

116TH CONGRESS  
1ST SESSION

# S. 801

To amend titles XVIII and XIX of the Social Security Act to provide the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission with access to certain drug payment information, including certain rebate information.

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## IN THE SENATE OF THE UNITED STATES

MARCH 14, 2019

Ms. CORTEZ MASTO (for herself, Mr. CORNYN, Mr. CARPER, and Mr. CASIDY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to provide the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission with access to certain drug payment information, including certain rebate information.

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. PROVIDING THE MEDICARE PAYMENT ADVI-**  
2 **SORY COMMISSION AND MEDICAID AND CHIP**  
3 **PAYMENT AND ACCESS COMMISSION WITH**  
4 **ACCESS TO CERTAIN DRUG PAYMENT INFOR-**  
5 **MATION, INCLUDING CERTAIN REBATE IN-**  
6 **FORMATION.**

7 (a) ACCESS TO CERTAIN PART D PAYMENT DATA.—  
8 Section 1860D–15(f) of the Social Security Act (42  
9 U.S.C. 1395w–115(f)) is amended—

10 (1) in paragraph (2)—

11 (A) in subparagraph (A)(ii), by striking  
12 “and” at the end;

13 (B) in subparagraph (B), by striking the  
14 period at the end and inserting “; and”; and

15 (C) by inserting at the end the following  
16 new subparagraph:

17 “(C) by the Executive Director of the  
18 Medicare Payment Advisory Commission for  
19 purposes of monitoring, making recommenda-  
20 tions, and analysis of the program under this  
21 title and by the Executive Director of the Med-  
22 icaid and CHIP Payment and Access Commis-  
23 sion for purposes of monitoring, making rec-  
24 ommendations, and analysis of the Medicaid  
25 program established under title XIX and the

1 Children’s Health Insurance Program under  
2 title XXI.”; and

3 (2) by adding at the end the following new  
4 paragraph:

5 “(3) ADDITIONAL RESTRICTIONS ON DISCLO-  
6 SURE OF INFORMATION.—The Executive Directors  
7 described in paragraph (2)(C) shall not disclose any  
8 of the following information disclosed to such Execu-  
9 tive Directors or obtained by such Executive Direc-  
10 tors pursuant to such paragraph, with respect to a  
11 prescription drug plan offered by a PDP sponsor:

12 “(A) The specific amounts or the identity  
13 of the source of any rebates, price concessions,  
14 or other forms of direct or indirect remunera-  
15 tion under such prescription drug plan.

16 “(B) Information submitted with the bid  
17 submitted under section 1860D–11 by such  
18 PDP sponsor.

19 “(C) In the case of such information from  
20 prescription drug event records, in a form that  
21 would not be permitted under section  
22 423.505(m) of title 42, Code of Federal Regula-  
23 tions, or any successor regulation, if made by  
24 the Centers for Medicare & Medicaid Services.”.

1 (b) ACCESS TO CERTAIN REBATE AND PAYMENT  
2 DATA UNDER MEDICARE AND MEDICAID.—Section  
3 1927(b)(3)(D) of the Social Security Act (42 U.S.C.  
4 1396r–8(b)(3)(D)) is amended—

5 (1) in the matter before clause (i), by striking  
6 “subsection (a)(6)(A)(ii)” and inserting “subsection  
7 (a)(6)(A)”;

8 (2) in clause (iv), by striking “and” at the end;

9 (3) in clause (v), by striking the period at the  
10 end and inserting “, and”;

11 (4) by inserting after clause (v) the following  
12 new clause:

13 “(vi) to permit the Executive Director  
14 of the Medicare Payment Advisory Com-  
15 mission and the Executive Director of the  
16 Medicaid and CHIP Payment and Access  
17 Commission to review the information pro-  
18 vided.”;

19 (5) in the matter at the end, by striking  
20 “1860D–4(c)(2)(E)” and inserting “1860D–  
21 4(c)(2)(G)”;

22 (6) by adding at the end the following new sen-  
23 tence: “Any information disclosed to the Executive  
24 Director of the Medicare Payment Advisory Commis-  
25 sion or the Executive Director of the Medicaid and

1 CHIP Payment and Access Commission pursuant to  
2 this subparagraph shall not be disclosed by either  
3 such Executive Director in a form which discloses  
4 the identity of a specific manufacturer or wholesaler  
5 or prices charged for drugs by such manufacturer or  
6 wholesaler.”.

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