

109TH CONGRESS
1ST SESSION

H. R. 4645

To amend title XVIII of the Social Security Act to provide broader and more informed protection to Medicare eligible individuals from abusive marketing practices of Medicare prescription drug plans and MA–PD plans to permit enrollees under Medicare prescription drug plans that have been sanctioned to elect to enroll under other plans.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 2005

Ms. SCHWARTZ of Pennsylvania (for herself and Mrs. LOWEY) 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 title XVIII of the Social Security Act to provide broader and more informed protection to Medicare eligible individuals from abusive marketing practices of Medicare prescription drug plans and MA–PD plans to permit enrollees under Medicare prescription drug plans that have been sanctioned to elect to enroll under other plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Preventing Medicare
3 Seniors from being Confused due to Abusive Marketing
4 (Prevent Medicare SCAMs) Act of 2005”.

5 **SEC. 2. STRICTER PENALTIES FOR MA-PD PLANS AND**
6 **MEDICARE PRESCRIPTION DRUG PLANS**
7 **THAT VIOLATE MARKETING REQUIREMENTS.**

8 Section 1857(g) of the Social Security Act (42 U.S.C.
9 1395w–27(g)) is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(5) DETERMINATIONS RELATED TO VIOLA-
12 TIONS OF MARKETING REQUIREMENTS OF MA-PD
13 PLANS AND PRESCRIPTION DRUG PLANS.—For pur-
14 poses of paragraphs (2) and (3), in the case that the
15 Secretary makes a determination under paragraph
16 (1)(E)(ii) or subsection (c)(2) because an MA-PD
17 plan under this part or a prescription drug plan
18 under part D is in violation of an applicable require-
19 ment relating to marketing and such a violation in-
20 volves mail, phone calls, emails, or pieces of other
21 marketing material or communication specified by
22 the Secretary, each piece of mail, each phone call,
23 each email, and each piece of other marketing mate-
24 rial or communication involved shall represent a sep-
25 arate determination of such a violation.”.

1 **SEC. 3. PUBLIC NOTIFICATION OF MEDICARE PRESCRIP-**
2 **TION DRUG PLANS AND MA-PD PLANS THAT**
3 **HABITUALLY RECEIVE INTERMEDIATE SANC-**
4 **TIONS.**

5 Section 1860D–4(a) of such Act (42 U.S.C. 13953–
6 104(a)) is amended by adding at the end the following
7 new paragraph:

8 “(5) PUBLIC NOTIFICATION OF MEDICARE PRE-
9 SCRIPTON DRUG PLANS AND MA–PD PLANS WITH
10 HABITUAL VIOLATIONS.—

11 “(A) IN GENERAL.—For 2008 and each
12 succeeding year, not later than the notice and
13 posting date described in subparagraph (C) for
14 such a year, the Secretary shall—

15 “(i) provide written notice to each
16 part D eligible individual of the prescrip-
17 tion drug habitual sanctions information
18 described in subparagraph (B); and

19 “(ii) post such information on the of-
20 ficial public Internet site of the Depart-
21 ment of Health and Human Services and
22 the official public Internet site of the Cen-
23 ters of Medicare & Medicaid Services.

24 “(B) PRESCRIPTION DRUG HABITUAL
25 SANCTIONS INFORMATION.—For purposes of
26 subparagraph (A), the prescription drug habit-

1 ual sanctions information described in this sub-
2 paragraph for a year is the following:

3 “(i) The name of—

4 “(I) each prescription drug plan
5 under this part to which the Secretary
6 applied at least three sanctions under
7 section 1857(g), as applied under sec-
8 tion 1860D–12(b)(3)(E), during any
9 24-month period that preceeds the ap-
10 plicable notice and posting date for
11 such year; and

12 “(II) each MA–PD plan under
13 part C to which the Secretary applied
14 at least three sanctions under section
15 1857(g) during such 24-month period.

16 “(ii) For each plan described in clause
17 (i), a description of the date and type of
18 violation for each sanction described in
19 such clause.

20 “(C) NOTICE AND POSTING DATE.—For
21 purposes of this paragraph, the notice and post-
22 ing date described in this subparagraph for
23 2008 and each succeeding year is the first day
24 of the annual, coordinated election period under
25 section 1851(e)(3)(B)(iv) for such year.”.

1 **SEC. 4. PERMITTING MEDICARE BENEFICIARIES EN-**
2 **ROLLED UNDER SANCTIONED PRESCRIPTION**
3 **DRUG PLANS TO ENROLL UNDER OTHER**
4 **PLANS.**

5 Section 1860D–1(b)(3) of the Social Security Act (42
6 U.S.C. 1395w–101(b)(3)) is amended by adding at the
7 end the following new subparagraph:

8 “(F) ENROLLMENT UNDER SANCTIONED PRE-
9 SCRIPTON DRUG PLAN.—In the case of a part D eli-
10 gible individual who is enrolled in a prescription
11 drug plan, if enrollment in the plan is suspended
12 under section 1857(g)(3)(C), as applied under sec-
13 tion 1860D–12(b)(3)(E), because of a failure of the
14 plan to meet applicable requirements relating to
15 marketing or provision of services, the special enroll-
16 ment period shall be the period of such suspension
17 of enrollment.”.

18 **SEC. 5. GAO STUDY ON ANTI-FRAUD AND ABUSE PROVI-**
19 **SIONS AND SANCTIONS FOR MEDICARE PRE-**
20 **SCRIPTION DRUG BENEFIT AND UNDER MA-**
21 **PD PLANS.**

22 (a) STUDY.—Not later than November 15, 2007, the
23 Comptroller General of the United States shall conduct
24 a study—

25 (1) to identify and describe each anti-fraud and
26 abuse provision (including intermediate sanctions re-

1 lating to such provisions) that is applicable to an
2 MA–PD plan under part C of title XVIII of the So-
3 cial Security Act or a prescription drug plan under
4 part D of such title; and

5 (2) to assess the effectiveness of the provisions
6 described in paragraph (1) and the overall compli-
7 ance of MA–PD plans under part C of title XVIII
8 of such Act and prescription drug plans under part
9 D of such title with such provisions.

10 (b) REPORT.—Not later than May 15, 2008, the
11 Comptroller General of the United States shall submit a
12 report to Congress of the results of the study under sub-
13 section (a).

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