COMMUNITY ACCESS NATIONAL NETWORK

Mailing Address:

Attn: Jen Laws
PO Box 3009
Slidell, LA 70459

Chief Executive Officer:

Jen Laws
Phone: (313) 333-8534
Fax: (646) 786-3825
Email: jen@tiicann.org

September 14, 2026

Washington Prescription Drug Affordability Board
Washington Health Care Authority
PO Box 42716
Olympia, Washington 98504-2716

RE: Ongoing Review Concerns

Dear Honorable Members of the Washington Prescription Drug Affordability Board,

The **Community Access National Network (CANN)** is a 501(c)(3) national nonprofit organization focusing on public policy issues relating to HIV/AIDS and viral hepatitis. CANN's mission is to define, promote, and improve access to healthcare services and support for people living with HIV/AIDS and/or viral hepatitis through advocacy, education, and networking.

While CANN is primarily focused on policy matters affecting access to care for people living with and affected by HIV, we stand in firm support of all people living with chronic and rare diseases and recognize the very reality of those living with multiple health conditions and the necessity of timely, personalized care for every one of those health conditions. State Prescription Drug Affordability Boards are of profound importance to our community.

Process Issues Raise Concern

In the July 2026 meeting, the Board acknowledged the recent UPL legal dealings in Colorado. The recent preliminary injunction (PI) in the Colorado PDAB's litigation regarding its upper payment limit setting activity for Enbrel raises questions for Washington as well. Judge Domenico issued a PI that indefinitely prohibits the UPL from taking effect until the court determines the merits of the case. PIs are only ever issued when a Court determines the litigant is likely to succeed on the merits and where lack of intervention poses substantial harm to a claimant. The PI focused on the determination that the UPL conflicted with federal patent law and jurisprudence of the District of Columbia Federal District Court in the BIO decisions. Not discussed in detail, but as awarded as cause for the PI, also included due process concerns. On the expected merits, due process concerns will include the arbitrary and capricious nature of metrics used to determine "affordability" and the lack of a standardized definition of "affordable".

We raise the concern that the Washington PDAB's proprietary weighting and scoring process to determine drugs for review and priorities for determining affordability could potentially be viewed as arbitrary and capricious as well. This is especially true because the deliberations do not present a standardized, repeatable process. As it stands, any potential upper payment limit set by the Board would not go into effect until 2028. If legal challenges arise as a result of ongoing activity, further financial expenditures would be required for litigation, in addition to further delay of any implementation. This is not in the best interests of patients or the state system.

Additionally, data remains an issue. Because staff acknowledged problems with 2024 data, data from 2023 is being used to look at the 2026 drug review cycle. This raises questions about how effective affordability determinations can be based on outdated figures and whether they result in effective solutions for current patient needs.

Focus Should Remain on Washington State

In the July 2026 meeting, Board commentary reiterated the consistent communication with other state PDABs. While communicating with other state boards, it is imperative to remain laser-focused on what is in the best interests of the specific needs of the patients of Washington State. For example, Maryland's initial upper payment limit applies only to state and governmental entities and is set to operate as a supplemental rebate, which differs from how any potential UPL would be implemented in Washington State. Additionally, Maryland recently acknowledged a grossly insufficient depth of financial analysis regarding the scope of the 340B program in the state. The Washington PDAB needs to consider state-specific issues, such as potentially adverse outcomes to 340B revenues from UPL implementation, which could harm the covered entities that serve vulnerable populations.

Upper Payment Limits Do Not Equal Affordability

Washington UPL authority broadly applies to state-regulated health carriers, health plans offered to public employees, and employer-sponsored self-funded plans if they opt in. UPLs do not apply to Medicare or Medicaid and therefore do not address affordability concerns for Medicare patients. Furthermore, UPLs cannot override federal Medicaid reimbursement structures or federal drug rebate programs; thus, for Medicare and Medicaid, an upper payment would not result in additional system savings. However, upper payment limits can reduce Medicaid drug rebates by lowering the public reimbursement or net transaction prices that manufacturers use to calculate statutory rebate obligations.

We want to reiterate the issue that upper payment limits are not effective affordability solutions. Oregon's PDAB officially voted not to recommend UPLs to their legislature because of their ineffectiveness as a tool and the potential for adverse outcomes in access and potentially even increased costs to patients and the system. Upper payment limits are reimbursement caps that do not directly reduce patients' out-of-pocket burden. Upper payment limits can also financially harm pharmacies because their acquisition costs exceed upper payment limits, and the state is not prepared with appropriations to make pharmacies whole in the same manner as the federal Medicare Drug Negotiation Program.

The PDAB advisory group reporting further acknowledges that patient affordability is strongly affected by insurance design. Coverages vary widely by plan and line of business. However, upper payment limits could result in further adverse changes in cost-sharing and utilization management hurdles. We encourage the Board to construct policy solutions that actually directly translate into lower costs for patients.

We appreciate the time and effort you have expended thus far in all of your work. We encourage you to adopt solutions that provide the remedies patients need. We also encourage you to ensure your data, dashboards, rulemaking, and processes are beyond reproach and deliver your desired specific numerical financial goals that have yet to be defined.

Respectfully submitted,

Ranier Simons
Director of Patient-Centered Drug Pricing and Healthcare Access Policy
Community Access National Network (CANN)

On behalf of
Jen Laws
President & CEO
Community Access National Network