ, the following two questions are included:

Is my medication still covered?

The plan will still pay for your medication with no increase in co-pay or cost share to you. However, the method of obtaining these medications have changed. Instead of funneling through your Pharmacy Benefits Manager, this will now funnel through Payer Matrix. If Payer Matrix is unable to obtain secure alternative funding, then coverage will revert to your traditional coverage.

What do I do if the manufacturer calls to confirm that there is no coverage for Specialty Drugs?

While the manufacturer may contact you, your Reimbursement Care Coordinators will help you prepare for these potential calls. The coverage effective December 1st, 2022, under the Barton's prescription drug benefit, is that all specialty drugs are 100% patient responsibility, with no portion of the cost being covered by the group. Additionally, these costs do not accumulate towards satisfying either the in-network or out-of-network deductibles, coinsurance or out-of-pocket maximums.

These statements are not only contradictory but also demonstrate the intent of the alternative funding program to mislead consumers and use consumers to mislead PAPs. Therefore, to prevent consumers from unintentionally being involved in AFPs' unfair or deceptive practices, Aimed Alliance urges your office to amend the bill to also prohibit AFPs from requiring consumers (1) attest that they do not have commercial insurance when they do; (2) sign a power of attorney to allow the AFP to make statements or act on consumers' behalf;⁴ (3) apply to a PAP as a pre-condition of health plan coverage; and (4) complete forms and submit information in a manner intentionally inconsistent with the PAP terms and conditions.

IV. Add to the List of Consequences a Private Right of Action

Aimed Alliance applauds the bill's proposed penalties for violations of any of the disclosure requirements, as there must be meaningful consequences for the law to have the proper deterrent effect. Moreover, Aimed Alliance urges your office to amend the bill to provide a private right of action for consumers to ensure they have the ability to hold these alternative funding programs accountable for any denials or delays in access to care that the consumer experiences as a result of these programs and any deceptive, misleading, or unfair trade practices they engaged in.

⁴ AbbVie v. PayerMatrix, *Denial of Injunction*, <https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:2023cv02836/433197/343/>.

V. Conclusion

In conclusion, Aimerd Alliance urges your office to amend the bill to better protect consumers from unfair or deceptive acts and practices. We would greatly appreciate an opportunity to meet with your office and further discuss our concerns.

Sincerely,

Ashira Vantrees, Esq.
Director of Legal Strategy and Advocacy