

Draft Pending Adoption

Attachment Two
Regulatory Framework (B) Task Force
3/24/26

Draft: 3/31/26

Prescription Drug Coverage (B) Working Group
San Diego, California
March 23, 2026

The Prescription Drug Coverage (B) Working Group of the Regulatory Framework (B) Task Force met in San Diego, CA, March 23, 2026. The following Working Group members participated: Joylynn Fix, Chair, and Allan L. McVey (WV); Ashley Scott, Vice Chair (OK); Sarah S. Bailey and Kayla Erickson (AK); Kelli Littlejohn Newman (AL); Tolanda McNeal (AZ); Tricia Davé (CT); Howard Liebers (DC); Sheryl Parker (FL); Andria Seip (IA); Shannon Hohl (ID); Matthew Pickett and Chris Heisler (IL); Craig Van Aalst (KS); Shaun Orme and Daniel McIlwain (KY); Frank Opelka (LA); Joe Stoddard (MI); Norman Barrett and T.J. Patton (MN); Amy Hoyt (MO); David Dachs (MT); Robert Croom (NC); Cheryl Wolff, Martin Swanson, and Maggie Reinert (NE); Ralph Boeckman and Erin Porter (NJ); Sahar M. Hassanin and Krystal Bartholomew (NM); Sylvia Lawson and Gail A. Ross (NY); Sarah Young (OR); Michael Humphreys, Lindsy Swartz, and Richard L. Hendrickson (PA); Glory Montalvo (PR); Jud Jones (TN); Tanji J. Northrup and Shelley Wiseman (UT); Sofia Pasarow (WA); Lori Luder (WI); and Lauren White (WY). Also participating were: Lila Cummings and Debra Judy (CO); Kevin P. Beagan (MA); Robert L. Carey and Marti Hooper (ME); Mike Chaney (MS); Chrystal Bartuska (ND); Tony Bonofiglio (OH); and Jill Kruger (SD).

1. Adopted its Dec. 15, 2025, and 2025 Fall National Meeting Minutes

The Working Group met Dec. 15, 2025. During this meeting, the Working Group took the following action: 1) heard a presentation from the Pharmaceutical Research and Manufacturers of America (PhRMA) on the 340B Drug Pricing Program and anticipated changes beginning Jan. 1, 2026.

Van Aalst made a motion, seconded by Seip, to adopt the Working Group's Dec. 15, 2025 (Attachment Two-A), and Dec. 9, 2025 (*see NAIC Proceedings – Fall 2025, Regulatory Framework (B) Task Force, Attachment Four*) minutes. The motion passed unanimously.

2. Heard Presentations on Prescription Drug Formularies, Consumer Protections, and State Enforcement

Wayne Turner (National Health Law Program—NHeLP) and Carl Schmid (HIV+Hepatitis Policy Institute) presented on prescription drug formularies, consumer protections, and state enforcement. Turner discussed the importance of insurer compliance with the Affordable Care Act's (ACA's) nondiscrimination drug formulary requirements. He discussed ways state insurance regulators can help to ensure there is no such discrimination by bringing greater transparency to: 1) Pharmacy & Therapeutics (P&T) committees to ensure comprehensive, up-to-date formularies; 2) exceptions processes to access non-formulary drugs; 3) independent review of drug denials; and 4) up-to-date formulary information, including tiering structure and access restrictions. To further ensure consumers have access to necessary prescription drugs, Turner also suggested that state insurance regulators more closely monitor P&T committees, particularly their members, meetings, minutes, and conflict-of-interest disclosure requirements. He also suggested that state insurance regulators review the data on standard and expedited exceptions process requests and monitor drug exceptions processes to determine if there is a high use of the exceptions process, which could be a sign that the formulary is inadequate.

Schmid said that, generally, plans are following the ACA requirements with respect to non-discriminatory drug formulary designs. However, there are a few outliers, particularly related to drug formulary designs involving HIV medications. He discussed a few examples. Schmid said federal and state insurance regulators can prevent such

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discriminatory designs by: 1) fully reviewing plans for drug coverage; 2) fully reviewing plans for drug tier placement; 3) ensuring all prescription drugs are part of the essential health benefits (EHB) benchmark plan; 4) ensuring plan documents are clear and transparent; and 5) responding to consumer complaints.

3. Heard a Presentation on the Prescription Drug Claim Ecosystem

Newman provided an overview of the prescription drug claim ecosystem. She described the distribution and reimbursement system for patient-administered, outpatient generic drugs with a discount card. Newman also described a typical prescription drug transaction between the entities involved in the drug distribution system—the pharmaceutical manufacturer, the wholesaler, the pharmacy benefit manager (PBM), the pharmacy, and the health plan—and how reimbursement works when a discount card is used or is not used.

Newman discussed copay assistance programs, which include manufacturer copay cards and coupons; state pharmaceutical assistance programs (SPAPs); drug discount cards, such as GoodRx and Single Care; patient assistance programs (PAPs); and retail pharmacy savings clubs. She also discussed copay accumulators, what they are, and how they work. Additionally, she discussed copay maximizers and the federal regulatory history related to copay accumulators. She explained that prior to September 2023, the U.S. Department of Health and Human Services (HHS) allowed plans at its discretion to count or not count any copay assistance a consumer receives toward the consumer's annual cost-sharing requirements. In September 2023, the HHS rule permitting this was struck down, and requirements related to copay assistance reverted to a previous HHS rule, the 2020 Notice of Benefit and Payment Parameters rule, which requires plans to count copay assistance toward a consumer's annual cost-sharing requirements except when the assistance is for a brand-name drug with an available generic drug. Newman provided a case study example of a situation involving copay accumulators, illustrating how complex and confusing they can be for consumers.

Newman said her presentation illustrates the complexity of the prescription drug distribution and reimbursement system. She urged state insurance regulators to remain aware because it is always changing. She also highlighted the importance of transparency and patient advocacy.

Having no further business, the Prescription Drug Coverage (B) Working Group adjourned.

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