

# The Essential Health Benefits (EHB) Loophole is a Pathway for Exploitation of Patient Copay Assistance

Close the EHB Loophole to Ensure Patient Access to Lifesaving Medications



## THE PROBLEM: INSURER & PBM PRACTICES HARM PATIENT ACCESS TO LIFESAVING PRESCRIPTION MEDICATION

A loophole in the law allows some health insurance plans and pharmacy benefit managers (PBMs) to only cover the minimum Essential Health Benefits (EHB) in any given state. In practice, this means health insurers and PBMs are picking and choosing what is an EHB and deeming certain benefits as “non-essential” to redefine patient cost-sharing and not count those costs toward a patient’s deductible or out-of-pocket maximum.



A patient’s journey to a diagnosis begins with various, unexplained symptoms. After consulting multiple doctors, Beth discovers she has multiple sclerosis (MS).



After a long period of trial and error with her healthcare provider, Beth is prescribed a branded specialty drug to help control her disease.

Beth is shocked at the pharmacy when she discovers she owes a lot more money out-of-pocket for her treatment plan than she expected.



Beth gets her health insurance through her employer, and her MS treatment is covered by her plan.



How could this happen? Beth’s coverage has been manipulated by her insurer that exploited a loophole in the law known as the EHB Loophole.

Beth must now decide whether to pay for her medication or pay for groceries and rent.



vs.



Beth’s payments for her MS medication are not counted toward her out-of-pocket maximum, leaving Beth on the hook for thousands of dollars for her treatment.



## POLICY SOLUTION: CLOSE THE EHB LOOPHOLE TO PROTECT PATIENT ACCESS TO MEDICATION & ENSURE COPAY ASSISTANCE COUNTS

Policymakers must require that any item or service covered by a health plan is considered part of the EHB package to ensure that the full value of copay assistance is counted toward a patient’s out-of-pocket obligation. By closing the EHB loophole, policymakers will protect patients who rely on copay assistance to access and adhere to their prescribed medications.