

109TH CONGRESS
1ST SESSION

H. R. 1669

To ensure integrity in the operation of pharmacy benefit managers.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2005

Mr. WEINER (for himself and Mr. MORAN of Kansas) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To ensure integrity in the operation of pharmacy benefit managers.

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 “Pharmacy Benefit
5 Manager Transparency Act of 2005”.

6 **SEC. 2. REQUIREMENTS RELATING TO PHARMACY BENEFIT**
7 **MANAGERS.**

8 (a) PROHIBITION ON CROSS OWNERSHIP.—

9 (1) IN GENERAL.—No pharmaceutical drug
10 manufacturer may have a controlling interest in an
11 entity that is a pharmacy benefit manager.

1 (2) PENALTY.—The Secretary of Health and
2 Human Services may issue such civil penalties for a
3 violation of paragraph (1) as the Secretary of
4 Health and Human Services determines necessary.

5 (b) DRUG INTERCHANGE.—

6 (1) PROHIBITIONS.—

7 (A) COST INCREASE.—A pharmacy benefit
8 manager shall not make any drug interchange
9 proposal for an individual who is served by such
10 manager where the net cost of the drug to
11 which the prescription would be changed ex-
12 ceeds that of the drug from which the prescrip-
13 tion would be changed.

14 (B) DISCLOSURE TO INDIVIDUAL.—A
15 pharmacy benefit manager shall not make any
16 drug interchange for an individual who is
17 served by such manager unless the pharmacy
18 benefit manager discloses to the individual, in a
19 clear and conspicuous manner, the savings to
20 the individual associated with such interchange.

21 (C) GENERICS.—A pharmacy benefit man-
22 ager shall not make any drug interchange pro-
23 posal for an individual who is served by such
24 manager if the drug from which the prescrip-
25 tion would be changed has generic equivalents

1 and the drug to which the prescription would be
2 changed has no generic equivalents, unless the
3 drug to which the prescription would be
4 changed has a lower net cost to the individual
5 than does each of the generic equivalents of the
6 drug from which the prescription would be
7 changed.

8 (2) PENALTY.—A pharmacy benefit manager
9 that violates subparagraph (A), (B), or (C) of para-
10 graph (1) with respect to an individual and presents
11 a claim for payment to the United States Govern-
12 ment as reimbursement for services to such indi-
13 vidual, shall be considered in violation of section
14 3729 of title 31, United States Code.

15 (c) DISCLOSURE OF COMPENSATION FROM DRUG
16 MANUFACTURERS.—

17 (1) QUARTERLY AND ANNUAL DISCLOSURES.—
18 At the end of each fiscal year quarter, each phar-
19 macy benefit manager shall disclose—

20 (A) to the client plans of such manager
21 and to the Antitrust Division of the Depart-
22 ment of Justice, all compensation and remu-
23 neration that the pharmacy benefit manager re-
24 ceived during such fiscal year quarter from a
25 pharmaceutical drug manufacturer, including,

1 regardless of how categorized, market share in-
2 centives, commissions, mail service purchase
3 discounts, and administrative or management
4 fees; and

5 (B) to the client plans of such manager,
6 any fees received for sales of utilization data to
7 a pharmaceutical drug manufacturer.

8 (2) DISCLOSURE AT CONTRACTING STAGE.—

9 Each pharmacy benefit manager shall disclose to
10 each client plan and prospective client plan of such
11 manager, in advance of executing an agreement with
12 such plan, information relating to the pharmacy ben-
13 efit manager’s methodology of soliciting and receiv-
14 ing payments from pharmaceutical drug manufac-
15 turers.

16 (d) DEFINITIONS.—For purposes of this section:

17 (1) CLIENT PLAN.—The term “client plan”
18 means a pharmaceutical plan in which the entity
19 that offers such plan to its beneficiaries contracts di-
20 rectly with a pharmacy benefit manager to provide
21 or administer such plan.

22 (2) DRUG INTERCHANGE.—The term “drug
23 interchange” means any change from one prescrip-
24 tion drug to another prescription drug that is in-

- 1 tended to address or treat the same illness or condi-
- 2 tion.

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