Copay Accumulator Adjustment Programs

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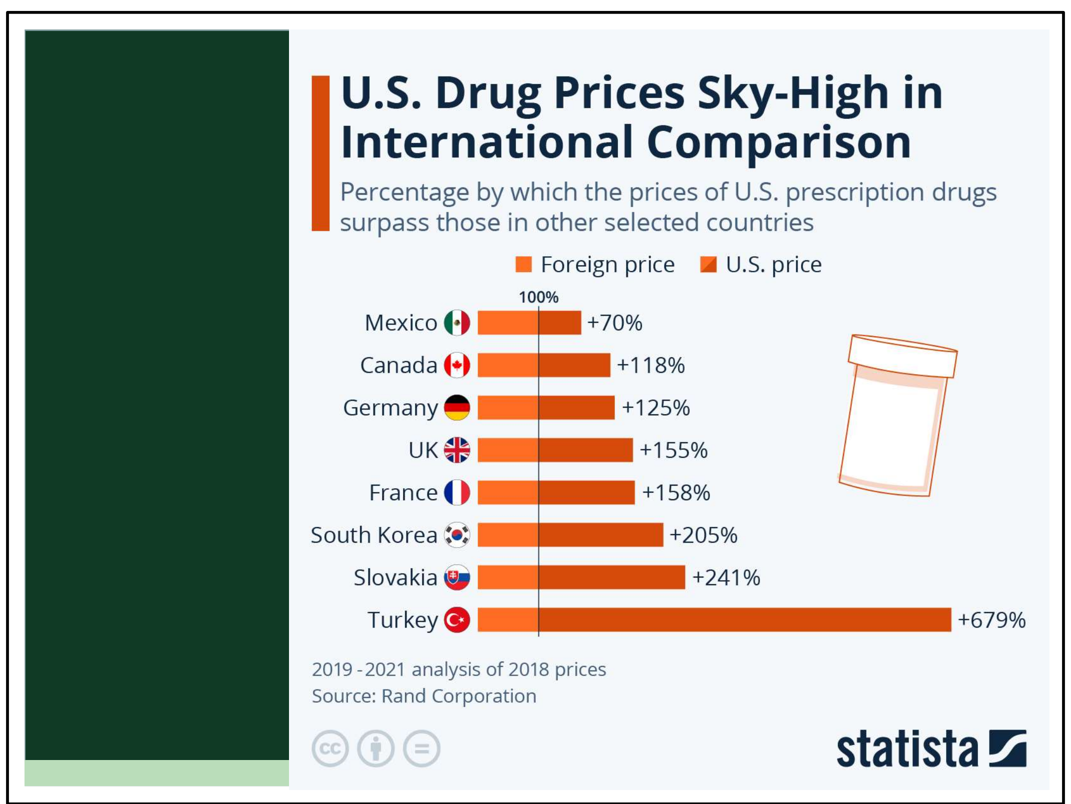


Here is a snapshot of what I think most of us would consider to be a problem in need of a solution. High drug prices.

I am not here to explain in detail why we have such high drug prices. But I will say at least part of the problem is that we have a system based on hidden discounts and rebates that incentives high drug list prices.

