

## FROM THE NAIC CONSUMER REPRESENTATIVES

September 15, 2023

To: Commissioner Sharon Clark, Chair of the Regulatory Framework (B) Task Force

RE: Consumer Representatives' Comments on "NAIC White Paper Draft-A Guide to Understanding Pharmacy Benefit Manager and Associated Stakeholder Regulation"

On behalf of the undersigned Consumer Representatives to the National Association of Insurance Commissioners (NAIC) who have been working with the PBM Subgroup, we voice our strong support of the **NAIC White Paper Draft-A Guide to Understanding Pharmacy Benefit Manager and Associated Stakeholder Regulation** and urge its adoption. Additionally, we urge the NAIC to move forward with its recommendations as soon as possible.

Due to the profound impact pharmacy benefit managers (PBMs) play in the drug pricing and delivery system and on consumer access and affordability of prescription medications, we recommended that such a White Paper be drafted. We appreciate the thoughtful approach the Subgroup has taken over the past two years in soliciting comments from the consumer representatives and interested parties along with learning from states that have taken various steps in regulating PBMs and their activities.

### **Specific Draft White Paper Comments**

While we believe the Subgroup has adequately addressed its charges and has done so in a neutral manner, we are disappointed that some of the specific recommendations included in our June 1, 2023 [comments](#) were not included in the final draft. At this time, we would like to reiterate some of them:

- 1) We had suggested on page 4 in the section Key Players in Pharmaceutical Drug Pricing Ecosystem a statement on the *importance of consumers to receive the prescription drugs prescribed by their provider.*
- 2) We are deeply disappointed that our suggestions of several PBM practices that directly impact consumers and the state laws that address them were not included in the section Other Relevant Proposed or Implemented State Law Provisions of the final draft that begins on page 29. We had suggested and included descriptions of the following topics: *a) Utilization management tools; b) Copay accumulator adjustment programs; c) Copay maximizer programs; and d) Alternative Funding Programs.*
- 3) We believe that the section Federal Interest and Possible Regulations that begins on page 29 should be updated to include additional and more current Congressional action that has been proposed and/or occurred.

For any questions, please contact Carl Schmid, HIV+Hepatitis Policy Institute at [cschmid@hivhep.org](mailto:cschmid@hivhep.org).

Thank you very much.

Sincerely,

Ashley Blackburn

Deborah Darcy

Kara Hinkley

Anna Schwamlein Howard

Carl Schmid