

106TH CONGRESS
1ST SESSION

H. R. 2012

To amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 1999

Mr. DEUTSCH (for himself and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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 coverage of outpatient prescription drugs under the Medicare Program.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Prescription Drug Benefit Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Medicare coverage of outpatient prescription drugs.

- Sec. 3. Selection of entities to provide outpatient drug benefit.
- Sec. 4. Optional coverage for certain beneficiaries.
- Sec. 5. Medigap revisions.
- Sec. 6. Improved medicaid assistance for low-income individuals.
- Sec. 7. Waiver of additional portion of part B premium for certain medicare beneficiaries having actuarially equivalent coverage.
- Sec. 8. Elimination of time limitation on medicare benefits for immunosuppressive drugs.
- Sec. 9. Expansion of membership of MedPAC to 19.
- Sec. 10. GAO study and report to Congress.
- Sec. 11. Effective date.

1 SEC. 2. MEDICARE COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS.

2 (a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

3 (1) by striking “and” at the end of subparagraph (S);

4 (2) by striking the period at the end of subparagraph (T) and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(U) covered outpatient drugs (as defined in subsection (i)(1) of section 1849) pursuant to the procedures established under such section;”.

7 (b) PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

8 (1) by striking “and (S)” and inserting “(S)”; and

9 (2) by striking the semicolon at the end and inserting the following: “, and (T) with respect to covered outpatient drugs (as defined in subsection (i)(1) of section 1849), the amounts paid shall be the

1 amounts established by the Secretary pursuant to
2 such section;”.

3 **SEC. 3. SELECTION OF ENTITIES TO PROVIDE OUTPATIENT**
4 **DRUG BENEFIT.**

5 Part B of title XVIII of the Social Security Act (42
6 U.S.C. 1395j et seq.) is amended by adding at the end
7 the following:

8 **“SEC. 1849. SELECTION OF ENTITIES TO PROVIDE OUT-**
9 **PATIENT DRUG BENEFIT.**

10 **“(a) ESTABLISHMENT OF BIDDING PROCESS.—**

11 **“(1) IN GENERAL.—**The Secretary shall estab-
12 lish procedures under which the Secretary accepts
13 bids from eligible entities and awards contracts to
14 such entities in order to provide covered outpatient
15 drugs to eligible beneficiaries in an area. Such con-
16 tracts may be awarded based on shared risk, capita-
17 tion, or performance.

18 **“(2) AREA.—**

19 **“(A) REGIONAL BASIS.—**The contract en-
20 tered into between the Secretary and an eligible
21 entity shall require the eligible entity to provide
22 covered outpatient drugs on a regional basis.

23 **“(B) DETERMINATION.—**In determining
24 coverage areas under this section, the Secretary
25 shall take into account the number of eligible

1 beneficiaries in an area in order to encourage
2 participation by eligible entities.

3 “(3) SUBMISSION OF BIDS.—Each eligible enti-
4 ty desiring to provide covered outpatient drugs
5 under this section shall submit a bid to the Sec-
6 retary at such time, in such manner, and accom-
7 panied by such information as the Secretary may
8 reasonably require. Such bids shall include the
9 amount the eligible entity will charge enrollees under
10 subsection (e)(2) for covered outpatient drugs under
11 the contract.

12 “(4) ACCESS.—The Secretary shall ensure
13 that—

14 “(A) an eligible entity complies with the
15 access requirements described in subsection
16 (f)(5);

17 “(B) if an eligible entity employs
18 formularies pursuant to subsection (f)(6)(A),
19 such entity complies with the requirements of
20 subsection (f)(6)(B); and

21 “(C) an eligible entity makes available to
22 each beneficiary covered under the contract the
23 full scope of benefits required under paragraph
24 (5).

1 “(5) SCOPE OF BENEFITS.—The Secretary shall
2 ensure that all covered outpatient drugs that are
3 reasonable and necessary to prevent or slow the de-
4 terioration of, and improve or maintain, the health
5 of eligible beneficiaries are offered under a contract
6 entered into under this section.

7 “(6) NUMBER OF CONTRACTS.—The Secretary
8 shall, consistent with the requirements of this sec-
9 tion and the goal of containing medicare program
10 costs, award at least 2 contracts in an area, unless
11 only 1 bidding entity meets the minimum standards
12 specified under this section and by the Secretary.

