

109TH CONGRESS  
1ST SESSION

# H. R. 1655

To establish an America Rx program to establish fairer pricing for prescription drugs for individuals without access to prescription drugs at discounted prices.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2005

Mr. MICHAUD (for himself, Mr. ALLEN, Mr. BERRY, Mr. BROWN of Ohio, Mr. CASE, Mr. CROWLEY, Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. HINCHEY, Mr. HOLDEN, Mr. LARSON of Connecticut, Mr. MEEHAN, Mr. McDERMOTT, Mr. PALLONE, Mr. REYES, Mr. ROSS, Mr. SANDERS, Mr. STARK, Ms. WOOLSEY, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To establish an America Rx program to establish fairer pricing for prescription drugs for individuals without access to prescription drugs at discounted prices.

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; FINDINGS; PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “America Rx Act of 2005”.

6 (b) FINDINGS.—Congress finds the following:

1           (1) Affordability is critical in providing access  
2           to prescription drugs for residents of the United  
3           States.

4           (2) It is not the intention of the Congress to  
5           discourage employers and health insurers from pro-  
6           viding coverage for prescription drugs, including dis-  
7           counts for the purchase of those drugs.

8           (c) PURPOSE.—The purpose of this Act is to establish  
9           an America Rx program that utilizes manufacturer re-  
10          bates and pharmacy discounts to reduce prescription drug  
11          prices to those residents who are without access to dis-  
12          counted prices for outpatient prescription drugs.

13       **SEC. 2. ESTABLISHMENT OF AMERICA RX PROGRAM.**

14          (a) ESTABLISHMENT.—

15               (1) IN GENERAL.—The Secretary of Health and  
16               Human Services shall establish a program (in this  
17               section referred to as the “America Rx program”)  
18               consistent with the provisions of this section to pro-  
19               vide qualified residents with access to discounted  
20               prices for outpatient prescription drugs.

21               (2) PRINCIPLES.—The Secretary shall design  
22               and execute the America Rx program in a manner  
23               consistent with the following principles:

24                       (A) Medicaid beneficiaries and other low-  
25                       income individuals, as well as senior citizens

1 and the disabled, are not hurt or disadvantaged  
2 as a result of the program’s implementation.

3 (B) Pharmacies participating are ensured  
4 reasonable and timely payment of discounts  
5 they provide to qualified residents under the  
6 program.

7 (C) The Federal Government will fully re-  
8 imburse States for reasonable costs they incur  
9 in carrying out the program.

10 (D) Individuals who apply for benefits  
11 under the program are screened for eligibility  
12 under the medicaid program and other applica-  
13 ble Governmental health care programs and, if  
14 found eligible, are enrolled in such program or  
15 programs.

16 (E) The Secretary provides for—

17 (i) outreach efforts to build public  
18 awareness of the program and maximize  
19 enrollment of qualified residents; and

20 (ii) simplified eligibility procedures  
21 and uniform eligibility standards for quali-  
22 fied residents.

23 (3) QUALIFIED RESIDENT DEFINED.—For pur-  
24 poses of this section, the term “qualified resident”  
25 means an individual who—

1 (A) a citizen or national of the United  
2 States (or an alien lawful residing permanently  
3 in the United States); and

4 (B) as determined under regulations of the  
5 Secretary, is not covered under any public or  
6 private program that provides substantial bene-  
7 fits (which may be discounted prices) towards  
8 the purchase of outpatient prescription drugs.

9 (b) REBATE AGREEMENTS WITH MANUFACTUR-  
10 ERS.—

11 (1) IN GENERAL.—Under the America Rx pro-  
12 gram the Secretary shall negotiate with manufactur-  
13 ers of outpatient prescription drugs rebate agree-  
14 ments with respect to drugs offered under the pro-  
15 gram to qualified residents.

16 (2) MINIMUM AMOUNT OF REBATES.—In nego-  
17 tiating the amount of such a rebate under paragraph  
18 (1), the Secretary shall take into consideration the  
19 amount of the rebate calculated under the medicaid  
20 program, the average manufacturer price of pre-  
21 scription drugs, and other information on prescrip-  
22 tion drug prices and price discounts. The Secretary  
23 shall negotiate the amount of such rebates in a man-  
24 ner so that the rebates on average are comparable  
25 to the average percentage rebate obtained in out-

1 patient prescription drugs provided under section  
2 1927(c) of the Social Security Act (42 U.S.C.  
3 1396r-8(c)).

4 (3) PAYMENT.—Such rebates shall be payable  
5 to the Secretary according to a schedule (not less  
6 often than quarterly) negotiated with manufacturers  
7 and shall be paid, directly or through States, to par-  
8 ticipating pharmacies that provide discounts to  
9 qualified residents.

