

106TH CONGRESS
1ST SESSION

H. R. 664

To provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1999

Mr. ALLEN (for himself, Mr. TURNER, Mr. WAXMAN, Mr. BERRY, Mr. STARK, Mr. SANDERS, Mrs. CAPPS, Mr. TIERNEY, Mr. LAMPSON, Ms. STABENOW, Mr. DAVIS of Illinois, Mr. KENNEDY of Rhode Island, Ms. DELAURO, Mr. WEXLER, Mr. FROST, Mr. MCGOVERN, Mr. CUMMINGS, Mr. THOMPSON of Mississippi, Mr. SANDLIN, Mr. FORD, Mr. BROWN of Ohio, Mr. WEYGAND, Ms. KILPATRICK, Mr. POMEROY, Mr. BORSKI, Mr. OLVER, Mrs. THURMAN, Mr. BLUMENAUER, Mr. SERRANO, Mr. BALDACCI, Mr. MATSUI, Mr. DELAHUNT, Ms. SLAUGHTER, Ms. HOOLEY of Oregon, Mrs. MCCARTHY of New York, Mr. CRAMER, Mr. HINCHEY, Mr. FRANK of Massachusetts, Mr. ANDREWS, Mr. MEEHAN, Mr. FILNER, Mr. KLECZKA, Mr. BARRETT of Wisconsin, Mr. STUPAK, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. LUTHER, Mr. PALLONE, Mr. MEEKS of New York, Ms. JACKSON-LEE of Texas, Mr. OBEY, Mr. MALONEY of Connecticut, Mr. KUCINICH, Mr. EVANS, Ms. MCKINNEY, Ms. SANCHEZ, Mr. BENTSEN, Ms. MILLENDER-MCDONALD, Mr. BISHOP, Mr. SHOWS, and Mr. BOSWELL) introduced the following bill; which was referred to the Committee on 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 provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries.

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 “Prescription Drug
5 Fairness for Seniors Act of 1999”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Manufacturers of prescription drugs engage
9 in price discrimination practices that compel many
10 older Americans to pay substantially more for pre-
11 scription drugs than the drug manufacturers’ most
12 favored customers, such as health insurers, health
13 maintenance organizations, and the Federal Govern-
14 ment.

15 (2) On average, older Americans who buy their
16 own prescription drugs pay twice as much for pre-
17 scription drugs as the drug manufacturers’ most fa-
18 vored customers. In some cases, older Americans pay
19 over 15 times more for prescription drugs than the
20 most favored customers.

21 (3) The discriminatory pricing by major drug
22 manufacturers sustains their annual profits of
23 \$20,000,000,000, but causes financial hardship and
24 impairs the health and well-being of millions of older
25 Americans. More than one in eight older Americans

1 are forced to choose between buying their food and
2 buying their medicines.

3 (4) Most federally funded health care programs,
4 including Medicaid, the Veterans Health Administra-
5 tion, the Public Health Service, and the Indian
6 Health Service, obtain prescription drugs for their
7 beneficiaries at low prices. Medicare beneficiaries are
8 denied this benefit and cannot obtain their prescrip-
9 tion drugs at the favorable prices available to other
10 federally funded health care programs.

11 (5) Implementation of the policy set forth in
12 this Act is estimated to reduce prescription drug
13 prices for Medicare beneficiaries by more than 40
14 percent.

15 (6) In addition to substantially lowering the
16 costs of prescription drugs for older Americans, im-
17 plementation of the policy set forth in this Act will
18 significantly improve the health and well-being of
19 older Americans and lower the costs to the Federal
20 taxpayer of the Medicare program.

21 (7) Older Americans who are terminally ill and
22 receiving hospice care services represent some of the
23 most vulnerable individuals in our nation. Making
24 prescription drugs available to Medicare beneficiaries
25 under the care of Medicare-certified hospices will as-

1 sist in extending the benefits of lower prescription
2 drug prices to those most vulnerable and in need.

3 (b) PURPOSE.—The purpose of this Act is to protect
4 Medicare beneficiaries from discriminatory pricing by drug
5 manufacturers and to make prescription drugs available
6 to Medicare beneficiaries at substantially reduced prices.