13 “(7) DURATION OF CONTRACTS.—Each con-
14 tract under this section shall be for a term of at
15 least 2 years but not more than 5 years, as deter-
16 mined by the Secretary.

17 “(8) BENCHMARK FOR CONTRACTS.—The Sec-
18 retary shall not enter into a contract with an eligible
19 entity under this section unless the Secretary deter-
20 mines that the average cost (excluding any cost-
21 sharing) for all covered outpatient drugs provided to
22 beneficiaries under the contract is comparable to the
23 average cost charged (exclusive of any cost-sharing)
24 by large private sector purchasers for such drugs.

25 “(b) ENROLLMENT.—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish a process through which an eligible beneficiary
3 shall make an election to enroll with any eligible en-
4 tity that has been awarded a contract under this sec-
5 tion and serves the geographic area in which the
6 beneficiary resides. In establishing such process, the
7 Secretary shall use rules similar to the rules for en-
8 rollment and disenrollment with a Medicare+Choice
9 plan under section 1851.

10 “(2) REQUIREMENT OF ENROLLMENT.—Ex-
11 cluding an eligible beneficiary enrolled in a group
12 health plan described in section 4 of the Medicare
13 Prescription Drug Benefit Act of 1999, an eligible
14 beneficiary not enrolled in a Medicare+Choice plan
15 under part C must enroll with an eligible entity
16 under this section in order to be eligible to receive
17 covered outpatient drugs under this title.

18 “(3) ENROLLMENT IN ABSENCE OF ELECTION
19 BY ELIGIBLE BENEFICIARY.—In the case of an eligi-
20 ble beneficiary that fails to make an election pursu-
21 ant to paragraph (1), the Secretary shall provide,
22 pursuant to procedures developed by the Secretary,
23 for the enrollment of such beneficiary with an eligi-
24 ble entity that has a contract under this section that
25 covers the area in which such beneficiary resides.

1 “(4) AREAS NOT COVERED BY CONTRACTS.—

2 The Secretary shall develop procedures for the provi-
3 sion of covered outpatient drugs under this title to
4 eligible beneficiaries that reside in an area that is
5 not covered by any contract under this section.

6 “(5) BENEFICIARIES RESIDING IN DIFFERENT
7 LOCATIONS.—The Secretary shall develop procedures
8 to ensure that an eligible beneficiary that resides in
9 different regions in a year is provided benefits under
10 this section throughout the entire year.

11 “(c) PROVIDING INFORMATION TO BENE-
12 FICIARIES.—The Secretary shall provide for activities
13 under this section to broadly disseminate information to
14 medicare beneficiaries on the coverage provided under this
15 section. Such activities shall be similar to the activities
16 performed by the Secretary under section 1851(d).

17 “(d) PAYMENTS TO ELIGIBLE ENTITIES.—The Sec-
18 retary shall establish procedures for making payments to
19 an eligible entity under a contract.

20 “(e) COST-SHARING.—

21 “(1) DEDUCTIBLE.—Benefits under this section
22 shall not begin until the eligible beneficiary has met
23 a deductible equal to—

24 “(A) \$200 for 2000; or

1 “(B) for a subsequent year the amount of
2 the deductible under subparagraph (A) or this
3 subparagraph for the previous year increased by
4 a factor that reflects the annual rate of change
5 in the per capita cost of prescription drugs for
6 beneficiaries under this title.

7 If any dollar amount determined under subpara-
8 graph (B) for a year is not a multiple of \$5, such
9 dollar amount shall be rounded to the nearest mul-
10 tiple of \$5.

11 “(2) COPAYMENT.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the eligible beneficiary shall be re-
14 sponsible for making payments in an amount
15 not greater than 20 percent of the cost (as stat-
16 ed in the contract) of any covered outpatient
17 drug that is provided to the beneficiary. Pursu-
18 ant to subsection (a)(4)(B), an eligible entity
19 may reduce the payment amount that an eligi-
20 ble beneficiary is responsible for making to the
21 entity.

22 “(B) BASIC BENEFIT.—If the aggregate
23 amount of covered outpatient drugs provided to
24 an eligible beneficiary under this section for any
25 calendar year (based on the cost of covered out-

1 patient drugs stated in the contract) exceeds
2 \$5,200—

3 “(i) the beneficiary may continue to
4 purchase covered outpatient drugs under
5 the contract based on the contract price,
6 but

7 “(ii) the copayment under subpara-
8 graph (A) shall be 100 percent.

