

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2200

To amend part D of title XVIII of the Social Security Act to provide to the Secretary of Health and Human Services authority similar to the authority of the Secretary of Veterans Affairs to negotiate the lowest possible prices for outpatient prescription drugs, to include in the determination of best price for covered outpatient drugs under the Medicaid Program prices charged by manufacturers to certain Federal agencies, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2005

Mr. RUPPERSBERGER introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend part D of title XVIII of the Social Security Act to provide to the Secretary of Health and Human Services authority similar to the authority of the Secretary of Veterans Affairs to negotiate the lowest possible prices for outpatient prescription drugs, to include in the determination of best price for covered outpatient drugs under the Medicaid Program prices charged by manufacturers to certain Federal agencies, 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 Fairness Act”.

6 **SEC. 2. NEGOTIATION OF LOWEST POSSIBLE PRICES FOR**  
7 **PRESCRIPTION DRUGS UNDER MEDICARE.**

8       Section 1860D–11 of the Social Security Act (42  
9 U.S.C. 1395w–111) is amended by striking subsection (i)  
10 (relating to noninterference) and by inserting the fol-  
11 lowing:

12       “(i) REQUIREMENT TO NEGOTIATE FOR LOWEST  
13 PRICES.—In order to ensure that beneficiaries enrolled  
14 under prescription drug plans and MA–PD plans pay the  
15 lowest possible price for covered part D drugs, the Sec-  
16 retary shall have and exercise authority similar to that of  
17 the Secretary of Veterans Affairs to purchase prescription  
18 drugs in bulk and to negotiate contracts with manufactur-  
19 ers of covered part D drugs, consistent with the require-  
20 ments and in furtherance of the goals of providing quality  
21 care and containing costs under this part. In exercising  
22 such authority, the Secretary shall negotiate the best pos-  
23 sible prices for such drugs.”.

1 **SEC. 3. INCLUSION OF PRICES CHARGED FOR COVERED**  
2 **OUTPATIENT DRUGS TO CERTAIN FEDERAL**  
3 **AGENCIES IN THE DETERMINATION OF BEST**  
4 **PRICE FOR SUCH DRUGS UNDER THE MED-**  
5 **ICAID PROGRAM.**

6 (a) IN GENERAL.—Clause (i) of section  
7 1927(c)(1)(C) of the Social Security Act (42 U.S.C.  
8 1396r–8(c)(1)(C)) is amended by striking “, excluding—  
9 ” and all that follows and inserting a period.

10 (b) CONFORMING AMENDMENTS.—(1) Such section  
11 is further amended by striking clause (iii).

12 (2) Section 1847A(c)(2) of the Social Security Act  
13 (42 U.S.C. 1395w–3a(c)(2)) is amended by striking sub-  
14 paragraph (A) and redesignating the succeeding provision  
15 accordingly.

16 (3) Section 1860D–2(d)(1) of such Act (42 U.S.C.  
17 1395w–102(d)(1)) is amended by striking subparagraph  
18 (C).

19 (4) Section 1860D–31(e)(1) of such Act (42 U.S.C.  
20 1395w–131(e)(1)) is amended by striking subparagraph  
21 (D).

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply with respect to payments for cov-  
24 ered outpatient drugs furnished on or after January 1,  
25 2006.

1 **SEC. 4. CLARIFICATION OF AUTHORITY FOR STATES TO NE-**  
2 **GOTIATE TOGETHER TO ACHIEVE GREATER**  
3 **DISCOUNTS FROM MANUFACTURERS OF COV-**  
4 **ERED OUTPATIENT DRUGS.**

5 Section 1927(a) of the Social Security Act (42 U.S.C.  
6 1396r-8(a)) is amended by adding at the end the fol-  
7 lowing new paragraph:

8 “(7) **AUTHORITY FOR STATES TO FORM POOLS**  
9 **TO NEGOTIATE PRICE CONCESSIONS.**—In entering  
10 into agreements with manufacturers under this sec-  
11 tion, States may form pools to negotiate price con-  
12 cessions from the manufacturers for covered out-  
13 patients drugs.”.

○