

107TH CONGRESS  
2D SESSION

# S. 2757

To amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program.

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IN THE SENATE OF THE UNITED STATES

JULY 18, 2002

Mr. BIDEN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to provide 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.**

4       This Act may be cited as the “Prescription Drug  
5       Benefit Act of 2002”.

6       **SEC. 105. MEDICARE COVERAGE OF OUTPATIENT PRE-**  
7       **SCRIPTION DRUGS.**

8       (a) COVERAGE.—Section 1861(s)(2) of the Social Se-  
9       curity Act (42 U.S.C. 1395x(s)(2)) is amended—

1 (1) in subparagraph (U), by striking “and” at  
2 the end;

3 (2) in subparagraph (V), by adding “and” after  
4 the semicolon at the end; and

5 (3) by adding at the end the following new sub-  
6 paragraph:

7 “(W) outpatient prescription drugs (as defined  
8 in subsection (ww)(1));”.

9 (b) SERVICES DESCRIBED.—Section 1861 of the So-  
10 cial Security Act (42 U.S.C. 1395x) is amended by adding  
11 at the end the following:

12 “Outpatient Prescription Drugs; Pharmacist

13 “(ww)(1) The term ‘outpatient prescription drugs’  
14 means any drug or biological (as those terms are defined  
15 in subsection (t)) that may be dispensed only upon pre-  
16 scription and that is dispensed by a pharmacist.

17 “(2) The term ‘pharmacist’ means an individual who  
18 meets such licensure, certification, and practice require-  
19 ments as the Secretary may establish.”.

20 (c) PAYMENT.—Section 1833(a)(1) of the Social Se-  
21 curity Act (42 U.S.C. 1395l(a)(1)) is amended—

22 (1) by striking “and” before “(U)”; and

23 (2) by inserting before the semicolon at the end  
24 the following: “, and (V) with respect to outpatient  
25 prescription drugs (as defined in section

1       1861(ww)(1)), the amount paid shall be 80 percent  
 2       of the actual charge for the drug, or, if a beneficiary  
 3       has incurred out-of-pocket expenses (as defined by  
 4       the Secretary) with respect to outpatient prescrip-  
 5       tion drugs during a year equal to at least \$4,000,  
 6       100 percent of the actual charge for the drug”.

7       (d) APPLICATION OF LIMITS ON BILLING.—Section  
 8       1842(b)(18)(C) of the Social Security Act (42 U.S.C.  
 9       1395u(b)(18)(C)) is amended by adding at the end the  
 10      following new clause:

11           “(vii) In the case of outpatient prescription  
 12      drugs (as defined in section 1861(ww)(1)), a phar-  
 13      macist.”.

14      (e) EXCLUSION OF OUTPATIENT PRESCRIPTION  
 15      DRUG COSTS FROM DETERMINATION OF PART B  
 16      MONTHLY PREMIUM.—Section 1839(g) of the Social Se-  
 17      curity Act (42 U.S.C. 1395r(g)) is amended—

18           (1) by striking “attributable to the application  
 19      of section” and inserting “attributable to—

20           “(1) the application of section”;

21           (2) by striking the period and inserting “;  
 22      and”; and

23           (3) by adding at the end the following new  
 24      paragraph:

1           “(2) the coverage of outpatient prescription  
2           drugs under section 1861(s)(2)(W).”.

3           (f) USE OF CARRIERS FOR ADMINISTRATION OF  
4 BENEFIT.—Section 1842 of the Social Security Act (42  
5 U.S.C. 1395u) is amended by adding at the end the fol-  
6 lowing new subsection:

7           “(u)(1) The Secretary shall enter into a contract  
8 (separate from any other contract entered into under this  
9 section) with 1 carrier for each region of the United States  
10 to administer the benefits under this part that relate to  
11 the coverage of outpatient prescription drugs under sec-  
12 tion 1861(s)(2)(W).

13           “(2) In addition to the other contract provisions re-  
14 quired by this section, the contract described in paragraph  
15 (1) shall contain provisions that relate to payment, cost  
16 controls, formularies, disposition of rebates, distribution  
17 networks, and such other provisions as the Secretary de-  
18 termines necessary that relate to the coverage of out-  
19 patient prescription drugs under this part.

20           “(3) The Secretary shall ensure that carriers with a  
21 contract described in paragraph (1) offer maximum ease  
22 of availability of outpatient prescription drugs to individ-  
23 uals entitled to benefits under this part through local  
24 pharmacies and through other means.”.

1 (g) REVISION OF MEDIGAP POLICIES TO AVOID DU-  
 2 PPLICATE COVERAGE.—Section 1882 of the Social Security  
 3 Act (42 U.S.C. 1395ss) is amended by adding at the end  
 4 the following new subsection:

5 “(v) MODERNIZED BENEFIT PACKAGES FOR MEDI-  
 6 CARE SUPPLEMENTAL POLICIES.—

7 “(1) REVISION OF BENEFIT PACKAGES.—

8 “(A) IN GENERAL.—Notwithstanding sub-  
 9 section (p), the benefit packages classified as  
 10 ‘H’, ‘T’, and ‘J’ under the standards established  
 11 by subsection (p)(2) (including the benefit  
 12 package classified as ‘J’ with a high deductible  
 13 feature, as described in subsection (p)(11))  
 14 shall be revised so that the coverage of out-  
 15 patient prescription drugs available under such  
 16 benefit packages is replaced with coverage of  
 17 outpatient prescription drugs that complements  
 18 but does not duplicate the coverage of out-  
 19 patient prescription drugs that is otherwise  
 20 available under this title.

21 “(B) MANNER OF REVISION.—The benefit  
 22 packages revised under this section shall be re-  
 23 vised in the manner described in subparagraph  
 24 (E) of subsection (p)(1), except that for pur-  
 25 poses of subparagraph (C) of such subsection,

1           the standards established under this subsection  
2           shall take effect not later than January 1,  
3           2003.”.

4           (h) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to services furnished on or after  
6 January 1, 2003.

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