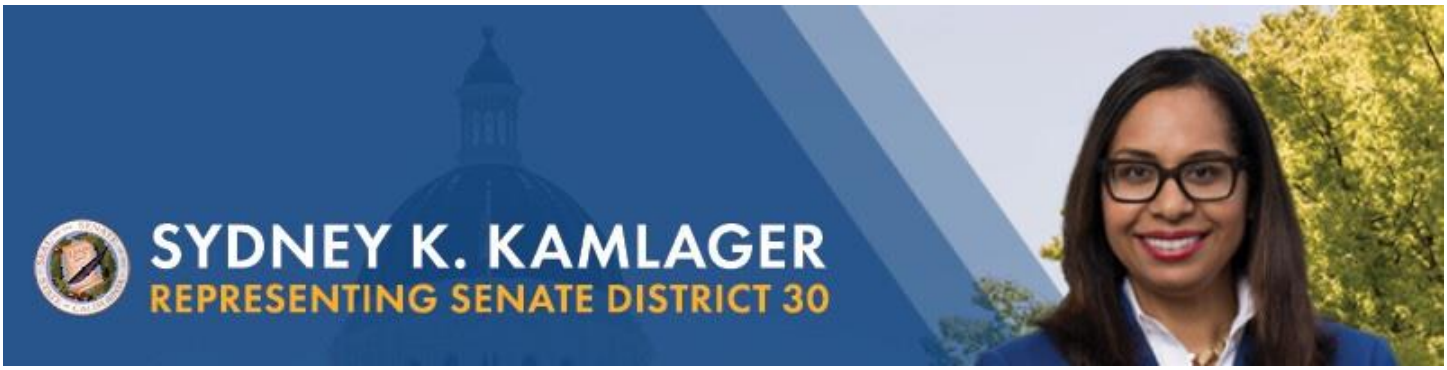

FACT SHEET: SB 1361 – [Reforming Rx Rebates]

IN BRIEF

Senate Bill 1361 will ensure patients are better able to afford their medications by reforming the state's prescription drug rebate system. By including transparency provisions and requiring 90% of manufacturer rebates to be passed on at the pharmacy counter, patients will see lower out-of-pocket costs for their prescription medications.

SB 1361 will reform the current system to benefit the patient, not health insurance corporations. Since 2020, states have introduced more than 100 similar measures across the nation and in 2021 West Virginia passed a law (HB 2263) that requires 100% of rebates to first benefit the patient at the point of sale and then be used to lower premiums more broadly. In 2018, CVS Health, which operates the PBM Caremark and owns health insurance company Aetna, launched a "guaranteed net cost" pricing model that the company says returns 100% of drug rebates to the consumer at the point of sale.

BACKGROUND & PROBLEM

Health insurance companies and pharmacy benefit managers (PBMs) negotiate significant rebates and discounts when purchasing medications from drug manufacturers. The price they pay after rebates is significantly lower than the "list price" of the medicine – the price a patient pays at the pharmacy counter. On average, pharmaceutical manufacturers rebate 40% of a medicine's list price.

In 2020, the Department of Managed Health Care reported that health plans received more than $1.4 billion in rebates, up 57% from 2017. Due to a lack of transparency and accountability, nothing requires health insurance plans to make sure patients benefit from these rebates.

Right now, patients are being forced to pay more out-of-pocket for their medicines due to an increase in high-deductibles and the use of coinsurance. Studies have shown that patients facing high costs are less likely to take medicines as prescribed, more likely to abandon therapy, and more likely to delay or forgo treatment, putting them at higher risk for expensive emergency room visits, avoidable hospitalizations, and poorer health outcomes.

Rebates on prescription drugs should be used to decrease the cost burden for patients when they are in the expensive deductible phase. When patients are facing their deductible and they go to the hospital or doctor, the patient gets to pay the in-network rate that was negotiated by the health insurer. That is not the case for prescription drugs. When a patient pays for a drug in the deductible phase or pays coinsurance, the amount they must pay is based on the full price of the drug – even if their health insurer and PBM are paying a lower amount they negotiated with the manufacturer. Because there is no transparency in the system, patients have no idea how much, if any, rebate money goes to lowering insurance premiums.

