

# HOUSE BILL 4071: ORAL CHEMOTHERAPY MANDATE

## MAHP POSITION: OPPOSED

### SUMMARY OF HOUSE BILL 4071

House Bill 4071 mandates that customer out-of-pocket expenses shall not exceed \$150 per month for oral chemotherapy medication, regardless of the actual cost of the prescription drug. It would also require health insurance providers to apply the same out-of-pocket costs for orally prescribed chemotherapy as intravenously administered chemotherapy, regardless of the cost differential.



### BACKGROUND ON ORAL CHEMOTHERAPY

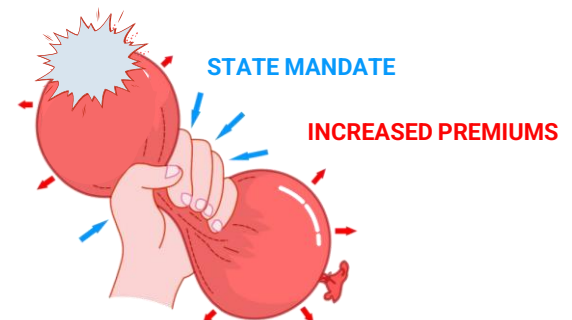
Chemotherapy coverage has been mandated in Michigan since 1989 under Chapter 34 of the Michigan Insurance Code. Today, health plans must provide coverage for all FDA-approved chemotherapy treatments (oral and intravenous chemotherapy drugs).

Cost-sharing requirements for these medicines depend on a customer's chosen policy plan. However, all health plan policies must comply with the Affordable Care Act (ACA), which caps aggregated total out-of-pocket customer costs (co-pays, deductibles, and co-insurance) at \$9,000 per individual and \$18,200 for families. These caps apply to all prescription and medical out-of-pocket expenses.



The price of oral cancer prescription drugs ranges on average from **\$10,000 to \$25,000 per month.**

Efforts by states to mandate lower cost-sharing for enumerated specific drugs like oral chemotherapy or insulin affect the actuarial value of the cost-sharing caps set under the ACA. Health plans must make necessary adjustments when lower cost-sharing mandates are passed on prescription drugs or medical services by increasing cost-sharing on other benefits or raising insurance premiums.



According to a JAMA report, increased spending on oral cancer drugs has risen much faster than inflation. Furthermore, many oral chemotherapy drugs have limited study data that identify favorable response rates (identified as the percentage of patients whose tumors shrink beyond an arbitrary threshold compared to intravenous chemotherapy medications). A 2019 study of 85 oncology oral drugs approved from 2006 to 2018[1] showed that only 21% offered clinically significant benefits. Only one drug, imatinib, offered a transformational impact on cancer treatment with a 98% survival benefit. Most other drugs showed unconfirmed clinical benefit, with only 6 of 85 drugs establishing overall survival advantage in post-marketing studies.

[1] <https://pubmed.ncbi.nlm.nih.gov/31135822/>

# ARGUMENTS AGAINST ORAL CHEMOTHERAPY MANDATE

## THIS MANDATE WILL NOT LOWER DRUG COSTS

Reducing out-of-pocket costs does nothing to stop the abusive increases in oral chemotherapy drug pricing. Average monthly cancer drug treatment costs **increased from \$7,103 in 2006 to \$25,000 in 2021**. The price of oral cancer prescription drugs ranges on average from \$10,000 to \$25,000 per month. Unlike other countries, the United States does not regulate or negotiate the price of prescription drugs. Drug manufacturers freely set drug pricing without government price control or regulation. Oral chemo drug costs have far outpaced the Consumer Price Index over the last decade.



**\$14,580**

Median monthly cost in the US of 65 cancer drugs



**\$6,867**

Median monthly cost in the UK of the same 65 cancer drugs



**\$6,593**

Median monthly cost in Switzerland of the same 65 cancer drugs

## THIS MANDATE WILL ONLY AFFECT A FEW CUSTOMERS

This legislation will only benefit some patients using oral chemotherapy. Commercially self-insured employers who provide healthcare to their employees (ERISA) represent nearly 60% of the market and are not subject to this state mandate. In Michigan, almost 60% of all cancer diagnoses are to those over 65 years of age and covered by Medicare which is not impacted by this legislation. As such, less than one percent of Michigan's population will benefit from this mandate.

## CUSTOMERS WILL PAY THE PRICE FOR THIS UNFUNDED STATE MANDATE

Since the passage of the ACA, states across the country have begun setting up a patchwork of new and additional insurance mandates like House Bill 4071, which exceed federal standards and increase healthcare costs. According to the Journal of Risk and Financial Management, each state has more than forty individual health insurance mandates that exceed federal requirements.

Unfortunately, states force health plans to act like hidden tax collectors. Health plans are forced to charge their customers for state healthcare mandates. Rather than using tax dollars to pay for their mandates, the state is forcing health plans to increase your health insurance costs. To add insult to injury, customers are not even allowed to choose whether they want or need these new state-mandated healthcare coverages. Instead, the mandate is added to your policy, and you're expected to foot the bill.

## THIS MANDATE HELPS DRUG MANUFACTURERS

Big Pharma supports and advocates strongly for customer cost-sharing caps because it masks the problem of high-cost prescription drugs. **House Bill 4071 will not lower the costs of oral cancer prescription drugs.** This bill will exacerbate prices by increasing demand for unregulated products with zero price controls.



I WANT YOU  
(HEALTH PLANS)  
TO TAX CUSTOMERS.



*The following policy reforms are better alternatives that will effectively lower oral chemotherapy drug prices:*

## AFFORDABILITY REVIEW BOARD

Establish a prescription drug affordability review board to assess drug affordability and set rates for prescription drugs to bring savings to all patients.[2] Health plans must file and seek approval for their premium rates with state and federal regulatory entities each year; why not drug manufacturers? The creation of a state affordability review board would allow states to review and set rates for certain high-cost prescription drugs.

## ACCOUNTABILITY

Enact legislation that fines pharmaceutical manufacturers for price gouging or increases that exceed a state threshold.[3]

## IMPORTATION

Allow for importing prescription drugs at a lower cost and highlight why other countries that better regulate drug manufacturers have lower prescription drug costs.

## TRANSPARENCY

Force drug manufacturers to provide transparency reports on drug pricing in Michigan.

## LIMIT MONOPOLY STATUS OF NEW DRUGS

Call on Congress to change federal prescription drug patent timeframes. New drugs in the U.S. are typically granted monopoly periods that usually last 20 years. During this period, drug companies tend to raise list prices each year, which can lead to higher out-of-pocket patient costs.

## EARLY WARNING

Require drug manufacturers to warn early about price increases on prescription drugs. Doing so would provide some accountability and allow health plans, employers, and the state to prepare for those increases.

## INTERNATIONAL REFERENCE RATES

Allow state regulators to establish international reference rates for the 250 most costly drugs in the state and prohibit state entities, health plans, or employers from purchasing referenced drugs for a cost higher than the referenced rate.

## INFLATIONARY CAPS ON DRUG PRICES

Limit specific drug prices to no greater than inflationary increases.

[2] <https://www.billtrack50.com/BillDetail/1061500>

[3] <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2018/07/a-tax-on-drug-price-increases-can-offset-costs>