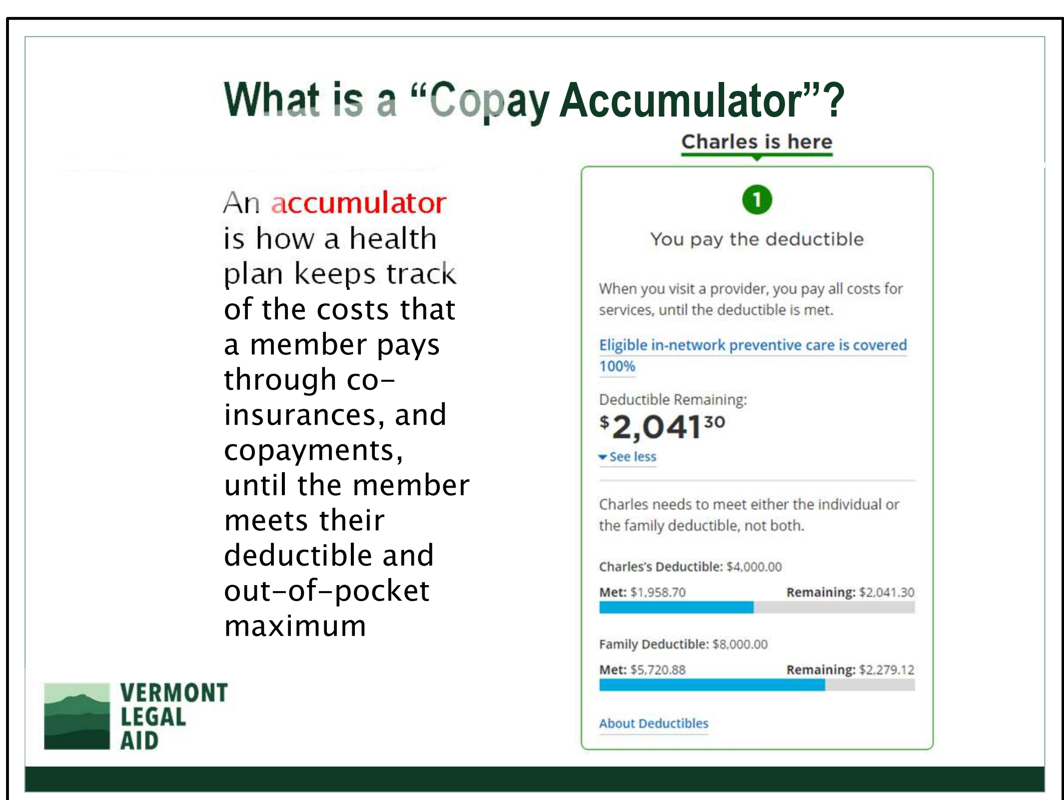
How do we solve the problem of high drug prices? S.98 -- giving GMCB authority to conduct affordability reviews and set upper payment limits – is one policy idea. And the HCA supports S.98 giving GMCB that authority.

But until we solve the problem, what do patients – especially those with some of the most expensive to treat chronic conditions – what do they do about high drug prices?

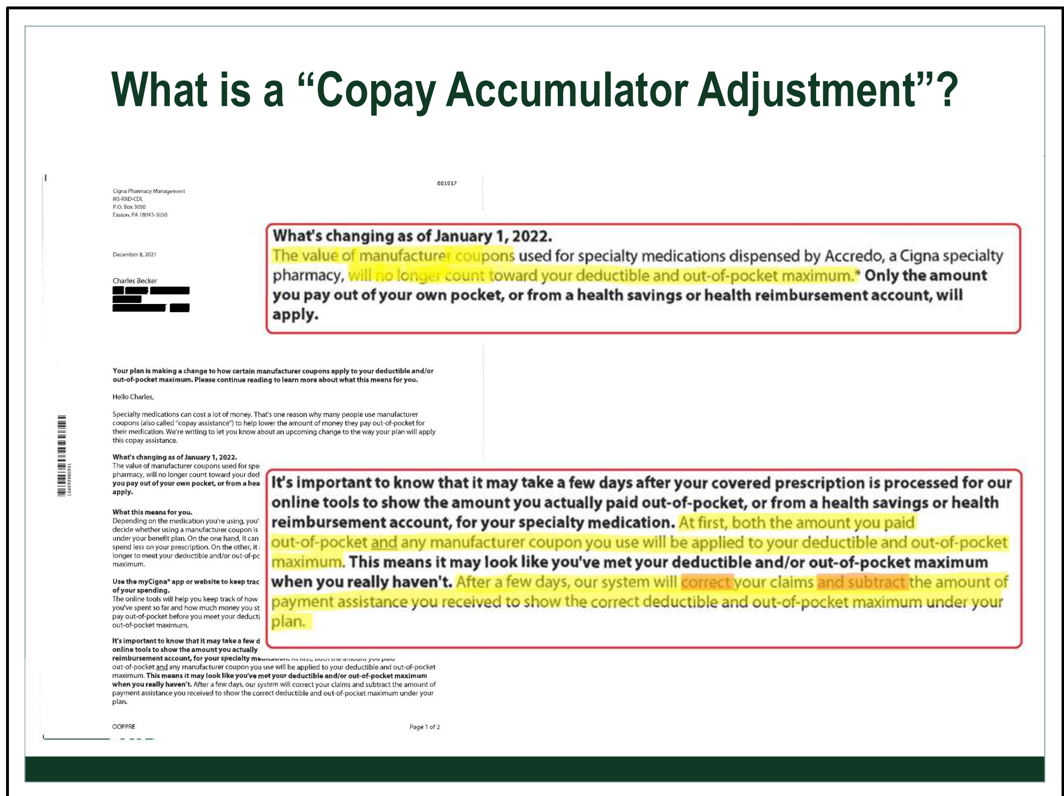
Many of them will use drug manufacturer copay assistance cards. You've probably also heard these referred to as drug coupons.

