

109TH CONGRESS
2D SESSION

S. 2240

To amend title XVIII to reform the Medicare prescription drug program.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2006

Mr. LEVIN (for himself and Ms. STABENOW) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII to reform the Medicare prescription
drug program.

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 “Medicare Part D Re-
5 form Act of 2006”.

6 **SEC. 2. REMOVAL OF COVERED PART D DRUGS FROM THE**
7 **PRESCRIPTION DRUG PLAN FORMULARY.**

8 Section 1860D–4(b)(3)(E) of the Social Security Act
9 (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as
10 follows:

1 “(E) REMOVING DRUG FROM FORMULARY
2 OR CHANGING PREFERRED OR TIER STATUS OF
3 DRUG.—

4 “(i) LIMITATION ON REMOVAL OR
5 CHANGE.—Beginning with 2006, the PDP
6 sponsor of a prescription drug plan may
7 not remove a covered part D drug from the
8 plan formulary or change the preferred or
9 tiered cost-sharing status of such a drug
10 other than during the period beginning on
11 September 1 and ending on October 31.
12 Subject to clause (ii), such removal or
13 change shall only be effective beginning on
14 January 1 of the immediately succeeding
15 calendar year.

16 “(ii) NOTICE.—Any removal or
17 change under this subparagraph shall not
18 take effect unless appropriate notice is
19 made available (such as under subsection
20 (a)(3)) to the Secretary, affected enrollees,
21 physicians, pharmacies, and pharmacists.
22 Such notice shall ensure that such infor-
23 mation is made available prior to the an-
24 nual, coordinated open election period de-
25 scribed in section 1851(e)(3)(B)(iii), as ap-

1 plied under section 1860D–
 2 1(b)(1)(B)(iii).”.

3 **SEC. 3. PHARMACEUTICAL PATIENT ASSISTANCE PRO-**
 4 **GRAMS.**

5 (a) PROVIDING A SAFE HARBOR FOR PHARMA-
 6 CEUTICAL PATIENT ASSISTANCE PROGRAMS.—Section
 7 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–
 8 7b(b)(3)) is amended—

9 (1) in subparagraph (G)—

10 (A) by inserting “or under a patient assist-
 11 ance program (including a pharmaceutical man-
 12 ufacturer patient assistance program)” after
 13 “Indian organizations”;

14 (B) by striking “and” at the end;

15 (2) in subparagraph (H), as added by section
 16 237(d) of the Medicare Prescription Drug, Improve-
 17 ment, and Modernization Act of 2003 (Public Law
 18 108–173; 117 Stat. 2213)—

19 (A) by moving such subparagraph 2 ems to
 20 the left; and

21 (B) by striking the period at the end and
 22 inserting “; and”;

23 (3) by redesignating subparagraph (H), as
 24 added by section 431(a) of the Medicare Prescrip-
 25 tion Drug, Improvement, and Modernization Act of

1 2003 (Public Law 108–173; 117 Stat. 2287), as
 2 subparagraph (I) and moving such subparagraph 2
 3 ems to the left.

4 (b) EXCLUSION OF EXPENDITURES UNDER CERTAIN
 5 PHARMACY ASSISTANCE PROGRAMS FROM TROOP.—
 6 Section 1860D–2(b)(4)(C)(ii) of such Act (42 U.S.C.
 7 1395w–102(b)(4)(C)(ii)) is amended by inserting “under
 8 a pharmaceutical manufacturer patient assistance pro-
 9 gram,” after “a group health plan,”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on the date of enactment of
 12 this Act.

13 **SEC. 4. PROTECTION AGAINST COST-SHARING FOR FULL-**
 14 **BENEFIT DUAL ELIGIBLE INDIVIDUALS.**

15 (a) IN GENERAL.—Section 1860D–14(a)(1)(D)(ii) of
 16 the Social Security Act (42 U.S.C. 1395w–
 17 114(a)(1)(D)(ii)) is amended—

18 (1) in the heading, by striking “LOWEST IN-
 19 COME”;

20 (2) by striking “and whose income does not ex-
 21 ceed 100 percent of the poverty line applicable to a
 22 family of the size involved”; and

23 (3) by adding at the end the following new sen-
 24 tence: “In the case of an individual who is unable

1 to pay the copayment applicable under the preceding
 2 sentence, such copayment shall be waived.”.

3 (b) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to drugs dispensed on or after the
 5 date of enactment of this Act.

6 **SEC. 5. NEGOTIATING FAIR PRICES FOR MEDICARE PRE-**
 7 **SCRIPTION DRUGS.**

8 (a) IN GENERAL.—Section 1860D–11 of the Social
 9 Security Act (42 U.S.C. 1395w–111) is amended by strik-
 10 ing subsection (i) (relating to noninterference) and by in-
 11 serting the following new subsection:

12 “(i) AUTHORITY TO NEGOTIATE PRICES WITH MAN-
 13 UFACTURERS.—In order to ensure that beneficiaries en-
 14 rolled under prescription drug plans and MA–PD plans
 15 pay the lowest possible price, the Secretary shall have au-
 16 thority similar to that of other Federal entities that pur-
 17 chase prescription drugs in bulk to negotiate contracts
 18 with manufacturers of covered part D drugs, consistent
 19 with the requirements and in furtherance of the goals of
 20 providing quality care and containing costs under this
 21 part.”.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 this section shall take effect on the date of enactment of
 24 this Act.

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