9 “(C) INFLATION ADJUSTMENT.—

10 “(i) IN GENERAL.—In the case of any
11 calendar year beginning after 2000, each
12 of the dollar amounts in subparagraph (B)
13 shall be increased by an amount equal to—

14 “(I) such dollar amount, multi-
15 plied by

16 “(II) an adjustment, as deter-
17 mined by the Secretary, for changes
18 in the per capita cost of prescription
19 drugs for beneficiaries under this title.

20 “(ii) ROUNDING.—If any dollar
21 amount after being increased under clause
22 (i) is not a multiple of \$10, such dollar
23 amount shall be rounded to the nearest
24 multiple of \$10.

1 “(f) CONDITIONS FOR AWARDING CONTRACT.—The
2 Secretary shall not award a contract to an eligible entity
3 under subsection (a) unless the Secretary finds that the
4 eligible entity is in compliance with such terms and condi-
5 tions as the Secretary shall specify, including the fol-
6 lowing:

7 “(1) QUALITY AND FINANCIAL STANDARDS.—
8 The eligible entity meets quality and financial stand-
9 ards specified by the Secretary.

10 “(2) INFORMATION.—The eligible entity pro-
11 vides the Secretary with information that the Sec-
12 retary determines is necessary in order to carry out
13 the bidding process under this section, including
14 data needed to implement subsection (a)(8) and data
15 regarding utilization, expenditures, and costs.

16 “(3) EDUCATION.—The eligible entity estab-
17 lishes educational programs that meet the criteria
18 established by the Secretary pursuant to subsection
19 (g)(1).

20 “(4) PROCEDURES TO ENSURE PROPER UTILI-
21 ZATION AND TO AVOID ADVERSE DRUG REAC-
22 TIONS.—The eligible entity has in place procedures
23 to ensure the—

1 “(A) appropriate utilization by eligible
2 beneficiaries of the benefits to be provided
3 under the contract; and

4 “(B) avoidance of adverse drug reactions
5 among eligible beneficiaries enrolled with the
6 entity.

7 “(5) ACCESS.—The eligible entity ensures that
8 the covered outpatient drugs are accessible and con-
9 venient to eligible beneficiaries covered under the
10 contract, including by offering the services in the fol-
11 lowing manner:

12 “(A) SERVICES DURING EMERGENCIES.—
13 The offering of services 24 hours a day and 7
14 days a week for emergencies.

15 “(B) CONTRACTS WITH RETAIL PHAR-
16 MACIES.—The offering of services—

17 “(i) at a sufficient (as determined by
18 the Secretary) number of retail phar-
19 macies; and

20 “(ii) to the extent feasible, at retail
21 pharmacies located throughout the eligible
22 entity’s service area.

23 “(6) RULES RELATING TO PROVISION OF BENE-
24 FITS.—

1 “(A) PROVISION OF BENEFITS.—In pro-
2 viding benefits under a contract under this sec-
3 tion, an eligible entity may—

4 “(i) employ mechanisms to provide
5 benefits economically, including the use
6 of—

7 “(I) formularies (pursuant to
8 subparagraph (B));

9 “(II) alternative methods of dis-
10 tribution; and

11 “(III) generic drug substitution;
12 and

13 “(ii) use incentives to encourage eligi-
14 ble beneficiaries to select cost-effective
15 drugs or less costly means of receiving
16 drugs.

17 “(B) FORMULARIES.—If an eligible entity
18 uses a formulary to contain costs under this
19 Act—

20 “(i) the eligible entity shall—

21 “(I) ensure participation of prac-
22 ticing physicians and pharmacists in
23 the development of the formulary;

1 “(II) include in the formulary at
2 least 1 drug from each therapeutic
3 class;

4 “(III) provide for coverage of
5 otherwise covered non-formulary
6 drugs when recommended by pre-
7 scribing providers; and

8 “(IV) disclose to current and
9 prospective beneficiaries and to pro-
10 viders in the service area the nature
11 of the formulary restrictions, includ-
12 ing information regarding the drugs
13 included in the formulary, copayment
14 amounts, and any difference in the
15 cost-sharing for different types of
16 drugs; but