I think the term copay assistance is more accurate and here's why. When you present one of these cards at the pharmacy counter, the drug manufacturer pays money on the patient's behalf to the pharmacy. In some cases, the patient's copay is reduced to nothing; in other cases, it's reduced to something more affordable -- $5 or $25. But the important thing is that it is real money, paid by the manufacturer, on behalf of the patient to the pharmacy, to reimburse the pharmacy for the cost of the drug.

I will acknowledge there is some controversy to these cards. If any of us were to create our ideal health care system – drug coupons probably wouldn't be a part of the picture. But we don't have an ideal system. And so right now in the system we have, patients need access to drug manufacturer copay assistance. And they need that copay assistance to count.



Now to the substance of my presentation. What is a copay accumulator? An accumulator is how a health plan keeps track of the costs that a member pays through co-insurances, and copayments, until the member meets their deductible and out-of-pocket max. Here is mine.

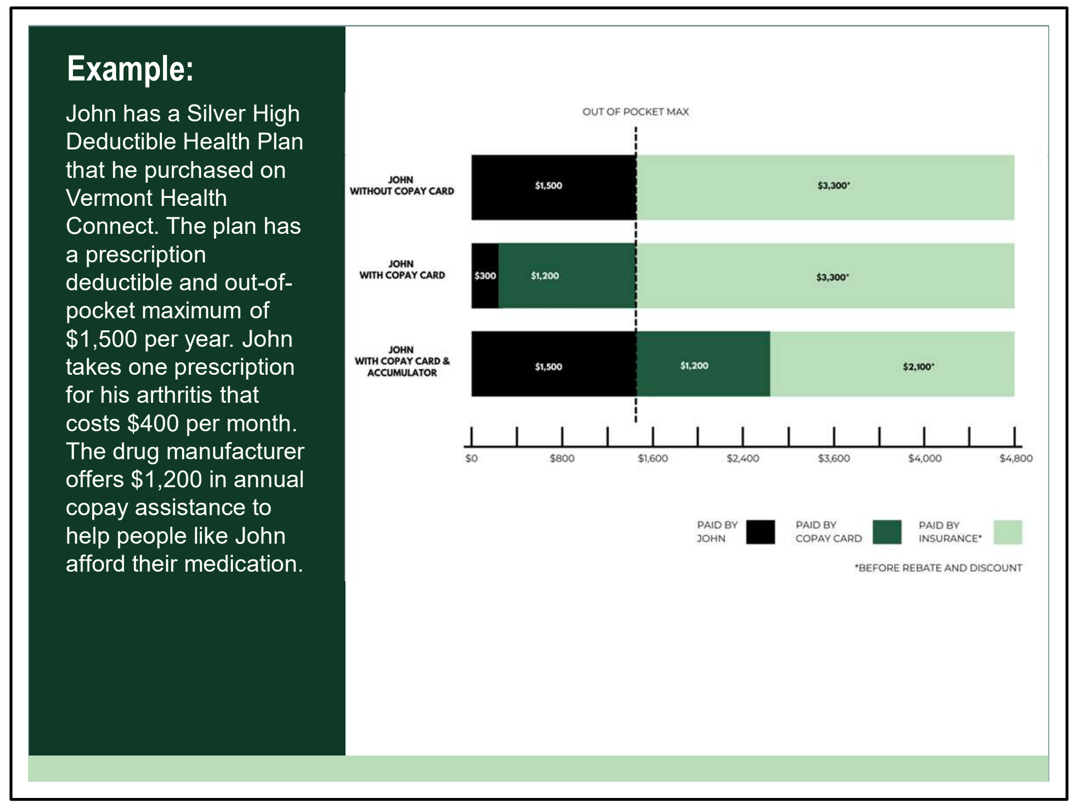


Now what is a copay accumulator adjustment? It's when a health plan adjusts out, or subtracts, the value of drug manufacturer copay assistance from your accumulators.

Here's an actual letter I received from my health plan. You can see it says

1) coupons will no longer count; but
2) at first the coupon value will show up in your accumulator – making it appear as if you have made progress toward your deductible and out of pocket max – but after a few days, they'll subtract that value out.

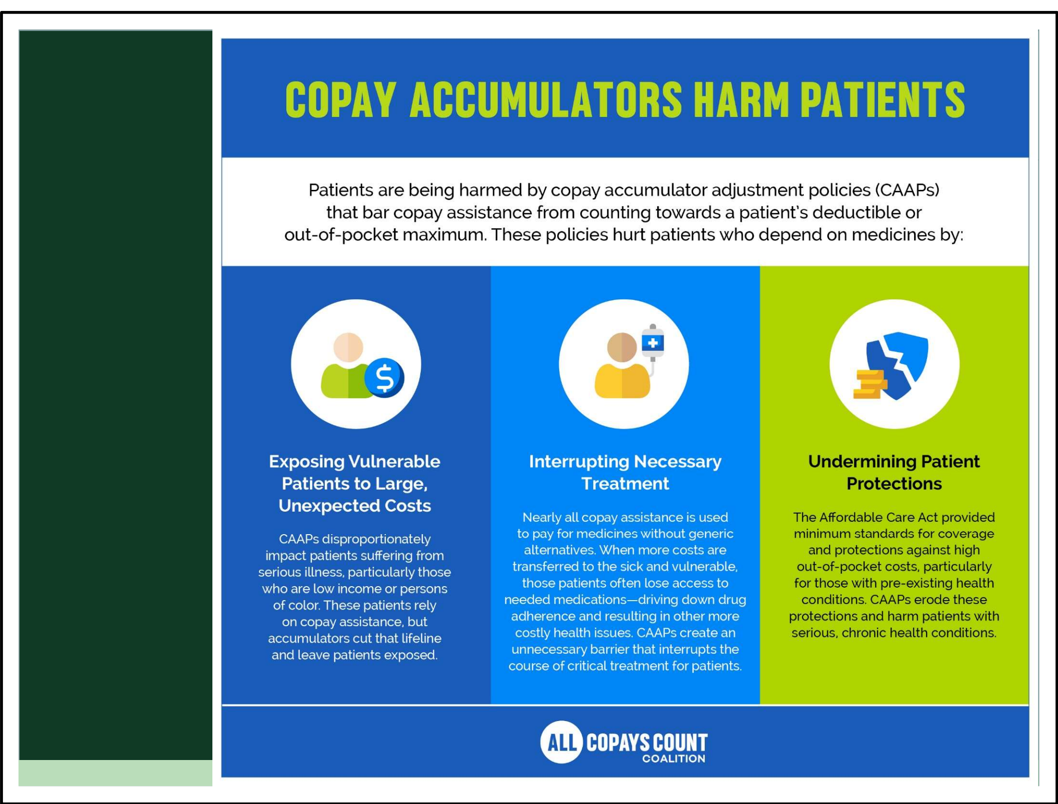
That act of subtracting is why it's a copay accumulator adjustment.



