

115TH CONGRESS
1ST SESSION

H. R. 1316

To amend title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program and Medicare Advantage program to further transparency of payment methodologies to pharmacies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2017

Mr. COLLINS of Georgia (for himself, Mr. LOEBSACK, Mr. CARTER of Georgia, Mr. DUNCAN of Tennessee, Mrs. McMORRIS RODGERS, Mr. BLUM, Mr. SARBANES, and Mr. BABIN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Armed Services, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program and Medicare Advantage program to further transparency of payment methodologies to pharmacies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Prescription Drug
3 Price Transparency Act”.

4 **SEC. 2. PHARMACY BENEFITS MANAGER STANDARDS**
5 **UNDER THE MEDICARE PROGRAM FOR PRE-**
6 **SCRIPTION DRUG PLANS AND MA-PD PLANS.**

7 (a) IN GENERAL.—Section 1860D–12(b) of the So-
8 cial Security Act (42 U.S.C. 1395w–112(b)) is amended
9 by adding at the end the following new paragraph:

10 “(7) PHARMACY BENEFITS MANAGER TRANS-
11 PARENCY REQUIREMENTS.—Each contract entered
12 into with a PDP sponsor under this part with re-
13 spect to a prescription drug plan offered by such
14 sponsor or with an MA organization offering an
15 MA–PD plan under part C shall provide that the
16 sponsor or organization, respectively, may not enter
17 into a contract with any pharmacy benefits manager
18 (referred to in this paragraph as a ‘PBM’) to man-
19 age the prescription drug coverage provided under
20 such plan, or to control the costs of the prescription
21 drug coverage under such plan, unless the PBM ad-
22 heres to the following criteria when handling person-
23 ally identifiable utilization and claims data or other
24 sensitive patient data:

25 “(A) The PBM may not transmit any per-
26 sonally identifiable utilization, protected health

1 information, or claims data, with respect to a
2 plan enrollee, to a pharmacy owned by a PBM
3 if the plan enrollee has not voluntarily elected
4 in writing or via secure electronic means to fill
5 that particular prescription at the PBM-owned
6 pharmacy.

7 “(B) The PBM may not require that a
8 plan enrollee use a retail pharmacy, mail order
9 pharmacy, specialty pharmacy, or other phar-
10 macy entity providing pharmacy services in
11 which the PBM has an ownership interest or
12 that has an ownership interest in the PBM, or
13 provide an incentive to a plan enrollee to en-
14 courage the enrollee to use a retail pharmacy,
15 mail order pharmacy, specialty pharmacy, or
16 other pharmacy entity providing pharmacy serv-
17 ices in which the PBM has an ownership inter-
18 est or that has an ownership interest in the
19 PBM, if the incentive is applicable only to such
20 pharmacies.”.

21 (b) REGULAR UPDATE OF PRESCRIPTION DRUG
22 PRICING STANDARD.—Paragraph (6) of section 1860D–
23 12(b) of the Social Security Act (42 U.S.C. 1395w–
24 112(b)) is amended to read as follows:

1 “(6) REGULAR UPDATE OF PRESCRIPTION
2 DRUG PRICING STANDARD.—

3 “(A) IN GENERAL.—If the PDP sponsor of
4 a prescription drug plan (or MA organization
5 offering an MA–PD plan) uses a standard for
6 reimbursement (as described in subparagraph
7 (B)) of pharmacies based on the cost of a drug,
8 each contract entered into with such sponsor
9 under this part (or organization under part C)
10 with respect to the plan shall provide that the
11 sponsor (or organization) shall—

12 “(i) update such standard not less fre-
13 quently than once every 7 days, beginning
14 with an initial update on January 1 of
15 each year, to accurately reflect the market
16 price of acquiring the drug;

17 “(ii) disclose to applicable pharmacies
18 and the contracting entities of such phar-
19 macies the sources used for making any
20 such update immediately without require-
21 ment of request;

22 “(iii) if the source for such a standard
23 for reimbursement is not publicly available,
24 disclose to the applicable pharmacies and
25 the respective contracting entities of such

1 pharmacies all individual drug prices to be
2 so updated in advance of the use of such
3 prices for the reimbursement of claims;

4 “(iv) establish a process to appeal, in-
5 vestigate, and resolve disputes regarding
6 individual drug prices that are less than
7 the pharmacy acquisition price for such
8 drug, which must be adjudicated within 7
9 days of the pharmacy filing its appeal; and

10 “(v) provide all such pricing data in
11 an .xml spreadsheet format or a com-
12 parable easily accessible and complete
13 spreadsheet format.