17 “(ii) nothing shall preclude an entity
18 from—

19 “(I) requiring higher cost-sharing
20 for drugs provided under clause
21 (i)(III), subject to limits established
22 in subsection (e)(2)(A), except that an
23 entity shall provide for coverage of a
24 nonformulary drug on the same basis
25 as a drug within the formulary if such

1 nonformulary drug is determined by
2 the prescribing provider to be medi-
3 cally indicated;

4 “(II) educating prescribing pro-
5 viders, pharmacists, and beneficiaries
6 about medical and cost benefits of for-
7 mulary products; and

8 “(III) requesting prescribing pro-
9 viders to consider a formulary product
10 prior to dispensing of a nonformulary
11 drug, as long as such request does not
12 unduly delay the provision of the
13 drug.

14 “(7) CLINICAL QUALITY STANDARDS.—

15 “(A) REQUIREMENT.—The eligible entity
16 shall comply with clinical quality standards as
17 determined by the Secretary.

18 “(B) DEVELOPMENT OF STANDARDS.—
19 The Secretary, in consultation with appropriate
20 medical specialty societies, shall develop clinical
21 quality standards that are applicable to eligible
22 entities. Such standards shall be based on cur-
23 rent standards of care.

1 “(8) PROCEDURES REGARDING DENIALS OF
2 CARE.—The eligible entity has in place procedures to
3 ensure—

4 “(A) the timely review and resolution of
5 denials of care and complaints (including those
6 regarding the use of formularies under para-
7 graph (6)) by enrollees, or providers, phar-
8 macists, and other individuals acting on behalf
9 of such individual (with the individual’s con-
10 sent) in accordance with requirements (as es-
11 tablished by the Secretary) that are comparable
12 to such requirements for Medicare+Choice or-
13 ganizations under part C; and

14 “(B) that beneficiaries are provided with
15 information regarding the appeals procedures
16 under this section at the time of enrollment.

17 “(g) EDUCATIONAL REQUIREMENTS TO ENSURE AP-
18 PROPRIATE UTILIZATION.—

19 “(1) ESTABLISHMENT OF PROGRAM CRI-
20 TERIA.—The Secretary shall establish a model for
21 comprehensive educational programs in order to as-
22 sure the appropriate—

23 “(A) prescribing and dispensing of covered
24 outpatient drugs under this section; and

1 “(B) use of such drugs by eligible bene-
2 ficiaries.

3 “(2) ELEMENTS OF MODEL.—The model estab-
4 lished under paragraph (1) shall include the fol-
5 lowing elements:

6 “(A) On-line prospective review available
7 24 hours a day and 7 days a week in order to
8 evaluate each prescription for drug therapy
9 problems due to duplication, interaction, or in-
10 correct dosage or duration of therapy.

11 “(B) Consistent with State law, guidelines
12 for counseling eligible beneficiaries enrolled
13 under a contract under this section regarding—

14 “(i) the proper use of prescribed cov-
15 ered outpatient drugs; and

16 “(ii) interactions and contra-indica-
17 tions.

18 “(C) Where appropriate and non-duplica-
19 tive, methods to identify and educate providers,
20 pharmacists, and eligible beneficiaries
21 regarding—

22 “(i) instances or patterns concerning
23 the unnecessary or inappropriate pre-
24 scribing or dispensing of covered out-
25 patient drugs;

1 “(ii) instances or patterns of sub-
2 standard care;

3 “(iii) potential adverse reactions to
4 covered outpatient drugs;

5 “(iv) inappropriate use of antibiotics;

6 “(v) appropriate use of generic prod-
7 ucts; and

8 “(vi) the importance of using covered
9 outpatient drugs in accordance with the in-
10 struction of prescribing providers.

11 “(h) PROTECTION OF PATIENT CONFIDENTIALITY.—
12 Insofar as an eligible organization maintains individually
13 identifiable medical records or other health information re-
14 garding enrollees under a contract entered into under this
15 section, the organization shall—

16 “(1) safeguard the privacy of any individually
17 identifiable enrollee information;

18 “(2) maintain such records and information in
19 a manner that is accurate and timely; and

20 “(3) assure timely access of such enrollees to
21 such records and information.

