

109TH CONGRESS  
2D SESSION

# S. 2342

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare program.

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## IN THE SENATE OF THE UNITED STATES

MARCH 1, 2006

Ms. STABENOW (for herself, Mr. KENNEDY, Mr. LEVIN, Mrs. CLINTON, Mr. AKAKA, Mr. LAUTENBERG, Mrs. BOXER, and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare 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-Guaranteed  
5       Prescription Drug Act of 2006”.

6       **SEC. 2. ESTABLISHMENT OF MEDICARE-GUARANTEED PRE-**  
7       **SCRIPTION DRUG PLAN OPTION.**

8       (a) IN GENERAL.—Subpart 2 of part D of the Social  
9       Security Act (42 U.S.C. 1395w–111 et seq.) is amended

1 by inserting after section 1860D–11 the following new sec-  
 2 tion:

3 “MEDICARE-GUARANTEED PRESCRIPTION DRUG PLAN  
 4 OPTION

5 “SEC. 1860D–11A. (a) IN GENERAL.—Notwith-  
 6 standing any other provision of this part, for each year  
 7 (beginning with 2007), the Secretary shall—

8 “(1) in addition to any plans offered under sec-  
 9 tion 1860D–11, offer a Medicare-Guaranteed Pre-  
 10 scription Drug Plan (as defined in subsection (c))  
 11 with a service area that consists of the entire United  
 12 States; and

13 “(2) enter into negotiations with pharma-  
 14 ceutical manufacturers to reduce the purchase cost  
 15 of covered part D drugs under such Plan for eligible  
 16 part D individuals in accordance with subsection (b).

17 “(b) NEGOTIATIONS.—Notwithstanding section  
 18 1860D–11(i), for purposes of offering the Medicare-Guar-  
 19 anteed Prescription Drug Plan under this section, the Sec-  
 20 retary shall negotiate with pharmaceutical manufacturers  
 21 with respect to the purchase price of covered part D drugs  
 22 and shall encourage the use of more affordable therapeutic  
 23 equivalents to the extent such practices do not override  
 24 medical necessity as determined by the prescribing physi-  
 25 cian. To the extent practicable and consistent with the  
 26 previous sentence, the Secretary shall implement strate-

gies similar to those used by other Federal purchasers of prescription drugs, and other strategies, to reduce the purchase cost of covered part D drugs.

“(c) MEDICARE-GUARANTEED PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this part, the term ‘Medicare-Guaranteed Prescription Drug Plan’ means a prescription drug plan that offers standard prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A).

“(d) MONTHLY BENEFICIARY PREMIUM.—The monthly beneficiary premium to be charged under a Medicare-Guaranteed Prescription Drug Plan shall be uniform nationally and shall be equal to the base beneficiary premium (computed under section 1860D–13(a)(2)) applicable for the year.”.

(b) SUNSET OF UNNECESSARY PLAN REQUIREMENT AND FALLBACK PLAN PROVISIONS.—

(1) PLAN REQUIREMENT.—Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended by adding at the end the following new subsection:

“(c) PROVISIONS ONLY APPLICABLE IN 2006.—The provisions of this section shall only apply with respect to 2006.”.

1           (2) FALLBACK.—Section 1860D–11(g) of such  
 2   Act (42 U.S.C. 1395w–111(g)) is amended by add-  
 3   ing at the end the following new paragraph:

4           “(8) NO AUTHORITY FOR FALLBACK PLANS  
 5   AFTER 2006.—A fallback prescription drug plan shall  
 6   not be available after December 31, 2006.”.

7   (c) CONFORMING AMENDMENTS.—

8           (1) APPLICATION OF LIMITED RISK PLANS.—  
 9   Section 1860D–11(f) of the Social Security Act (42  
 10   U.S.C. 1395w–111(f)) is amended by adding at the  
 11   end the following new paragraph:

12           “(5) NO AUTHORITY FOR LIMITED RISK PLANS  
 13   AFTER 2006.—A limited risk plan shall not be avail-  
 14   able after December 31, 2006.”.