Here's graphical representation of what this all looks like. We have a hypothetical man John, with a $400 per month script totaling $4,800 per year, who is on a health plan with a $1,500 per year prescription out-of-pocket max. On the top is John without a copay card – he pays $1,500 out of pocket and his plan pays $3,300. In the middle, John uses a manufacturer copay assistance card with an annual value of $1,200. With that assistance – and no copay accumulator adjustment – John's exposure is reduced to $300. In the bottom example, John uses the copay assistance – but it doesn't benefit him – the manufacturer pays the $1,200 in assistance to the pharmacy on John's behalf, but the insurer applies a copay accumulator adjustment, subtracting the value of that assistance from John's accumulators. As a result, John still has to pay $1,500, but the insurer's obligation is reduced to $2,100.

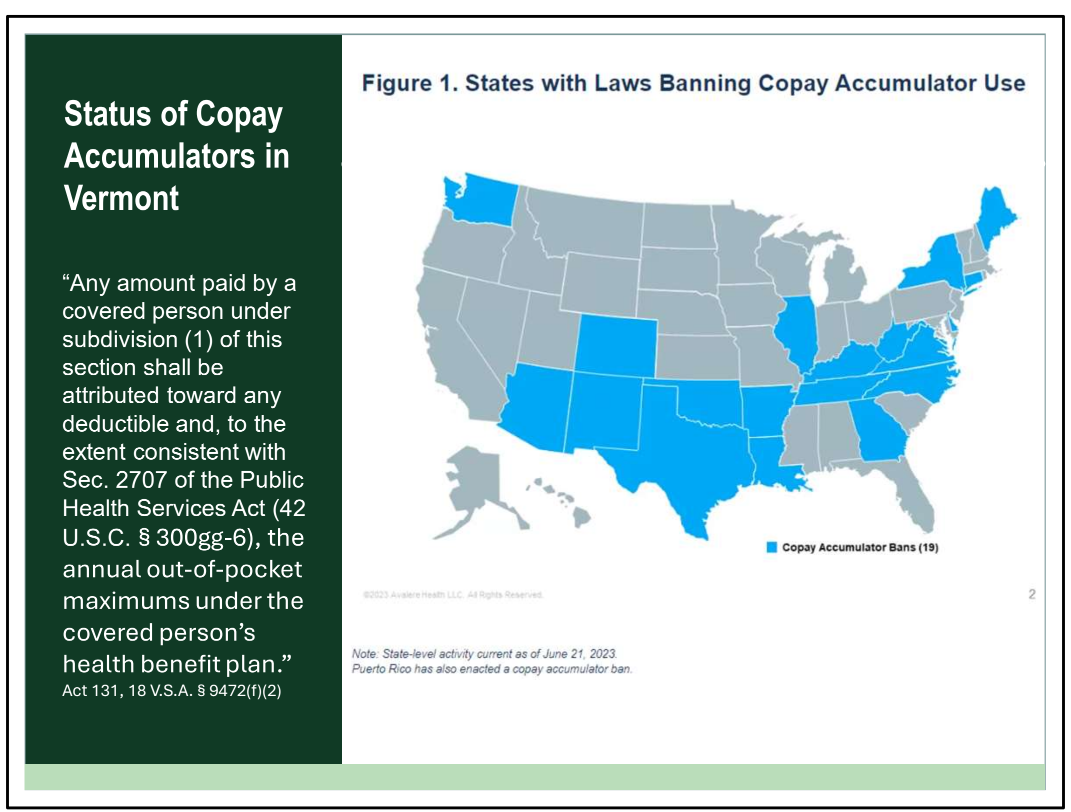
The best-case scenario for the patient is the middle example where John uses manufacturer copay assistance and that assistance counts.