22 “(i) DEFINITIONS.—In this section:

23 “(1) COVERED OUTPATIENT DRUG.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term ‘covered outpatient
3 drug’ means any of the following products:

4 “(i) A drug which may be dispensed
5 only upon prescription, and—

6 “(I) which is approved for safety
7 and effectiveness as a prescription
8 drug under section 505 of the Federal
9 Food, Drug, and Cosmetic Act;

10 “(II)(aa) which was commercially
11 used or sold in the United States be-
12 fore the date of enactment of the
13 Drug Amendments of 1962 or which
14 is identical, similar, or related (within
15 the meaning of section 310.6(b)(1) of
16 title 21 of the Code of Federal Regu-
17 lations) to such a drug, and (bb)
18 which has not been the subject of a
19 final determination by the Secretary
20 that it is a ‘new drug’ (within the
21 meaning of section 201(p) of the Fed-
22 eral Food, Drug, and Cosmetic Act)
23 or an action brought by the Secretary
24 under section 301, 302(a), or 304(a)

1 of such Act to enforce section 502(f)
2 or 505(a) of such Act; or

3 “(III)(aa) which is described in
4 section 107(c)(3) of the Drug Amend-
5 ments of 1962 and for which the Sec-
6 retary has determined there is a com-
7 pelling justification for its medical
8 need, or is identical, similar, or re-
9 lated (within the meaning of section
10 310.6(b)(1) of title 21 of the Code of
11 Federal Regulations) to such a drug,
12 and (bb) for which the Secretary has
13 not issued a notice of an opportunity
14 for a hearing under section 505(e) of
15 the Federal Food, Drug, and Cos-
16 metic Act on a proposed order of the
17 Secretary to withdraw approval of an
18 application for such drug under such
19 section because the Secretary has de-
20 termined that the drug is less than ef-
21 fective for all conditions of use pre-
22 scribed, recommended, or suggested in
23 its labeling.

24 “(ii) A biological product which—

1 “(I) may only be dispensed upon
2 prescription;

3 “(II) is licensed under section
4 351 of the Public Health Service Act;
5 and

6 “(III) is produced at an estab-
7 lishment licensed under such section
8 to produce such product.

9 “(iii) Insulin approved under appro-
10 priate Federal law.

11 “(iv) A prescribed drug or biological
12 product that would meet the requirements
13 of clause (i) or (ii) but that is available
14 over-the-counter in addition to being avail-
15 able upon prescription.

16 “(B) EXCLUSION.—The term ‘covered out-
17 patient drug’ does not include any product—

18 “(i) except as provided in subpara-
19 graph (A)(iv), which may be distributed to
20 individuals without a prescription;

21 “(ii) when furnished as part of, or as
22 incident to, a diagnostic service or any
23 other item or service for which payment
24 may be made under this title;

1 “(iii) that was covered under this title
2 on the day before the date of enactment of
3 the Medicare Prescription Drug Benefit
4 Act of 1999; or

5 “(iv) that is a therapeutically equiva-
6 lent replacement for a product described in
7 clause (ii) or (iii), as determined by the
8 Secretary.

9 “(2) ELIGIBLE BENEFICIARY.—The term ‘eligi-
10 ble beneficiary’ means an individual that is enrolled
11 under part B of this title.

12 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
13 tity’ means any entity that the Secretary determines
14 to be appropriate, including—

15 “(A) pharmaceutical benefit management
16 companies;

17 “(B) wholesale and retail pharmacist deliv-
18 ery systems;

19 “(C) insurers;

20 “(D) other entities; or

21 “(E) any combination of the entities de-
22 scribed in subparagraphs (A) through (D).”.

1 **SEC. 4. OPTIONAL COVERAGE FOR CERTAIN BENE-**
2 **FICIARIES.**

3 (a) IN GENERAL.—If drug coverage under a group
4 health plan that provides health insurance coverage for re-
5 tirees is equivalent to or greater than the coverage pro-
6 vided under section 1849 of the Social Security Act (as
7 added by section 3), beneficiaries receiving coverage
8 through the group health plan may continue to receive
9 such coverage from the plan and the Secretary may make
10 payments to such plans, subject to the requirements of
11 this section.