15           (2) ANNUAL REPORT.—Section 1860D–11(h) of  
 16   such Act (42 U.S.C. 1395w–111(h)) is amended—

17           (A) in the heading, by striking “ANNUAL”;

18           (B) in the first sentence—

19               (i) by striking “an annual” and in-  
 20               serting “a”; and

21               (ii) by inserting “during 2006” before  
 22               the period at the end; and

23           (C) by striking the second sentence.

1           (3) COLLECTION OF MONTHLY BENEFICIARY  
2       PREMIUMS.—Section 1860D–13(c)(3) of such Act  
3       (42 U.S.C. 1395w–113(c)(3)) is amended—

4           (A) in the heading, by inserting “AND  
5       MEDICARE-GUARANTEED PRESCRIPTION DRUG  
6       PLANS” after “FALLBACK PLANS”; and

7           (B) by inserting “or a Medicare-Guaran-  
8       teed Prescription Drug Plan” after “a fallback  
9       prescription drug plan”.

10          (4) PAYMENTS FROM MEDICARE PRESCRIPTION  
11       DRUG ACCOUNT.—Section 1860D–16(b)(1) of such  
12       Act (42 U.S.C. 1395w–116(b)(1)) is amended—

13           (A) in subparagraph (C), by striking  
14       “and” after the semicolon at the end;

15           (B) in subparagraph (D), by striking the  
16       period at the end and inserting “; and”; and

17           (C) by adding at the end the following new  
18       subparagraph:

19           “(E) payments for expenses incurred with  
20       respect to the operation of Medicare-Guaran-  
21       teed Prescription Drug Plans under section  
22       1860D–11A.”.

23          (5) DEFINITIONS.—Section 1860D–41(a) of  
24       such Act (42 U.S.C. 141(a)) is amended by adding  
25       at the end the following new paragraph:

1 “(19) MEDICARE-GUARANTEED PRESCRIPTION  
 2 DRUG PLAN.—The term ‘Medicare-Guaranteed Pre-  
 3 scription Drug Plan’ has the meaning given such  
 4 term in section 1860D–11A(c).”.

5 (d) EFFECTIVE DATE.—The amendments made by  
 6 this section shall take effect on the date of enactment of  
 7 this Act.

8 **SEC. 3. IMPROVEMENT OF PART D STANDARD PRESCRIP-**  
 9 **TION DRUG COVERAGE.**

10 (a) DEDUCTIBLE SAME AS PART B.—

11 (1) IN GENERAL.—Section 1860D–2(b)(1) of  
 12 the Social Security Act (42 U.S.C. 1395w–  
 13 102(b)(1)) is amended to read as follows:

14 “(1) DEDUCTIBLE.—The coverage has an an-  
 15 nual deductible that is equal to amount of the de-  
 16 ductible applicable for the year under the first sen-  
 17 tence of section 1833(b).”.

18 (2) CONFORMING AMENDMENT.—Section  
 19 1860D–22(a)(3)(B)(ii) of such Act (42 U.S.C.  
 20 1395w–132(a)(3)(B)(ii)) is amended by striking “as  
 21 the annual deductible” and all that follows through  
 22 the period and inserting “the annual out-of-pocket  
 23 threshold is annually adjusted under section 1860D–  
 24 2(b)(4)(B), except that in the case of the cost

1 threshold, if such amount is not a multiple of \$5, it  
 2 shall be rounded to the nearest \$5.”

3 (b) REDUCED COINSURANCE.—

4 (1) IN GENERAL.—Section 1860D–2(b)(2) of  
 5 the Social Security Act (42 U.S.C. 1395w–  
 6 102(b)(2))—

7 (A) in the heading, by striking “25 PER-  
 8 CENT” and inserting “20 PERCENT”; and

9 (B) in clauses (i) and (ii), by striking “25  
 10 percent” and inserting “20 percent”.

11 (2) LOW-INCOME SUBSIDY.—Section 1860D–  
 12 14(a)(2)(D) of such Act (42 U.S.C. 1395w–  
 13 114(a)(2)(D)) is amended—

14 (A) by striking “15 percent” and inserting  
 15 “10 percent”; and

16 (B) by striking “25 percent” and inserting  
 17 “20 percent”.

