

Submission to the Vermont Senate Health and Welfare Committee Concerning S 98 and the Work of Oregon and Colorado Prescription Drug Affordability Boards Prescription

Oregon—The Oregon Board is required to review the affordability of drugs reported through the State’s drug cost/price transparency program. The Board reports its findings to the legislature. To date, the Board has found that anti-diabetes products Humalog 500, Trulicity, and Ozempic create affordability challenges for patients or the healthcare system and that the Shingrix vaccine does not present a problem. The Board must report to the legislature by September 2024 on how statewide upper payment limits would be implemented.

Colorado—The Board has found Enbrel (autoimmune disorders) to create an affordability challenge and will be establishing a statewide upper payment limit in the next few months. The Board found Trikafta (Cystic Fibrosis) and Genvoya (HIV) to be affordable because of the amount of patient cost sharing assistance the companies provide to commercially insured patients whose health plans count that financial contribution to a patient’s out of pocket spending limits. Health plans have serious concerns about this approach to assessing affordability.

Horvath observations:

- a) Company cost sharing assistance as a metric by which to assess affordability may be problematic. Arguably, manufacturer cost sharing assistance worth tens of thousands of dollars per patient per year is a tacit acknowledgement that a drug is not affordable. The Board could be putting its thumb on the scale in a way that allows manufacturers to continue to raise prices and continue to be arbitrary in the scope and amount of its patient cost sharing assistance. This type of cost sharing is not permitted in federal programs because it meets the legal standard of kickbacks.
- b) Trikafta costs \$322,000 per year and is manufactured by Vertex. It is only used as a treatment for cystic fibrosis (CF). The company only sells to wealthy countries. Despite the fact that only [105,000 people in 94 countries](#) have been diagnosed with CF, *Trikafta is the third best selling drug in the world...earning \$9 billion in 2023* . The three top-selling drugs in the world are orphan drugs, which is probably the most important thing to know about the extremely and consistently lucrative orphan drug business model. Exempting orphan drugs from cost containment could become a problematic provision of law as orphan drugs become the predominant industry business model. More than half of all newly approved drugs are orphan drugs.
- c) Enbrel was found to be unaffordable in Colorado; Enbrel is also subject to Medicare negotiation. It will have a Maximum Fair Price (MFP) announced by the Fall to be effective in 2026. In Colorado, Medicare could have one price and the State may have a different, statewide upper payment limit. This could be operationally difficult for providers, almost all of whom participate in Medicare and serve the rest of state residents.
- d) The Committee may want to encourage the Green Mountain Board to initiate its drug cost containment work by preparing to make the Medicare MFP the statewide upper payment limit.