12 (b) REQUIREMENTS.—To receive payment under this
13 section, group health plans shall—

14 (1) comply with certain requirements of this
15 Act and other reasonable, necessary, and related re-
16 quirements that are needed to administer this sec-
17 tion, as determined by the Secretary;

18 (2) to the extent that there is a contractual ob-
19 ligation to provide drug coverage to retirees that is
20 equal to or greater than the drug coverage provided
21 under this Act, reimburse or otherwise arrange to
22 compensate beneficiaries during the life of the con-
23 tract for the portion of the part B premium under
24 section 1839 of the Social Security Act that is iden-
25 tified by the Secretary of Health and Human Serv-
26 ices as attributable to the drug coverage provided

1 under section 1849 of that Act (as added by section
2 3); or

3 (3) for group health plans that are in existence
4 prior to enactment of this section and provide drug
5 coverage to retirees that is equal to or greater than
6 the drug coverage provided under section 1849 of
7 the Social Security Act (as added by section 3), re-
8 imburse or otherwise arrange to compensate bene-
9 ficiaries for the portion of the part B premium
10 under section 1839 of the Social Security Act that
11 is identified by the Secretary of Health and Human
12 Services as attributable to the drug coverage pro-
13 vided under section 1849 of that Act (as added by
14 section 3) for at least 1 year from the date that the
15 group health plan begins participation under this
16 section.

17 (c) PAYMENTS.—The Secretary shall establish a
18 process to provide payments to eligible group health plans
19 under this section on behalf of enrolled beneficiaries. Such
20 payments shall not exceed the amount that would other-
21 wise be paid to a private entity serving similar bene-
22 ficiaries in the same service area under section 1849 of
23 the Social Security Act (as added by section 3).

1 **SEC. 5. MEDIGAP REVISIONS.**

2 (a) **REQUIRED COVERAGE OF COVERED OUTPATIENT**
3 **DRUGS.**—Section 1882(p)(2)(B) of the Social Security
4 Act (42 U.S.C. 1395ss(p)(2)(B)) is amended by inserting
5 before “and” at the end the following: “including a re-
6 quirement that an appropriate number of policies provide
7 coverage of drugs which compliments but does not dupli-
8 cate the drug benefits that beneficiaries are otherwise enti-
9 tled to under this title (with the Secretary and the Na-
10 tional Association of Insurance Commissioners deter-
11 mining the appropriate level of drug benefits that each
12 benefit package must provide and ensuring that policies
13 providing such coverage remain affordable for bene-
14 ficiaries);”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 subsection (a) shall take effect on July 1, 2000.

17 (c) **TRANSITION PROVISIONS.**—

18 (1) **IN GENERAL.**—If the Secretary of Health
19 and Human Services identifies a State as requiring
20 a change to its statutes or regulations to conform its
21 regulatory program to the amendments made by this
22 section, the State regulatory program shall not be
23 considered to be out of compliance with the require-
24 ments of section 1882 of the Social Security Act due
25 solely to failure to make such change until the date
26 specified in paragraph (4).

1 (2) NAIC STANDARDS.—If, within 9 months
2 after the date of enactment of this Act, the National
3 Association of Insurance Commissioners (in this
4 subsection referred to as the “NAIC”) modifies its
5 NAIC Model Regulation relating to section 1882 of
6 the Social Security Act (referred to in such section
7 as the 1991 NAIC Model Regulation, as subse-
8 quently modified) to conform to the amendments
9 made by this section, such revised regulation incor-
10 porating the modifications shall be considered to be
11 the applicable NAIC model regulation (including the
12 revised NAIC model regulation and the 1991 NAIC
13 Model Regulation) for the purposes of such section.

14 (3) SECRETARY STANDARDS.—If the NAIC
15 does not make the modifications described in para-
16 graph (2) within the period specified in such para-
17 graph, the Secretary of Health and Human Services
18 shall make the modifications described in such para-
19 graph and such revised regulation incorporating the
20 modifications shall be considered to be the appro-
21 priate regulation for the purposes of such section.

22 (4) DATE SPECIFIED.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), the date specified in this paragraph
25 for a State is the earlier of—

1 (i) the date the State changes its stat-
2 utes or regulations to conform its regu-
3 latory program to the changes made by
4 this section; or

5 (ii) 1 year after the date the NAIC or
6 the Secretary first makes the modifications
7 under paragraph (2) or (3), respectively.

