

110TH CONGRESS  
1ST SESSION

# H. R. 1474

To amend title XVIII of the Social Security Act to require the sponsor of a prescription drug plan or an organization offering an MA–PD plan to promptly pay claims submitted under part D and to prohibit the inclusion of certain identifying information of pharmacies on explanatory prescription drug information and cards distributed by prescription drug plan sponsors.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2007

Mr. BERRY (for himself, Ms. HERSETH, Mr. JONES of North Carolina, Mr. WICKER, Mr. ALLEN, Mr. ADERHOLT, Mr. ROSS, Mr. GRAVES, Mrs. EMERSON, Mr. COURTNEY, and Mr. MORAN of Kansas) 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

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## A BILL

To amend title XVIII of the Social Security Act to require the sponsor of a prescription drug plan or an organization offering an MA–PD plan to promptly pay claims submitted under part D and to prohibit the inclusion of certain identifying information of pharmacies on explanatory prescription drug information and cards distributed by prescription drug plan sponsors.

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 “Fair and Speedy  
 5       Treatment (FAST) of Medicare Prescription Drug Claims  
 6       Act of 2007”.

7       **SEC. 2. PROMPT PAYMENT BY MEDICARE PRESCRIPTION**  
 8                 **DRUG PLANS AND MA-PD PLANS UNDER**  
 9                 **PART D.**

10       (a) APPLICATION TO PRESCRIPTION DRUG PLANS.—  
 11       Section 1860D–12(b) of the Social Security Act (42  
 12       U.S.C. 1395w–112 (b)) is amended by adding at the end  
 13       the following new paragraph:

14               “(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

15               “(A) PROMPT PAYMENT.—Each contract  
 16               entered into with a PDP sponsor under this  
 17               subsection with respect to a prescription drug  
 18               plan offered by such sponsor shall provide that  
 19               payment shall be issued, mailed, or otherwise  
 20               transmitted with respect to all clean claims sub-  
 21               mitted under this part within the applicable  
 22               number of calendar days after the date on  
 23               which the claim is received.

24               “(B) DEFINITIONS.—In this paragraph:

1           “(I) CLEAN CLAIM.—The term ‘clean  
2           claim’ means a claim, with respect to a  
3           covered part D drug, that has no apparent  
4           defect or impropriety (including any lack  
5           of any required substantiating documenta-  
6           tion) or particular circumstance requiring  
7           special treatment that prevents timely pay-  
8           ment from being made on the claim under  
9           this part.

10           “(ii) APPLICABLE NUMBER OF CAL-  
11           ENDAR DAYS.—The term ‘applicable num-  
12           ber of calendar days’ means—

13                   “(I) with respect to claims sub-  
14                   mitted electronically, 14 calendar  
15                   days; and

16                   “(II) with respect to claims sub-  
17                   mitted otherwise, 30 calendar days.

18           “(c) INTEREST PAYMENT.—If payment is  
19           not issued, mailed, or otherwise transmitted  
20           within the applicable number of calendar days  
21           (as defined in subparagraph (B)) after a clean  
22           claim is received, interest shall be paid at a rate  
23           used for purposes of section 3902(a) of title 31,  
24           United States Code (relating to interest pen-  
25           alties for failure to make prompt payments), for

1 the period beginning on the day after the re-  
2 quired payment date and ending on the date on  
3 which payment is made.

4 “(D) PROCEDURES INVOLVING CLAIMS.—

5 “(I) CLAIMS DEEMED TO BE CLEAN  
6 CLAIMS.—

7 “(I) IN GENERAL.—A claim for a  
8 covered part D drug shall be deemed  
9 to be a clean claim for purposes of  
10 this paragraph if the PDP sponsor in-  
11 volved does not provide a notification  
12 of deficiency to the claimant by the  
13 10th day that begins after the date on  
14 which the claim is submitted.

15 “(II) NOTIFICATION OF DEFICI-  
16 CIENCY.—For purposes of subclause  
17 (II), the term ‘notification of defi-  
18 ciency’ means a notification that  
19 specifies all defects or improprieties in  
20 the claim involved and that lists all  
21 additional information or documents  
22 necessary for the proper processing  
23 and payment of the claim.

