PRIME THERAPEUTICS

April 7, 2021

Rep. Tina Liebling, Chair
House Health Finance and Policy Committee
Minnesota House of Representatives

Re: HF 2128 – DE1

Chair Liebling and members of the Committee:

Thank you for the opportunity to comment on HF 2128. I represent Prime Therapeutics, a pharmacy benefit manager (PBM) owned by 18 not- for-profit Blue Cross and Blue Shield insurers, subsidiaries or affiliates of those insurers, including Blue Cross and Blue Shield of Minnesota. This bill contains numerous provisions that will drive up prescription drug costs for Minnesotans and Minnesota employers without providing them any additional benefits. Some of these provisions were not considered during this session and were pulled from an entirely separate legislative session. For these reasons, we respectfully oppose the inclusion of the provisions described below and look forward to working with the committee to address these issues.

- Art. 5, Sec. 8 – H.F. 58 which provides for a frozen formulary has received extensive discussion throughout this session with Rep. Elkins. The language added to H.F. 2128 is from a previous legislative session and ignores the industry factors - namely, regular price increases by pharmaceutical manufacturers – that make formulary management a necessary component of how we manage drug cost. The fiscal note to HF 58 recognized that cost impact – upwards of $30M and increasing over time. While last year's bill, HF 1257, had a minimal fiscal impact, that is simply because "SEGIP has previously not been able to estimate the claims-related costs of preventing mid-year formulary changes or the loss of manufacturer drug rebates because [they] did not have the necessary data."[1] We appreciate Rep. Elkins efforts to curb against this by including a non-severability clause tying the frozen formulary provisions to restrictions on price increases by pharmaceutical manufacturers. That bill, though, still came with significant cost concerns and this one only amplifies those concerns without the protections provided by the non-severability clause in HF 58. Thus, we oppose the inclusion of this section as written in this bill.
- Art. 5, Sec. 9, 12, 13, 22 – the development and proliferation of biosimilars has the potential to allow for significant cost savings in the prescription drug market. H.F. 2128 would significantly hamper that potential by eliminating competition from the marketplace.[2] PBMs were a significant part of the reason generics have proliferated by driving competition in that space. This section would undermine our ability to do the same thing in the biosimilar space.

[1] *Consolidated Fiscal Note HF 58-0, Reporting Prescription Drug Prices; Coverage;* Feb. 6, 2021; available at https://mn.gov/mmbapps/fnsearchlbo/.
[2] *See* Tony Hagen, "Biosimilar Experts Poke Holes in MSK's P-quad Model on Biosimilar Pricing," March 24, 2021, *available at* https://www.centerforbiosimilars.com/view/biosimilar-experts-poke-holes-in-msk-s-p-quad-model-on-biosimilar-pricing. In that article, former FDA Commissioner Scott Gottlieb captures the problem of this bill quite succinctly: "[S]trengthening competition in biosimilar markets, rather than setting low prices for originator biosimilars, will facilitate biosimilar savings for all biosimilars…artificial pricing is a terrific way to stop innovation and to end the rollout of potentially blockbuster savings with biosimilars."

- Art. 5, Sec. 10 –Gag clauses have already been addressed at the federal level and in state law at MN. Stat. 62W.11. The information pharmacists want to provide to plan sponsors is already covered by the transparency reporting between PBMs and plan sponsors in MN. Stat. 62W.06. We believe that this is an unnecessary provision that has the effect of unnecessarily providing patients contract information that is irrelevant to their drug purchase. In effect, it is putting patients in the middle of an issue to which they are not a party.
- Art. 5, Sec. 11 – point-of-sale rebates were not discussed this legislative session. This is a new provision to this legislature and one that warrants a consideration of the cost impact before moving forward. Rebates are used to drive down the overall cost of care for the entire insured pool. Requiring those rebates be used at the point-of-sale eliminates that and narrows their utility, ultimately driving up the overall cost of care for the insured pool as a whole.
- Art. 5, Sec. 16 – this section only applies to one link in the chain of custody of a drug. There are no controls that control the movement of drugs from manufacturer to pharmacy. Moreover, the Board of Pharmacy's rules already cover the intent of this section.
- Art. 1, Sec. 24 – we believe the allowance for a 90-day supply is workable with an amendment to limit the list to maintenance medications. This would limit the scope of the financial impact that is inherent with 90-day supplies in Medicaid. The Medicaid population is more fluid, as people can and do disenroll or lose eligibility throughout the year. Providing 90-day supplies means that there will be many times where Medicaid is paying for medication that will last beyond that person's Medicaid coverage. An amendment to limit this to maintenance medications would help limit this concern.
- Art. 1, Sec. 42 – carving the prescription drug benefit out of Medicaid managed care and reverting to a fee-for-service arrangement administered by the state would be a costly and backwards move for Minnesota. Healthcare is moving towards value-based care. This change would incentivize only providing more, not better, care or services. Further to that point, it is not clear how this change would save the state money. By law, rebates are already passed through in the Medicaid program. With a few states testing this idea, I think it warrants a longer examination of whether a carve-out in fact provides the touted benefits.[3]

Prime's mission is to help people get the medicine they need to feel better and live well – these provisions undercut our ability to accomplish that mission. We look forward to continuing to work with the committee on the above sections. Thank you for your time and consideration.

Sincerely,

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[3] *See, e.g.*, The Menges Group, "Assessment of Medi-Cal Pharmacy Benefits Policy Options," May 25, 2019, *available at* https://www.themengesgroup.com/upload_file/assessment_of_medi-cal_pharmacy_benefits_policy_options.pdf (highlighting the costs and clinical concerns, namely undercutting the ability to provide whole-person care, of a pharmacy benefit carve out).