7 **SEC. 3. PARTICIPATING MANUFACTURERS.**

8 (a) IN GENERAL.—Each participating manufacturer
9 of a covered outpatient drug shall make available for pur-
10 chase by each pharmacy such covered outpatient drug in
11 the amount described in subsection (b) at the price de-
12 scribed in subsection (c).

13 (b) DESCRIPTION OF AMOUNT OF DRUGS.—The
14 amount of a covered outpatient drug that a participating
15 manufacturer shall make available for purchase by a phar-
16 macy is an amount equal to the aggregate amount of the
17 covered outpatient drug sold or distributed by the phar-
18 macy to Medicare beneficiaries.

19 (c) DESCRIPTION OF PRICE.—The price at which a
20 participating manufacturer shall make a covered out-
21 patient drug available for purchase by a pharmacy is the
22 price equal to the lower of the following:

23 (1) The lowest price paid for the covered out-
24 patient drug by any agency or department of the
25 United States.

1 (2) The manufacturer's best price for the cov-
2 ered outpatient drug, as defined in section
3 1927(c)(1)(C) of the Social Security Act (42 U.S.C.
4 1396r-8(c)(1)(C)).

5 **SEC. 4. SPECIAL PROVISION WITH RESPECT TO HOSPICE**
6 **PROGRAMS.**

7 For purposes of determining the amount of a covered
8 outpatient drug that a participating manufacturer shall
9 make available for purchase by a pharmacy under section
10 3, there shall be included in the calculation of such
11 amount the amount of the covered outpatient drug sold
12 or distributed by a pharmacy to a hospice program. In
13 calculating such amount, only amounts of the covered out-
14 patient drug furnished to a Medicare beneficiary enrolled
15 in the hospice program shall be included.

16 **SEC. 5. ADMINISTRATION.**

17 The Secretary shall issue such regulations as may be
18 necessary to implement this Act.

19 **SEC. 6. REPORTS TO CONGRESS REGARDING EFFECTIVE-**
20 **NESS OF ACT.**

21 (a) IN GENERAL.—Not later than 2 years after the
22 date of the enactment of this Act, and annually thereafter,
23 the Secretary shall report to the Congress regarding the
24 effectiveness of this Act in—

1 (1) protecting Medicare beneficiaries from dis-
2 criminatory pricing by drug manufacturers, and

3 (2) making prescription drugs available to
4 Medicare beneficiaries at substantially reduced
5 prices.

6 (b) CONSULTATION.—In preparing such reports, the
7 Secretary shall consult with public health experts, affected
8 industries, organizations representing consumers and
9 older Americans, and other interested persons.

10 (c) RECOMMENDATIONS.—The Secretary shall in-
11 clude in such reports any recommendations they consider
12 appropriate for changes in this Act to further reduce the
13 cost of covered outpatient drugs to Medicare beneficiaries.

14 **SEC. 7. DEFINITIONS.**

15 In this Act:

16 (1) PARTICIPATING MANUFACTURER.—The
17 term “participating manufacturer” means any man-
18 ufacturer of drugs or biologicals that, on or after the
19 date of the enactment of this Act, enters into a con-
20 tract or agreement with the United States for the
21 sale or distribution of covered outpatient drugs to
22 the United States.

23 (2) COVERED OUTPATIENT DRUG.—The term
24 “covered outpatient drug” has the meaning given

1 that term in section 1927(k)(2) of the Social Secu-
2 rity Act (42 U.S.C. 1396r-8(k)(2)).

3 (3) MEDICARE BENEFICIARY.—The term
4 “Medicare beneficiary” means an individual entitled
5 to benefits under part A of title XVIII of the Social
6 Security Act or enrolled under part B of such title,
7 or both.

8 (4) HOSPICE PROGRAM.—The term “hospice
9 program” has the meaning given that term under
10 section 1861(dd)(2) of the Social Security Act (42
11 U.S.C. 1395x(dd)(2)).

12 (5) SECRETARY.—The term “Secretary” means
13 the Secretary of Health and Human Services.

14 **SEC. 8. EFFECTIVE DATE.**

15 The Secretary shall implement this Act as expedi-
16 tiously as practicable and in a manner consistent with the
17 obligations of the United States.

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