8 (B) ADDITIONAL LEGISLATIVE ACTION RE-
9 QUIRED.—In the case of a State which the Sec-
10 retary identifies as—

11 (i) requiring State legislation (other
12 than legislation appropriating funds) to
13 conform its regulatory program to the
14 changes made in this section; but

15 (ii) having a legislature which is not
16 scheduled to meet in 2000 in a legislative
17 session in which such legislation may be
18 considered;

19 the date specified in this paragraph is the first
20 day of the first calendar quarter beginning after
21 the close of the first legislative session of the
22 State legislature that begins on or after July 1,
23 2000. For purposes of the previous sentence, in
24 the case of a State that has a 2-year legislative
25 session, each year of such session shall be

1 deemed to be a separate regular session of the
2 State legislature.

3 **SEC. 6. IMPROVED MEDICAID ASSISTANCE FOR LOW-IN-**
4 **COME INDIVIDUALS.**

5 (a) INCREASE IN SLMB ELIGIBILITY TO 135 PER-
6 CENT OF POVERTY LEVEL.—

7 (1) IN GENERAL.—Section 1902(a)(10)(E) of
8 the Social Security Act (42 U.S.C. 1396a(a)(10)(E))
9 is amended—

10 (A) in clause (iii), by striking “and 120
11 percent in 1995 and years thereafter” and in-
12 serting “, 120 percent in 1995 and through
13 July 1, 2000, and 135 percent for subsequent
14 periods”; and

15 (B) in clause (iv)—

16 (i) by striking the dash and all that
17 follows through “(II)”, and

18 (ii) by striking “who would be de-
19 scribed in subclause (I) if ‘135 percent’
20 and ‘175 percent’ were substituted for
21 ‘120 percent’ and ‘135 percent’ respec-
22 tively” and inserting “who would be de-
23 scribed in clause (iii) but for the fact that
24 their income exceeds 135 percent, but is
25 less than 175 percent, of the official pov-

1 erty line (referred to in such clause) for a
2 family of the size involved”.

3 (2) CONFORMING AMENDMENT.—Section
4 1933(c)(2)(A) of such Act (42 U.S.C.
5 1396v(c)(2)(A)) is amended by striking “the sum”
6 and all that follows and inserting “the total number
7 of individuals described in section
8 1902(a)(10)(E)(iv) in the State; to”.

9 (b) PROVISION OF MEDICAID PRESCRIPTION DRUG
10 BENEFITS FOR QMBs AND SLMBs AS WRAP-AROUND
11 BENEFIT.—

12 (1) IN GENERAL.—Section 1902(a)(10) of such
13 Act (42 U.S.C. 1396a(a)(10)) is amended—

14 (A) in subparagraph (E)(i), by inserting
15 “and for prescribed drugs (in the same amount,
16 duration, and scope as for individuals described
17 in subparagraph (A)(i))” after “1905(p)(3)”;

18 (B) in subparagraph (E)(iii), by inserting
19 “and for prescribed drugs (in the same amount,
20 duration, and scope as for individuals described
21 in subparagraph (A)(i))” after “section
22 1905(p)(3)(A)(ii)”;

23 (C) in the clause (VIII) following subpara-
24 graph (F), by inserting “and to medical assist-

1 ance for prescribed drugs described in subpara-
2 graph (E)(i)” after “1905(p)(3))”.

3 (2) CONFORMING AMENDMENT.—Section
4 1916(a) of such Act (42 U.S.C. 1396o(a)) is amend-
5 ed, in the matter before paragraph (1), by striking
6 “(E)(i)” and inserting “(E)”.

7 (c) EFFECTIVE DATES.—

8 (1) The amendments made by subsections
9 (a)(1) and (b) take effect on July 1, 2000, and
10 apply to prescribed drugs furnished on or after such
11 date.

12 (2) The amendment made by subsection (a)(2)
13 applies to the allocation for the portion of fiscal year
14 2000 that occurs on or after July 1, 2000, and to
15 the allocation for subsequent fiscal years.

16 (3) The amendments made by this section apply
17 without regard to whether or not regulations to im-
18 plement such amendments are promulgated by July
19 1, 2000.

20 **SEC. 7. WAIVER OF ADDITIONAL PORTION OF PART B PRE-**
21 **MIUM FOR CERTAIN MEDICARE BENE-**
22 **FICIARIES HAVING ACTUARIALLY EQUIVA-**
23 **LENT COVERAGE.**

24 (a) IN GENERAL.—The Secretary of Health and
25 Human Services shall establish a method under which the

1 portion of the part B premium under section 1839 of the
 2 Social Security Act that is identified by the Secretary of
 3 Health and Human Services as attributable to the drug
 4 coverage provided under section 1849 of that Act (as
 5 added by section 3) is waived (and not collected) for any
 6 individual enrolled under part B of title XVIII of the So-
 7 cial Security Act who demonstrates that the individual has
 8 drug coverage that is actuarially equivalent to the cov-
 9 erage provided under that part.