18 (c) ELIMINATION OF COVERAGE GAP.—

19 (1) IN GENERAL.—

20 (A) IN GENERAL.—Paragraph (3) of sec-  
 21 tion 1860D–2(b) of the Social Security Act (42  
 22 U.S.C. 1395w–102(b)) is repealed.

23 (B) REVISION OF BENEFIT STRUCTURE.—

24 Section 1860D–2(b)(2)(A) of such Act (42  
 25 U.S.C. 1395w–102(b)(2)(A)) is amended by

striking “and up to the initial coverage limit under paragraph (3)” and inserting “and up to the point at which the annual out-of-pocket threshold is reached under paragraph (4)” in the matter preceding clause (i).

(2) CONFORMING AMENDMENTS.—

(A) SUPPLEMENTAL PRESCRIPTION DRUG COVERAGE.—Section 1860D–2(a)(2)(A)(i)(I) of such Act (42 U.S.C. 1395w–102(a)(2)(A)(i)(I)) is amended—

(i) by striking “deductible,” and inserting “deductible or”;

(ii) by striking “, or an increase in the initial coverage limit”; and

(iii) by striking “or increase”.

(B) CATASTROPHIC.—Section 1860D–2(b)(4)(C)(i) of such Act (42 U.S.C. 1395w–102(b)(4)(C)(i)) is amended—

(i) by striking “paragraph (1),” and inserting “paragraph (1) or”; and

(ii) by striking “and for amounts for which benefits are not provided because of the application of the initial coverage limit described in paragraph (3),”.



(C) ALTERNATIVE PRESCRIPTION DRUG  
 COVERAGE.—Section 1860D–2(c)(1)(C) of such  
 Act (42 U.S.C. 1395w–102(c)(1)(C)) is amend-  
 ed—

(i) in the heading by striking “INITIAL  
 COVERAGE LIMIT” and inserting “OUT-OF-  
 POCKET THRESHOLD”; and

(ii) by striking “the initial coverage  
 limit under subsection (b)(3)” each place it  
 appears and inserting “the out-of-pocket  
 threshold under subsection (b)(4)”.

(D) ACCESS TO NEGOTIATED PRICES.—  
 Section 1860D–2(d)(1)(A) of such Act (42  
 U.S.C. 1395w–102(d)(1)(A)) is amended by  
 striking “or an initial coverage limit (described  
 in subsection (b)(3))”.

(E) CLAIMS INFORMATION.—Section  
 1860D–4(a)(4)(B)(i) of such Act (42 U.S.C.  
 1395w–104(a)(4)(B)(i)) is amended by striking  
 “relation to—” and all that follows through  
 “the annual” and inserting “relation to the an-  
 nual”.

(F) LOW-INCOME SUBSIDIES.—Section  
 1860D–14(a) of such Act (42 U.S.C. 1395w–

1           114(a)) is amended by striking subparagraph  
2           (C) of paragraphs (1) and (2).

3           (G)     DEFINITION.—Section     1860D–  
4           41(a)(6) of such Act (42 U.S.C. 1395w–  
5           151(a)(6)) is repealed.

6           (d) ELIMINATION OF COST-SHARING ABOVE ANNUAL  
7     OUT-OF-POCKET THRESHOLD.—

8           (1) IN GENERAL.—Section 1860D–2(b)(4)(A)  
9     of the Social Security Act (42 U.S.C. 1395w–  
10    102(b)(4)(A)) is amended to read as follows:

11           “(A) IN GENERAL.—The coverage provides  
12           benefits, after the part D eligible individual has  
13           incurred costs (as described in subparagraph  
14           (C)) for covered part D drugs in a year equal  
15           to the annual out-of-pocket threshold specified  
16           in subparagraph (B), without any cost-shar-  
17           ing.”.

18           (2) CONFORMING AMENDMENTS.—Paragraphs  
19    (1) and (2) of section 1860D–14(a) of such Act (42  
20    U.S.C. 1395w–114(a)) are each amended by striking  
21    subparagraph (E).

22           (e) EFFECTIVE DATE.—The amendments made by  
23    this section shall take effect on January 1, 2007.

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