14 “(B) PRESCRIPTION DRUG PRICING
15 STANDARD DEFINED.—For purposes of sub-
16 paragraph (A), a standard for reimbursement
17 of a pharmacy is any methodology or formula
18 for varying the pricing of a drug or drugs dur-
19 ing the term of the pharmacy reimbursement
20 contract that is based on the cost of the drug
21 involved, including drug pricing references and
22 amounts that are based upon average wholesale
23 price, wholesale average cost, average manufac-
24 turer price, average sales price, maximum al-

1 lowable cost (MAC), or other costs, whether
 2 publicly available or not.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to plan years beginning on or after
 5 January 1, 2018.

6 **SEC. 3. REGULAR UPDATE OF PRESCRIPTION DRUG PRIC-**
 7 **ING STANDARD UNDER TRICARE RETAIL**
 8 **PHARMACY PROGRAM.**

9 Section 1074g(d) of title 10, United States Code, is
 10 amended by adding at the end the following new para-
 11 graph:

12 “(3) To the extent practicable, with respect to the
 13 TRICARE retail pharmacy program described in sub-
 14 section (a)(2)(E)(ii), the Secretary shall ensure that a con-
 15 tract entered into with a TRICARE managed care support
 16 contractor includes requirements described in section
 17 1860D–12(b)(6) of the Social Security Act (42 U.S.C.
 18 1395w–112(b)(6)) to ensure the provision of information
 19 regarding the pricing standard for prescription drugs.”.

20 **SEC. 4. PRESCRIPTION DRUG TRANSPARENCY IN THE FED-**
 21 **ERAL EMPLOYEES HEALTH BENEFITS PRO-**
 22 **GRAM.**

23 (a) IN GENERAL.—Section 8902 of title 5, United
 24 States Code, is amended by adding at the end the fol-
 25 lowing new subsections:

1 “(p) A contract may not be made or a plan approved
2 under this chapter under which a carrier has an agree-
3 ment with a pharmacy benefits manager (in this sub-
4 section referred to as a ‘PBM’) to manage prescription
5 drug coverage or to control the costs of the prescription
6 drug coverage unless the carrier and PBM adhere to the
7 following criteria:

8 “(1) The PBM may not transmit any personally
9 identifiable utilization, protected health information,
10 or claims data with respect to an individual enrolled
11 under such contract or plan to a pharmacy owned by
12 the PBM if the individual has not voluntarily elected
13 in writing or via secure electronic means to fill that
14 particular prescription at such a pharmacy.

15 “(2) The PBM may not require that an indi-
16 vidual enrolled under such contract or plan use a re-
17 tail pharmacy, mail order pharmacy, specialty phar-
18 macy, or other pharmacy entity providing pharmacy
19 services in which the PBM has an ownership interest
20 or that has an ownership interest in the PBM or
21 provide an incentive to a plan enrollee to encourage
22 the enrollee to use a retail pharmacy, mail order
23 pharmacy, specialty pharmacy, or other pharmacy
24 entity providing pharmacy services in which the
25 PBM has an ownership interest or that has an own-

1 ership interest in the PBM, if the incentive is appli-
2 cable only to such pharmacies.

3 “(q)(1) If a contract made or plan approved under
4 this chapter provides for a standard for reimbursement
5 (as described in paragraph (2)) with respect to a prescrip-
6 tion drug plan, such contract or plan shall provide that
7 the applicable carrier—

8 “(A) update such standard not less frequently
9 than once every 7 days, beginning with an initial up-
10 date on January 1 of each year, to accurately reflect
11 the market price of acquiring the drug;

12 “(B) disclose to applicable pharmacies and the
13 contracting entities of such pharmacies the sources
14 used for making any such update immediately with-
15 out requirement of request;

16 “(C) if the source for such a standard for reim-
17 bursement is not publicly available, disclose to the
18 applicable pharmacies and contracting entities of
19 such pharmacies all individual drug prices to be so
20 updated in advance of the use of such prices for the
21 reimbursement of claims;

22 “(D) establish a process to appeal, investigate,
23 and resolve disputes regarding individual drug prices
24 that are less than the pharmacy acquisition price for

1 such drug, which must be adjudicated within 7 days
2 of the pharmacy filing its appeal; and

3 “(E) provide all such pricing data in an .xml
4 spreadsheet format or a comparable easily accessible
5 and complete spreadsheet format.

6 “(2) For purposes of paragraph (1), a standard for
7 reimbursement of a pharmacy is any methodology or for-
8 mula for varying the pricing of a drug or drugs during
9 the term of the pharmacy reimbursement contract that is
10 based on the cost of the drug involved, including drug pric-
11 ing references and amounts that are based upon average
12 wholesale price, wholesale average cost, average manufac-
13 turer price, average sales price, maximum allowable cost,
14 or other costs, whether publicly available or not.”.

15 (b) APPLICATION.—The amendment made by sub-
16 section (a) shall apply to any contract entered into under
17 section 8902 of title 5, United States Code, on or after
18 the date of enactment of this section.

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