10 (b) LIMITATION.—Subsection (a) shall not apply to
 11 an individual with coverage through a group health plan
 12 if the group health plan receives payments for such indi-
 13 vidual pursuant to section 4.

14 **SEC. 8. ELIMINATION OF TIME LIMITATION ON MEDICARE**
 15 **BENEFITS FOR IMMUNOSUPPRESSIVE**
 16 **DRUGS.**

17 (a) REVISION.—

18 (1) IN GENERAL.—Section 1861(s)(2)(J) of the
 19 Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is
 20 amended by striking “, but only” and all that fol-
 21 lows up to the semicolon at the end.

22 (2) EFFECTIVE DATE.—The amendment made
 23 by paragraph (1) shall apply to drugs furnished on
 24 or after the date of enactment of this Act.

1 (b) EXTENSION OF CERTAIN SECONDARY PAYER RE-
 2 QUIREMENTS.—Section 1862(b)(1)(C) of the Social Secu-
 3 rity Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding
 4 at the end the following: “With regard to immuno-
 5 suppressive drugs furnished on or after the date of enact-
 6 ment of the Medicare Prescription Drug Benefit Act of
 7 1999, this subparagraph shall be applied without regard
 8 to any time limitation.”.

9 **SEC. 9. EXPANSION OF MEMBERSHIP OF MEDPAC TO 19.**

10 (a) IN GENERAL.—Section 1805(c) of the Social Se-
 11 curity Act (42 U.S.C. 1395b–6(c)), as amended by section
 12 5202 of the Tax and Trade Relief Extension Act of 1998
 13 (contained in division J of Public Law 105–277), is
 14 amended—

15 (1) in paragraph (1), by striking “17” and in-
 16 serting “19”; and

17 (2) in paragraph (2)(B), by inserting “experts
 18 in the area of pharmacology and prescription drug
 19 benefit programs,” after “other health profes-
 20 sionals,”.

21 (b) INITIAL TERMS OF ADDITIONAL MEMBERS.—

22 (1) IN GENERAL.—For purposes of staggering
 23 the initial terms of members of the Medicare Pay-
 24 ment Advisory Commission under section 1805(c)(3)
 25 of the Social Security Act (42 U.S.C. 1395b–

1 6(c)(3)), the initial terms of the 2 additional mem-
 2 bers of the Commission provided for by the amend-
 3 ment under subsection (a)(1) are as follows:

4 (A) One member shall be appointed for 1
 5 year.

6 (B) One member shall be appointed for 2
 7 years.

8 (2) COMMENCEMENT OF TERMS.—Such terms
 9 shall begin on January 1, 2000.

10 **SEC. 10. GAO STUDY AND REPORT TO CONGRESS.**

11 (a) STUDY.—The Comptroller General of the United
 12 States shall conduct a study and analysis of the implemen-
 13 tation of the competitive bidding process for covered out-
 14 patient drugs under section 1849 of the Social Security
 15 Act (as added by section 3), including an analysis of—

16 (1) the reduction of hospital visits (or lengths
 17 of such visits) by beneficiaries as a result of pro-
 18 viding coverage of covered outpatient drugs under
 19 such section;

20 (2) prices paid by the medicare program rel-
 21 ative to comparable private and public sector pro-
 22 grams; and

23 (3) any other savings to the medicare program
 24 as a result of—

25 (A) such coverage; and

1 (B) the education and counseling provi-
2 sions of section 1849(g).

3 (b) REPORT.—Not later than January 1, 2001, and
4 annually thereafter, the Comptroller General of the United
5 States shall submit a report to Congress on the study and
6 analysis conducted pursuant to subsection (a), and shall
7 include in the report such recommendations regarding the
8 coverage of covered outpatient drugs under the medicare
9 program as the Comptroller General determines to be ap-
10 propriate.

11 **SEC. 11. EFFECTIVE DATE.**

12 Except as otherwise provided, the amendments made
13 by this Act apply to items and services furnished on or
14 after July 1, 2000.

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