

FROM THE NAIC CONSUMER REPRESENTATIVES

March 13, 2024

To: Commissioner Glen Mulready, Chair of the Regulatory Framework (B) Task Force

RE: Consumer Representatives' Comments on "Draft Revised 2024 Charges for the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup's Successor Group"

On behalf of the undersigned Consumer Representatives to the National Association of Insurance Commissioners (NAIC), we voice our strong support of the proposed charges for a **Pharmacy Benefit Manager Regulatory Issues (B) Working Group** and urge its immediate adoption without any amendments that would distract from its proposed mission.

Due to the profound impact pharmacy benefit managers (PBMs) have in the drug pricing and delivery system and on consumer access and affordability of prescription medications in the private insurance market, we have long supported the NAIC's interest in PBMs. Over the past several years, we have been involved in helping Commissioners understand the impact of PBMs on consumers, the drafting of a NAIC PBM model law, and the successful drafting and passage of the NAIC White Paper "A Guide to Understanding Pharmacy Benefit Manager and Associated Stakeholder Regulation." Taking each of these actions has helped the NAIC and its Commissioners better understand how PBMs affect formulary design and drug access and how regulators can address PBM actions that are compromising access to affordable drug coverage for consumers.

PBM issues and practices, along with state and federal laws and regulations, continue to evolve. There is a growing need to protect consumers from harmful practices, and we believe it is essential that the NAIC continue to examine the role of PBMs in the insurance market. The proposed Working Group would provide a forum for the NAIC and its members to come together so they can continue to discuss these complex and changing issues. The consumer representatives look forward to participating in such a process to provide the perspective of the patients and beneficiaries we represent.

Since the *Health Carrier Prescription Drug Benefit Management Model Act (#22)* failed to include provisions that directly regulate PBMs or specifically address the significant role that PBMs play in prescription drug benefit plan design and delivery, we strongly support the review and update of the model act to reflect the changing times since it was adopted. While we recognize that states have taken differing steps in the regulation of PBMs, consumers can benefit and need an agreed upon minimum level of protection by regulators.

We realize that any discussion of greater regulation will invite resistance from the potential regulated parties, however, because PBMs have such a significant impact on consumer access to and affordability of prescription drugs we urge you to adopt the Draft PBM Working Group charges without delay and

constitute its membership so that it can begin to execute its work plan. We look forward to providing the consumer perspective as this important work moves forward.

For any questions, please contact Carl Schmid, HIV+Hepatitis Policy Institute at cschmid@hivhep.org.

Thank you very much.

Sincerely,

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