For example, for a drug with a $100 list price, a health insurer or PBM may negotiate a rebate of $40, for a net cost to them of $60. But a patient still in their deductible pays the full $100. A patient with a 25% coinsurance pays $25 for a medicine with a $100 list price, rather than the $15 they would pay if the coinsurance was based off the rebated amount being paid by the health insurer.

A decade ago, out-of-pocket spending for prescriptions consisted almost entirely of copays, but the use of deductibles and coinsurance has increased rapidly in recent years. Between 2012 and 2016 alone, the share of commercial health plans requiring patients to meet a deductible for prescription medicines increased from 23% to 49%.

SOLUTION

Sharing these savings will immediately lower prescription drug costs for many patients, helping them better access the medicines they desperately need.

SB 1361 will require health insurers and PBMs to pass on a sizeable percentage (90%) of rebates at the pharmacy counter. The bill also adds accountability and transparency provisions the rebate system as a whole related to aggregate dollar amount of all rebates, formulary design, utilization management, and grievances and appeal processes.

FOR MORE INFORMATION

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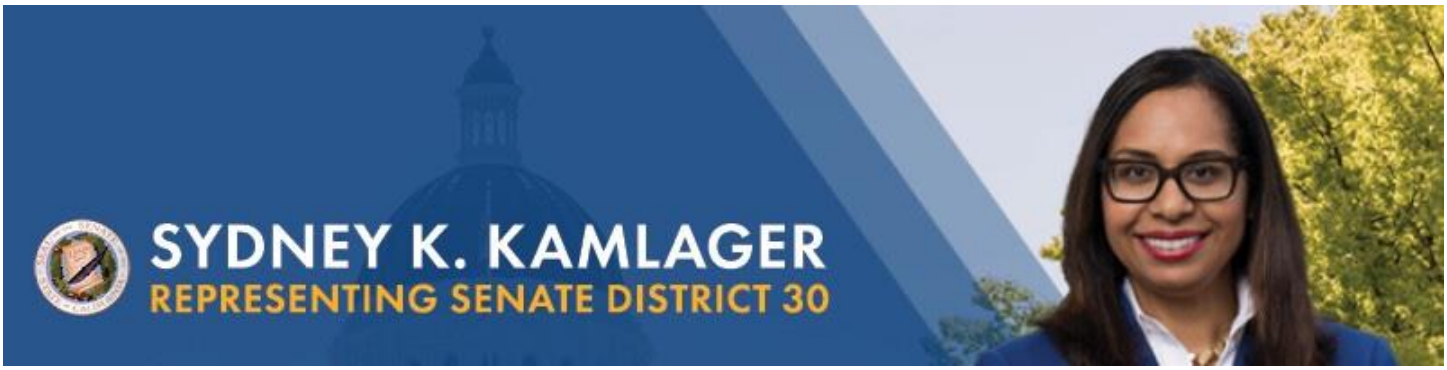

SUPPORT

- California Access Coalition (sponsor)
- AIDS Healthcare Foundation
- Alliance for Patient Access
- Applied Pharmacy Solutions
- Biocom California
- California Access Coalition
- California League of United Latin American Citizens
- California Life Sciences
- California Pharmacists Association
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- California Life Sciences
- California State Commanders Veterans Council
- Community Health Action Network
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- International Foundation for Autoimmune and Inflammatory Arthritis
- Liver Coalition of San Diego
- Lupus Foundation of America
- Lupus Foundation of Southern California
- Medical Oncology Association of Southern California
- National Association of Social Workers, CA Chapter
- Patient Advocates United in San Diego County
- Neighborhood Wellness Foundation
- Pharmaceutical Research and Manufacturers of America
- The Kennedy Forum