10 (4) INCENTIVE.—In order to induce manufac-  
11 turers of outpatient prescription drugs to enter into  
12 such rebate agreements, the Secretary shall, in a  
13 manner consistent with the design principle specified  
14 in subsection (a)(2), provide, in the case of a manu-  
15 facturer that has not entered into such an agree-  
16 ment, for a denial of a deduction under chapter 1  
17 of the Internal Revenue Code of 1986 for the  
18 amount of expenses of the manufacturer for adver-  
19 tising and marketing of drugs of the manufacturer,  
20 other than expenses for free samples of drugs sub-  
21 ject to section 503(b)(1) of the Federal Food Drug,  
22 and Cosmetic Act intended to be distributed to pa-  
23 tients.

24 (5) APPLICATION OF REBATES.—Amounts re-  
25 ceived by the Secretary as rebates under this sub-

1 section shall be placed into an appropriate account  
2 in the Treasury and shall be available in advance of  
3 appropriations to the Secretary for the payment of  
4 discounts and other costs of participating phar-  
5 macies in carrying out the America Rx program and  
6 for the payment of administrative costs in carrying  
7 out the program.

8 (c) ARRANGEMENTS WITH PARTICIPATING PHAR-  
9 MACIES.—

10 (1) IN GENERAL.—Under the America Rx pro-  
11 gram arrangements are made with pharmacies for  
12 the provision of prescription drugs at discounted  
13 prices to qualified residents in a reasonably acces-  
14 sible manner. Such arrangements shall provide  
15 that—

16 (A) each participating pharmacy shall—

17 (i) provide discounts on prices for out-  
18 patient prescription drugs for qualified  
19 residents in return for prompt reimburse-  
20 ment of the amount of such discounts and  
21 a reasonable dispensing fee;

22 (ii) not charge qualified residents  
23 more (before such discounts) for outpatient  
24 prescription drugs than the amount that

1 individuals who are not qualified residents  
2 are charged for such drugs; and

3 (iii) report to the Secretary (or the  
4 Secretary's designee) information regard-  
5 ing the discounts provided and fees in-  
6 curred; and

7 (B) the program shall—

8 (i) reimburse a participating retail  
9 pharmacy on a prompt basis (no less  
10 promptly than as provided under the medi-  
11 care program) for discounted prices pro-  
12 vided to qualified residents under the pro-  
13 gram and for reasonable dispensing fees;  
14 and

15 (ii) not impose any additional fees on  
16 such pharmacies in connection with partici-  
17 pation in the program.

18 (2) DISCOUNTED PRICES.—The amount of the  
19 discount provided to enrolled qualifying residents  
20 shall reflect the amount of rebates obtained, reduced  
21 by expenses relating to administrative costs of the  
22 Federal and State governments and of participating  
23 pharmacies. The Secretary shall specify the method  
24 for computing and applying discounts, including a

1 method for computing and applying discounts on a  
2 uniform, average percentage basis.

3 (d) ADMINISTRATION.—

4 (1) IN GENERAL.—Under the America Rx pro-  
5 gram the Secretary may enter into appropriate ar-  
6 rangements with States under which States provide  
7 for the administration of the program in return for  
8 payment of the reasonable administrative expenses  
9 associated with such administration.

10 (2) ADMINISTRATIVE FUNCTIONS.—Such ad-  
11 ministration functions may include—

12 (A) determinations of eligibility of qualified  
13 residents;

14 (B) arrangements with participating phar-  
15 macies; and

16 (C) such other functions as the Secretary  
17 determines appropriate.

18 (3) CONTRACTUAL AUTHORITY.—In carrying  
19 out responsibilities under this section, the Secretary  
20 and States may enter into agreements with phar-  
21 macy benefit managers and other third parties.

22 (e) DEFINITIONS.—For purposes of this section:

23 (1) The term “manufacturer” has the meaning  
24 given such term in section 1927(k)(5) of the Social  
25 Security Act (42 U.S.C. 1396r–8(k)(5)).



1           (2) The term “medicaid program” means a  
2       State program under title XIX of the Social Security  
3       Act, including such a program operating under a  
4       Statewide waiver under section 1115 of such Act.

5           (3) The term “outpatient prescription drug”  
6       has the meaning given the term “covered outpatient  
7       drug” in section 1927(k)(2) of the Social Security  
8       Act (42 U.S.C. 1396r–8(k)(2)).

9           (4) The term “Secretary” means the Secretary  
10      of Health and Human Services.

11          (5) The term “State” has the meaning given  
12      such term for purposes of title XIX of the Social Se-  
13      curity Act.

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