

106TH CONGRESS
1ST SESSION

H. R. 723

To establish a program of pharmacy assistance fee for elderly persons who have no health insurance coverage.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1999

Mr. KENNEDY of Rhode Island (for himself, Mr. CAMPBELL, Mr. ALLEN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To establish a program of pharmacy assistance fee for elderly persons who have no health insurance coverage.

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 “Making Affordable
5 Prescriptions Available for Seniors Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) although prescription drugs represent one of
9 the most frequently used medical care interventions
10 in treating common acute and chronic diseases,

1 many Americans, especially the elderly and other
2 vulnerable populations, are unable to afford their
3 medication because of excessive and persistent drug
4 price inflation;

5 (2) between 1985 and 1991, the prices of the
6 20 top selling prescription drugs, which account for
7 almost a third of prescription sales, rose 79 per-
8 cent—nearly 4 times the general rate of inflation;

9 (3) prescription drug manufacturers continue to
10 make enormous profits on the backs of the elderly,
11 poor, and other vulnerable populations that are un-
12 able to afford their medications;

13 (4) because of the limited availability of private
14 or public prescription drug coverage for the elderly,
15 prescription drugs represent the highest out-of-pock-
16 et medical care cost for 3 of 4 elderly patients, sur-
17 passed only by the cost of long-term care services;

18 (5) individuals over the age of 65 fill an aver-
19 age of 15 prescriptions a year to treat chronic health
20 conditions compared to an annual average of 5 pre-
21 scriptions for those under the age of 65;

22 (6) 90 percent of Americans who are 60 years
23 of age or older take one or more medications daily;

24 (7) The United States spends several billion
25 dollars on biomedical and related health research

1 and in 1994 the United States spent \$33 billion on
 2 such research and the pharmaceutical industry only
 3 spent \$14 billion on such research in such year; and

4 (8) The pharmaceutical industry makes large
 5 profits off of the sale of drugs produced from the
 6 benefit of research paid for by the United States
 7 and, aside from royalties, none of such profits are
 8 reimbursed back to the United States taxpayers.

9 **SEC. 3. PRESCRIPTION DRUG ASSISTANCE PROGRAM.**

10 The Public Health Service Act is amended by adding
 11 at the end the following:

12 **“TITLE XXVIII—PRESCRIPTION**
 13 **DRUG ASSISTANCE PROGRAM**

14 **“SEC. 2801. ESTABLISHMENT.**

15 “(a) IN GENERAL.—The Secretary shall establish a
 16 program of pharmacy assistance (referred to in this title
 17 as the ‘program’) for eligible persons.

18 “(b) ADMINISTRATION.—Pharmacy assistance shall
 19 be provided under the program to eligible persons in the
 20 manner that the Secretary determines to be the most cost-
 21 effective, including indemnification, vouchers, coupons, or
 22 direct provider reimbursement through the claims pay-
 23 ment system under title XIX of the Social Security Act,
 24 except that no system of administration shall make direct
 25 cash payments to an eligible person before the presen-

1 tation of a receipt or other invoice for the purchase of any
2 covered benefit. The Secretary may implement utilization
3 review, clinical management, and other administrative
4 techniques used in the management of the pharmacy bene-
5 fits program under title XIX of the Social Security Act
6 in order to identify and reduce drug interactions, overutili-
7 zations, therapeutic duplications, or early refills.

8 “(c) INCOME LEVELS.—The Secretary may authorize
9 local councils on aging, community action agencies, and
10 home care corporations to assist the Secretary in deter-
11 mining if persons meet the income eligibility requirements
12 of the program.

13 “(d) FEE.—The Secretary may require an annual en-
14 rollment fee in an amount not to exceed \$15 to be paid
15 to defray the administrative expenses of the program.

16 “(e) OTHER PROGRAM ITEMS.—The Secretary shall
17 develop copayment requirements and may establish
18 deductibles to control program expenses. Copayment
19 amounts may vary to promote the purchase of generic
20 drugs and may be based on a sliding income scale, except
21 that copayment shall not be more than \$10 per prescrip-
22 tion.

23 **“SEC. 2802. PROFITS FROM RESEARCH.**

24 “(a) IN GENERAL.—Except as provided in paragraph
25 (2), any manufacturer of a drug which submits, in connec-

1 tion with an application for such drug under section 351
2 of this Act or section 505 of the Federal Food, Drug, and
3 Cosmetic Act, the results of research—

4 “(1) carried out by an entity of the National
5 Institutes of Health, or

6 “(2) under an agreement under section 12 of
7 the Stevenson-Wydler Technology Innovation Act of
8 1980,

9 shall not receive approval of such application until the
10 manufacturer enters into an agreement with the Secretary
11 under which the manufacturer will pay to the Secretary
12 7 percent of the gross amount received by the manufac-
13 turer from sales of such drug. Such agreement shall speci-
14 fy the manner in which such gross amount shall be deter-
15 mined.

16 “(b) EXCEPTION.—The Secretary may waive the ap-
17 plication of a subsection (a) to a manufacturer of a drug
18 when the Secretary determines that it would be in the pub-
19 lic interest to exempt such manufacturer.

20 **“SEC. 2803. DEFINITIONS.**

21 “For purposes of section 2801:

22 “(1) COVERED BENEFITS.—The term ‘covered
23 benefits’ means prescription drugs, including insulin
24 syringes and insulin needles, and insulin, eligible for
25 reimbursement under the program as defined by the

1 Secretary, except that within each class of mainte-
2 nance drugs eligible for reimbursement all such pre-
3 scription drugs that have been approved safe and ef-
4 fective by the Federal Food and Drug Administra-
5 tion or are otherwise legally marketed in the United
6 States shall be covered under the program. The term
7 does not include experimental drugs or over-the-
8 counter pharmaceutical products except insulin. The
9 Secretary may restrict covered benefits to prescrip-
10 tion drugs manufactured by pharmaceutical compa-
11 nies who agree to provide manufacturer rebates.

12 “(2) ELIGIBLE PERSON.—The term ‘eligible
13 person’ means an individual who is 65 years or older
14 with no existing pharmacy benefits or coverage from
15 an insurance policy supplemental to benefits under
16 title XVIII of the Social Security Act or pharmacy
17 benefits or coverage from any other third party
18 payor and one whose annual income does not exceed
19 175 percent of the Federal poverty guidelines.

20 “(3) PHARMACY ASSISTANCE.—The term ‘phar-
21 macy assistance’ means an amount not exceeding
22 \$500 in any year for each eligible person to assist
23 in the purchase of covered benefits.”.

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