

**Public Testimony**  
**House Consumer Affairs Committee**  
***House Bill 853, Printer's No. 967***

**February 18, 2020**

Independence Blue Cross (Independence) thanks Chairman Roae, Chairman Matzie, and members and staff of the Consumer Affairs Committee for the opportunity to offer comments on House Bill 853. Independence Blue Cross is the leading health insurance organization in southeastern Pennsylvania. With our affiliates, we serve nearly 8 million people nationwide. For more than 80 years, we have been enhancing the health and well-being of the people and communities we serve. We deliver innovative and competitively priced health care products and services; pioneer new ways to reward doctors, hospitals, and other health care professionals for coordinated, quality care; and support programs and events that promote wellness.

As written, House Bill 853 would prohibit health insurers from making changes to health insurance coverage – a blanket prohibition that does not account for changing medicine, developing science or varying market conditions. The legislation broadly prohibits changes to health care benefits (*all* products, services, procedures, treatments and cost sharing) and specifically looks to target one of the most dynamic and costly aspects of a health insurance policy – prescription drug coverage.

House Bill 853 restricts insurers' ability to keep pace with evolving medicine. The bill would remove some of the only methods available to insurers seeking to ensure that members have access to life-saving and life-enhancing medications, while balancing quality and safety standards and the affordability of coverage. Public programs such as Medicaid, Medicare and state employee programs currently use these same methods. As drafted House Bill 853 would not impose equal restrictions on these public programs.

Prior to moving forward, members of the Committee and stakeholders deserve an understanding of the specific issues or concerns driving House Bill 853, as well as the scope and impacts of the legislation. There are existing protections for consumers and providers when prescription drug changes are made. It is in our collective best interest to address the hurdles to receiving health care services without disrupting the critical role that health insurers play in ensuring access to safe, effective, affordable drug coverage.

### **Independence Prescription Drug Benefits – How it Works Today**

Independence has an obligation to our members to maintain a current list of FDA-approved prescription medications, a formulary, and medical and pharmacy policies to reflect the latest evidence-based medical standards. Our formularies are reviewed by the state and federal governments as part of our annual filing process and include an independent assessment and comparison against other insurers' formularies to identify the type and number of drugs in each category and class, including a review for non-discrimination and to ensure that there is not a disproportionately high number of medications subject to prior authorization.

Just as the market, production, and pricing of improved and breakthrough prescription drugs changes, so does the Independence prescription drug formulary. The formulary is updated to reflect evolving medicine based on factors including but not limited to: the availability of lower-cost and proven effective generic options; changes in safety standards and indicated uses; and new drug efficacy studies per medical journals and specialty societies.

Formulary changes are approved by our Pharmacy and Therapeutics Committee comprised of physicians and pharmacists from the community, not employed by the health plan, who review recommended changes reflective of the latest medical evidence and literature. Independence limits the number of

negative formulary changes per year and, in the event of a change, provides advance member notice (45 days prior to change with specific direction and drug alternatives) and a pathway for the member or prescribing provider to appeal the modification.

For members with clinically sensitive conditions such as transplant patients, individuals with HIV, multiple sclerosis, hemophilia or Hepatitis C or cancer, Independence approaches any formulary change with great caution. In these cases, formulary changes only apply to members who will begin treatment in the future, while existing members would not experience a change. Beyond clinically sensitive conditions, other adjustments in drug coverage are made on a “go forward” basis. This means *if* a change were to be made to the way a drug for a more common health condition is administered (example – cholesterol drugs), existing patients would be notified in advance of the change, and members for whom the drug has been newly prescribed would follow the formulary in place at the time of diagnosis.

### **House Bill 853 and Changes to Opioid Coverage**

Flexibility in modifying health care benefits and managing prescription drug formularies has been essential in allowing Independence to implement changes to help combat the state’s opioid crisis. In 2014, Independence added prior authorization for certain opioids and limited the duration of initial opioid prescription to five days. These changes helped Independence to reduce opioid utilizers by 43 percent and has reduced opioid scripts by 52 percent. Legislation such as House Bill 853 which seeks to limit such flexibility could well have prevented these overwhelmingly positive results in opioid prescribing and use among our members.

### **What Else Is Driving Drug Benefit Changes?**

It has been noted that there are a number of reasons for drug formulary changes including quality or safety concerns or inappropriate provider utilization. However, we cannot ignore the fact that – absent such tools as tiering and prior authorization and the ability to quickly bring generic alternatives to our members – the ever-increasing cost of prescription drugs would go unchecked, and our members would be forced to pay more.

Recent data highlights the need to allow health plans the flexibility to react to drug manufacturers’ frequent, ad hoc price increases on new and existing medications:

- From 2015 through 2019, brand drug manufacturers have increased their prices over 10,000 times.
- On average, drug makers have increased prices on over 400 drugs within the first week of each of the last 5 years.
- Per GoodRx research published late last year, a month’s supply of Lantus (insulin) has gone up 24 percent in six years, a month’s supply of Xarelto (blood clots) has increased 54 percent in six years, and a two-pack of Epipens increased 52 percent over six years.
- The New England Journal of Medicine concluded that over \$700 million may have been saved in 2017 *if* a generic form of the Suboxone film had been able to come to market - \$200 million of those estimated savings would been in Medicaid alone according to a recent article outlining common strategies drug makers employ to extend market exclusivity and manipulate the FDA approval process.

The continuing escalation of prescription drug prices directly impacts Independence and our members. The following illustrate those impacts:

- Total cost of prescription claims paid by Independence and our members increased 13 percent since 2017, from \$1.5 billion to \$1.7 billion in 2019.
- Independence's drug costs grew three times faster than the average rate of inflation of 4.3 percent over the same time period.
- Independence's drug costs have increased by \$156 million between 2017 and 2019, even factoring in pharmaceutical rebates.
- **Specialty drugs expenses are over 60 times the amount spent on generic drugs, making up more than 50 percent of overall pharmacy drug spend at Independence but amounting to less than two percent of utilization.**
- 90 percent of Independence prescriptions are filled as generics.

### **Conclusion**

Independence remains interested in exploring and addressing the specific issues or instances that drove the introduction of House Bill 853. We would note, however, that there are existing processes in place to notify and protect our members and providers when there are changes in prescription drug coverage. The legislation as proposed will result in insurers being unable to help stem the tide of expensive, unsafe, or inefficient care resulting in unnecessary higher costs for Independence members.