Also note the asterisks following the amounts the insurer pays. The asterisks are there because those amounts are unknown. After rebates and discounts the amount the insurer pays is likely much lower than shown here. In some cases, while patients are paying the full list price out-of-pocket during their deductible phase, insurers may be paying close to net zero after rebates and discounts or might even be making money on the transaction. So that's why, if we're going to have a system with high drug prices – where insurers are getting rebates – patients are going to need copay assistance. And they need it to count.



Here's a slide I borrowed from a coalition of patient advocates – the All Copays Count Coalition, illustrating how accumulator adjustments harm patients. How?

First, they expose vulnerable patients to large and sometimes unexpected costs. Vulnerable, because these are people chronic conditions and rare diseases. Also, research shows that low-income people and people of color are more apt to use copay assistance. How do copay accumulators expose people to unexpected costs? In my case, I got a letter telling me. But it was one of those letters that looked like junk mail. Many people might have thrown that letter out. So some people don't even know their plan applies copay accumulator adjustments, until the value of that copay card is depleted, sometime toward the middle of the year, and suddenly they go to the pharmacy, and they have to pay the full list price for their prescription. Some people will pay that with a credit card or deplete their savings. Others will just leave the prescription at the counter, interrupting their treatment. To the second point there. As the slide points out, most copay assistance is for brand name drugs without a generic equivalent, in other words the most expensive drugs out there. And what happens when patients abandon their treatment? Their conditions worsen, leading to costlier interventions down the road and a lower quality of life. Finally, one of the purposes of the ACA was to protect people with pre-existing health conditions. Copay accumulators undermine those protections.



What is the status of copay accumulator adjustment programs in Vermont?

We are not one of the 19 states as of June 2023 that have acted to affirmatively ban copay accumulator adjustment programs. Our current statutory language is from Act 131 of 2022 – "any amount paid by a covered person … shall be attributed to any deductible … and to the extent consistent with federal law, any out-of-pocket maximums." As DFR stated in their Act 131 report from last year: "read in a light most favorable to patients, the statutory language suggests that Vermont health plans must apply copayment assistance to patient deductibles." End quote. But as any lawyer or advocate would tell you "in the light most favorable to patients" is not frequently how our laws are interpreted by courts or regulators.

And so, we, the HCA, would encourage this committee to amend S.98 to include an explicit copay accumulator adjustment ban. We think doing so would give Vermonters, and specifically Vermonters with chronic illness and rare disease, who depend on some of the most expensive drugs that S.98 is intended to address on a systemic level, it will give those patients some tangible relief now, and not relief years down the road.

Ban Copay Accumulator Adjustment Programs in VT

Amend 18 V.S.A. 9472(f)(2) to read:

A pharmacy benefit manager shall attribute any amount paid by or on behalf of a covered person under subdivision (1) of this subsection, including any third-party payment, financial assistance, discount, coupon, or any other reduction in out-of-pocket expenses made by or on behalf of a covered person for prescription drugs, toward any deductible, and to the extent consistent with Sec. 2707 of the Public Health Service Act (42 U.S.C. § 300gg-6), the annual out-of-pocket maximums under the covered person's health benefit plan.

Amend 8 V.S.A. § 4089j to read:

(d)(2) A health insurer or pharmacy benefit manager shall not do any of the following:

(F) Exclude any amount paid by or on behalf of a covered person, including any third-party payment, financial assistance, discount, coupon, or other reduction, when calculating a covered person's contribution to any deductible or, to the extent not inconsistent with Sec. 2707 of the Public Health Service Act, 42 U.S.C. § 300gg-6, out-of-pocket maximums applicable to the covered person's health benefit plan.

We have proposed language that would amend two sections of the Vermont statutes. The key language change here from what exists already is underlined. It makes clear that any amounts "paid by or on behalf of a covered person" shall count toward deductibles and out of pocket maximums, and that includes "any third-party payment, financial assistance, discount, coupon, or other reduction in out-of-pocket expenses".