



NEW YORK STATE SENATOR

Malcolm Smith

Senate Democrats And Health Advocates Push Legislation To Stop Tier 4 Prescription Drug Price Increases.

MALCOLM A. SMITH June 4, 2008

(ALBANY, NY) Senate Democrats joined health advocates in calling for the bipartisan support and passage of stronger legislation protecting consumers from health insurers increasing prescription drug co-payments in New York state beyond the reach of those who need the medication most.

Senate Democrats led by Brooklyn Senator John L. Sampson(D-Brooklyn) made the initial push to keep the co-payments of certain New Yorkers from increasing to 33 percent. State lawmakers have introduced measures including several that would prevent health insurers from charging more for high-priced drugs with a separate co-payment scale that would leave enrollees at the mercy of the pharmaceutical market.

Additionally, measures have been introduced in the Assembly and Senate Republicans.

“The concept of health insurance has been to share the financial load so that we all have access to treatment and medications,” said Senate Democratic Leader Malcolm A. Smith (D-St. Albans). “What health insurers are saying with proposed Tier 4 pricing plans is that this model will now only apply to people whose illnesses are either quick fixes or cheap

treatments. For those who need to be treated for life-threatening or debilitating conditions with cutting-edge, expensive medications, the message is ‘you are on your own because your medications cost too much.’”

Health Advocates have argued that if a fourth tier, or classification, is added to the prescription drug pricing system statewide, patients with diseases such as anemia, cancer, multiple sclerosis, hemophilia and hepatitis C will no longer be able to afford cutting edge medications to treat these conditions.

Senator Sampson, the ranking Democrat on the Health Committee, has introduced legislation (S. 7794) that will regulate tier drug plans based on the cost of the drug covered and the disease it treats.

“It has the support of both parties and both houses,” Senator Sampson said. “There is no reason New York shouldn't brace itself for potentially devastating co-pay increases if insurers move to a Tier Four plan. There is no reason that it can't be done before the end of session.”

Senator Sampson's bill is sponsored in the Assembly by Assemblywoman Michelle R. Titus (D-Queens) (A. 11243). Republican Lawmaker Senator Kemp Hannon (R-Garden City), Chair of the Senate Health Committee later introduced similar legislation in S. 7780.

Additional Senate Democratic Conference efforts to ensure consumer access to needed medications include: an investigation spearheaded by Senator Jeffrey D. Klein (D-Bronx) into Health Maintenance Organizations (HMO) pricing policies that can limit access and increase costs for medications that treat diseases suffered disproportionately by African-Americans

and Latinos, including asthma and high cholesterol.

Senator Sampson has also proposed support for continued access to medications in public health care programs like Medicaid, Family Health Plus and Child Health Plus along with strong patient protections in preferred drug lists.

The current Tier 3 prescription drug co-pay program divides co-payment options based on whether a cheaper generic medication can be substituted for costly brand name drugs identified by the insurer.

Each Tier is assigned a specific co-payment:

- Tier 1 is the lowest co-payment option and typically includes prescriptions for generic medications.
- Tier 2, the middle co-payment option, may apply if no generic medication is available for treatment and/or your physician instead prescribes brand name medications covered by the insurer.
- Tier 3 co-payment prices apply if and when you or your physician choose a drug that may be substituted with a generic brand and is not included on your insurers' preferred drug list.

A fourth tier would make people pay a percentage of the total retail cost of certain high-

priced medications, a cost many suffering from illnesses say they cannot afford.

Dr. Marla Eglowstein, an Albany area high-risk obstetrician, was diagnosed with multiple sclerosis in 2004 and had to leave work recently after 20 years as a physician due to the illness. At least one of her drugs has been slated for Tier 4. She said that the problem of affording high-priced prescription drugs was not an immediate concern but it could be in the future.

“Me and my husband could squeeze it out,” said Eglowstein, a wife and mother of three children.

“It would be hard for us, but impossible for most anyone else.”

Most New Yorkers who are enrolled in private health insurance plans, such as Health Maintenance Organizations (HMOs) and Pharmacy Benefit Managers (PBMs), make co-payments on prescription drugs based on a three-tier system (\$5 generic, \$10 or more for preferred brand and \$25 or more for non-preferred brand).

However, cutting edge medications that have no generic or cheaper equivalents, are increasing in cost. For some, these drugs are desperately needed, and are often the only option of treatment for individuals and families living with such serious conditions as Multiple Sclerosis.

If the medications Dr. Eglowstein takes to treat her MS were to go to Tier 4 pricing, her monthly co-pays could go from \$60 monthly to \$1,000 which could be harmful to her family, she said.

Outside New York state, families have been hit hard where Tier 4 prescription drug pricing plans have been implemented and can see cost increases of up to 33 percent.

Some health insurers have argued that the new pricing structure is necessary to reduce employer medical insurance premiums. But Senate Democrats and health advocates maintain that the proposed Tier 4 pricing scheme unfairly shifts the burden to consumers.

“Shifting the costs of the most expensive medications to people with serious illnesses is worse than turning the medical clock back to a time when we didn’t know how to treat them. We know how to treat them, they just can’t pay,” said Greg Otten, Direct Services Supervisor at Center for Independence of the Disabled in New York.

Senator Smith called on New York State Superintendent Eric D. Dinallo to continue rejecting all Tier 4 applications by insurers until the proposed legislation is signed into law.

“We must also work to ensure that prescription drugs are affordable for those who need it,” Senator Smith said.
