

116TH CONGRESS  
2D SESSION

# H. R. 6739

To amend title XVIII of the Social Security Act to require coverage under Medicare PDPs and MA–PD plans, without the imposition of cost sharing or utilization management requirements, of drugs intended to treat COVID–19 during certain emergencies.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2020

Mr. CASTEN of Illinois introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 require coverage under Medicare PDPs and MA–PD plans, without the imposition of cost sharing or utilization management requirements, of drugs intended to treat COVID–19 during certain emergencies.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ensuring Seniors’ Ac-  
5 cess to COVID Treatments Act”.

1 **SEC. 2. REQUIRING COVERAGE UNDER MEDICARE PDPS**  
2 **AND MA-PD PLANS, WITHOUT THE IMPOSI-**  
3 **TION OF COST SHARING OR UTILIZATION**  
4 **MANAGEMENT REQUIREMENTS, OF DRUGS**  
5 **INTENDED TO TREAT COVID-19 DURING CER-**  
6 **TAIN EMERGENCIES.**

7 (a) COVERAGE REQUIREMENT.—

8 (1) IN GENERAL.—Section 1860D-4(b)(3) of  
9 the Social Security Act (42 U.S.C. 1395w-  
10 104(b)(3)) is amended by adding at the end the fol-  
11 lowing new subparagraph:

12 “(I) REQUIRED INCLUSION OF DRUGS IN-  
13 TENDED TO TREAT COVID-19.—

14 “(i) IN GENERAL.—Notwithstanding  
15 any other provision of law, a PDP sponsor  
16 offering a prescription drug plan shall,  
17 with respect to a plan year, any portion of  
18 which occurs during the period described  
19 in clause (ii), be required to—

20 “(I) include in any formulary—

21 “(aa) all covered part D  
22 drugs with a medically accepted  
23 indication (as defined in section  
24 1860D-2(e)(4)) to treat COVID-  
25 19 that are marketed in the  
26 United States; and

1                   “(bb) all drugs authorized  
2                   under section 564 or 564A of the  
3                   Federal Food Drug and Cosmetic  
4                   Act to treat COVID–19; and

5                   “(II) not impose any prior au-  
6                   thorization or other utilization man-  
7                   agement requirement with respect to  
8                   such drugs described in item (aa) or  
9                   (bb) of subclause (I) (other than such  
10                  a requirement that limits the quantity  
11                  of drugs due to safety).

12                  “(ii) PERIOD DESCRIBED.—For pur-  
13                  poses of clause (i), the period described in  
14                  this clause is the period during which there  
15                  exists the public health emergency declared  
16                  by the Secretary pursuant to section 319  
17                  of the Public Health Service Act on Janu-  
18                  ary 31, 2020, entitled ‘Determination that  
19                  a Public Health Emergency Exists Nation-  
20                  wide as the Result of the 2019 Novel  
21                  Coronavirus’ (including any renewal of  
22                  such declaration pursuant to such sec-  
23                  tion).”.

24                  (b) ELIMINATION OF COST SHARING.—

1           (1) ELIMINATION OF COST SHARING FOR  
2 DRUGS INTENDED TO TREAT COVID-19 UNDER  
3 STANDARD AND ALTERNATIVE PRESCRIPTION DRUG  
4 COVERAGE.—Section 1860D-2 of the Social Security  
5 Act (42 U.S.C. 1395w-102) is amended—

6           (A) in subsection (b)—

7                 (i) in paragraph (1)(A), by striking  
8 “The coverage” and inserting “Subject to  
9 paragraph (8), the coverage”;

10              (ii) in paragraph (2)—

11                     (I) in subparagraph (A), by in-  
12 serting after “Subject to subpara-  
13 graphs (C) and (D)” the following:  
14 “and paragraph (8)”;

15                     (II) in subparagraph (C)(i), by  
16 striking “paragraph (4)” and insert-  
17 ing “paragraphs (4) and (8)”;

18                     (III) in subparagraph (D)(i), by  
19 striking “paragraph (4)” and insert-  
20 ing “paragraphs (4) and (8)”;

21                 (iii) in paragraph (4)(A)(i), by strik-  
22 ing “The coverage” and inserting “Subject  
23 to paragraph (8), the coverage”;

24                 (iv) by adding at the end the following  
25 new paragraph:

1           “(8) ELIMINATION OF COST-SHARING FOR  
2 DRUGS INTENDED TO TREAT COVID-19.—The cov-  
3 erage does not impose any deductible, copayment,  
4 coinsurance, or other cost-sharing requirement for  
5 drugs described in section 1860D-4(b)(3)(I)(i)(I)  
6 with respect to a plan year, any portion of which oc-  
7 curs during the period during which there exists the  
8 public health emergency declared by the Secretary  
9 pursuant to section 319 of the Public Health Service  
10 Act on January 31, 2020, entitled ‘Determination  
11 that a Public Health Emergency Exists Nationwide  
12 as the Result of the 2019 Novel Coronavirus’ (in-  
13 cluding any renewal of such declaration pursuant to  
14 such section).”;

15           (B) in subsection (c), by adding at the end  
16 the following new paragraph:

17           “(4) SAME ELIMINATION OF COST-SHARING FOR  
18 DRUGS INTENDED TO TREAT COVID-19.—The cov-  
19 erage is in accordance with subsection (b)(8).”.

20           (2) ELIMINATION OF COST SHARING FOR  
21 DRUGS INTENDED TO TREAT COVID-19 DISPENSED  
22 TO INDIVIDUALS WHO ARE SUBSIDY ELIGIBLE INDI-  
23 VIDUALS.—Section 1860D-14(a) of the Social Secu-  
24 rity Act (42 U.S.C. 1395w-114(a)) is amended—

25           (A) in paragraph (1)—

1 (i) in subparagraph (D)—

2 (I) in clause (ii), by striking “In  
3 the case of” and inserting “Subject to  
4 subparagraph (F), in the case of”;  
5 and

6 (II) in clause (iii), by striking  
7 “In the case of” and inserting “Sub-  
8 ject to subparagraph (F), in the case  
9 of”; and

10 (ii) by adding at the end the following  
11 new subparagraph:

12 “(F) ELIMINATION OF COST-SHARING FOR  
13 DRUGS INTENDED TO TREAT COVID-19.—Cov-  
14 erage that is in accordance with section  
15 1860D-2(b)(8).”; and

16 (B) in paragraph (2)—

17 (i) in subparagraph (B), by striking  
18 “A reduction” and inserting “Subject to  
19 subparagraph (F), a reduction”;

20 (ii) in subparagraph (D), by striking  
21 “The substitution” and inserting “Subject  
22 to subparagraph (F), the substitution”;

23 (iii) in subparagraph (E), by inserting  
24 after “Subject to” the following: “subpara-  
25 graph (F) and”; and

1 (iv) by adding at the end the following  
2 new subparagraph:

3 “(F) ELIMINATION OF COST-SHARING FOR  
4 DRUGS INTENDED TO TREAT COVID-19.—Cov-  
5 erage that is in accordance with section  
6 1860D-2(b)(8).”.

7 (c) IMPLEMENTATION.—Notwithstanding any other  
8 provision of law, the Secretary of Health and Human  
9 Services may implement the amendments made by this  
10 section by program instruction or otherwise.

○