

108TH CONGRESS  
2D SESSION

# S. 2597

To require the Secretary of Health and Human Services to establish and maintain an Internet website that is designed to allow consumers to compare the usual and customary prices for covered outpatient drugs sold by retail pharmacies that participate in the medicaid program for each postal Zip Code, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 24, 2004

Mr. SCHUMER (for himself, Ms. MIKULSKI, Mr. CORZINE, Mrs. CLINTON, Mr. LEAHY, Ms. STABENOW, Mr. SARBANES, and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require the Secretary of Health and Human Services to establish and maintain an Internet website that is designed to allow consumers to compare the usual and customary prices for covered outpatient drugs sold by retail pharmacies that participate in the medicaid program for each postal Zip Code, and for other purposes.

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       Price Comparison for Savings Act of 2004”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Access to prescription drugs is important to  
4 all Americans.

5 (2) Many individuals cannot afford to purchase  
6 the drugs prescribed by their doctors. Others skip  
7 doses or split pills contrary to their doctor's orders  
8 because they cannot afford to refill their prescrip-  
9 tions.

10 (3) Individuals who use their limited financial  
11 resources to obtain needed drugs may do so by fore-  
12 going other expenditures important to their health  
13 and well-being.

14 (4) Among the objectives of the medicaid pro-  
15 gram set forth in section 1901 of the Social Security  
16 Act (42 U.S.C. 1396) is the objective to enable each  
17 State to furnish services to help low-income families  
18 and aged, blind, or disabled individuals "attain or  
19 retain capability for independence or self-care".

20 (5) Some States, such as Maryland, have estab-  
21 lished interactive Internet websites that use the  
22 usual and customary price information reported by  
23 pharmacies participating in the State's medicaid  
24 program to allow all residents of the State to com-  
25 parison shop for prescription drugs.

1           (6) Requiring all States to collect from phar-  
 2           macies that participate in the medicaid program the  
 3           usual and customary price for prescription drugs  
 4           sold by the pharmacies and to report that informa-  
 5           tion to the Secretary of Health and Human Services  
 6           in order that a national, interactive Internet website  
 7           may be established and maintained for individuals to  
 8           use to comparison shop for prescription drugs is  
 9           consistent with the objectives of the medicaid pro-  
 10          gram.

11 **SEC. 3. STATE PLAN REQUIREMENT TO COLLECT AND RE-**  
 12 **PORT USUAL AND CUSTOMARY PRICES FOR**  
 13 **COVERED OUTPATIENT DRUGS SOLD UNDER**  
 14 **THE MEDICAID PROGRAM.**

15          Section 1902(a) of the Social Security Act (42 U.S.C.  
 16 1396a(a)) is amended—

17           (1) in paragraph (66), by striking “and” at the  
 18          end;

19           (2) in paragraph (67), by striking the period  
 20          and inserting “; and”; and

21           (3) by inserting after paragraph (67), the fol-  
 22          lowing:

23           “(68) provide that the State shall—

24           “(A) require each retail pharmacy which  
 25          receives payments under the plan to report to

the State concurrent with the filling of a prescription for a covered outpatient drug (as defined in section 1927(k)(2)) for an individual receiving medical assistance under this title—

“(i) the usual and customary price (as defined in section 1927(k)(10)) for the strength, quantity, and dosage form of the covered outpatient drug, as of the date the prescription is filled; and

“(ii) the postal Zip Code in which the retail pharmacy is located; and

“(B) submit the information reported under subparagraph (A) to the Secretary on such frequent basis as the Secretary shall require so as to allow for monthly updates of the information posted on the Internet website required to be established under section 5 of the Prescription Drug Price Comparison for Savings Act of 2004.”.

**SEC. 4. USUAL AND CUSTOMARY PRICES FOR COVERED  
OUTPATIENT DRUGS.**

(a) DEFINITION.—Section 1927(k) of the Social Security Act (42 U.S.C. 1396r–8(k)) is amended by adding at the end the following:

1           “(10) USUAL AND CUSTOMARY PRICE.—The  
 2           term ‘usual and customary price’ means the price a  
 3           retail pharmacy would charge an individual who does  
 4           not have health insurance coverage for purchasing a  
 5           specific strength, quantity, and dosage form of a  
 6           covered outpatient drug.”.

7           (b) INCLUSION OF INFORMATION IN ANNUAL RE-  
 8           PORT TO CONGRESS.—Section 1927(i)(2)(E) of the Social  
 9           Security Act (42 U.S.C. 1396r–8(i)(2)(E)) is amended—  
 10           (1) by redesignating subparagraphs (E) and  
 11           (F) as subparagraphs (F) and (G), respectively; and  
 12           (2) by inserting after subparagraph (D), the  
 13           following:

14                   “(E) the range of usual and customary  
 15                   prices for specific strengths, quantities, and  
 16                   dosage forms of covered outpatient drugs,  
 17                   disaggregated by postal Zip Code;”.

18   **SEC. 5. REQUIREMENT TO ESTABLISH AND MAINTAIN PRE-**  
 19                   **SCRIPTION DRUG PRICE COMPARISON**  
 20                   **WEBSITE.**

21           (a) AUTHORITY.—Not later than 6 months after the  
 22           date of enactment of this Act, the Secretary shall establish  
 23           and arrange for the maintenance of an Internet website  
 24           that is designed to allow an individual to compare the  
 25           usual and customary prices for a range of strengths and

1 quantities of covered outpatient drugs sold by retail phar-  
 2 macies that receive payments under the medicaid program  
 3 for each postal Zip Code that corresponds to an area of  
 4 a State.

5 (b) REQUIREMENTS.—The Internet website required  
 6 to be established and maintained under this section shall  
 7 consist of—

8 (1) the information submitted to the Secretary  
 9 in accordance with section 1902(a)(68)(B) of the  
 10 Social Security Act (42 U.S.C. 1396a(a)(68)(B)) (as  
 11 added by section 3(a)(3)); and

12 (2) such other information as the Secretary de-  
 13 termines is appropriate.

14 (c) DEFINITIONS.—In this section:

15 (1) COVERED OUTPATIENT DRUG.—The term  
 16 “covered outpatient drug” has the meaning given  
 17 that term in section 1927(k)(2) of the Social Secu-  
 18 rity Act (42 U.S.C. 1396r–8(k)(2)).

19 (2) SECRETARY.—The term “Secretary” means  
 20 the Secretary of Health and Human Services.

21 (3) STATE.—The term “State” has the mean-  
 22 ing given that term for purposes of title XIX of the  
 23 Social Security Act (42 U.S.C. 1396 et seq.).

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