24 “(ii) PAYMENT OF CLEAN PORTIONS  
25 OF CLAIMS.—A PDP sponsor shall, as ap-

1 appropriate, pay any portion of a claim for a  
2 covered part D drug that would be a clean  
3 claim but for a defect or impropriety in a  
4 separate portion of the claim in accordance  
5 with subparagraph (A).

6 “(iii) OBLIGATION TO PAY.—A claim  
7 for a covered part D drug submitted to a  
8 PDP sponsor that is not paid or contested  
9 by the provider within the applicable num-  
10 ber of calendar days (as defined in sub-  
11 paragraph (B)) shall be deemed to be a  
12 clean claim and shall be paid by the PDP  
13 sponsor in accordance with subparagraph  
14 (A).

15 “(iv) DATE OF PAYMENT OF CLAIM.—  
16 Payment of a clean claim under subpara-  
17 graph (A) is considered to have been made  
18 on the date on which full payment is re-  
19 ceived by the provider.

20 “(E) ELECTRONIC TRANSFER OF  
21 FUNDS.—A PDP sponsor shall pay all clean  
22 claims submitted electronically by an electronic  
23 funds transfer mechanism.”.

1 (b) APPLICATION TO MA-PD PLANS.—Section  
 2 1857(f) of such Act (42 U.S.C. 1395w-27) is amended  
 3 by adding at the end the following new paragraph:

4 “(3) INCORPORATION OF CERTAIN PRESCRIP-  
 5 TION DRUG PLAN CONTRACT REQUIREMENTS.—The  
 6 provisions of section 1860D-12(b)(4) shall apply to  
 7 contracts with a Medicare Advantage organization in  
 8 the same manner as they apply to contracts with a  
 9 PDP sponsor offering a prescription drug plan  
 10 under part D.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to contracts entered into or re-  
 13 newed on or after the date of the enactment of this Act.

14 **SEC. 3. RESTRICTION ON CO-BRANDING.**

15 (a) APPLICATION TO PRESCRIPTION DRUG INFORMA-  
 16 TION DISSEMINATED.—Subsection (a) of section 1860D-  
 17 4 of the Social Security Act (42 U.S.C. 1395w-104) is  
 18 amended by adding at the end the following new para-  
 19 graph:

20 “(5) RESTRICTION ON DISPLAYING PHARMACY  
 21 BRAND OR TRADEMARK INFORMATION.—

22 “(A) IN GENERAL.—It is unlawful for a  
 23 PDP sponsor of a prescription drug plan to dis-  
 24 play on any explanatory information described  
 25 in subparagraph (B), with respect to benefits

provided under this part, the brand or trademark of any pharmacy.

“(B) EXPLANATORY INFORMATION DESCRIBED.—For purposes of subparagraph (A), explanatory information is each of the following:

“(i) Information on evidence of coverage under this part.

“(ii) Information that summarizes benefits provided under this part.

“(iii) Enrollment and disenrollment forms.

“(iv) Enrollment and disenrollment letters.

“(v) Pharmacy directories.

“(vi) Formulary information.

“(vii) Grievance letters provided pursuant to subsection (f), coverage determination letters provided pursuant to subsection (g), and appeals letters provided pursuant to subsection (h).

“(viii) Exceptions process letters.

“(ix) Information contained in sales descriptions or sales presentations.”.

1 (b) APPLICATION TO ENROLLEE CARDS.—Subsection  
 2 (b)(2)(A) of such section is amended by adding at the end  
 3 the following new sentence: “It is unlawful for a PDP  
 4 sponsor of a prescription drug plan to display on such a  
 5 card the name, brand, or trademark of any pharmacy.”

6 (c) EFFECTIVE DATE.—

7 (1) EXPLANATORY INFORMATION.—With re-  
 8 spect to explanatory information dispensed on or  
 9 after the date of the enactment of this Act, the  
 10 amendment made by subsection (a) shall apply to  
 11 such information on and after the date that is 90  
 12 days after such date of enactment.

13 (2) ENROLLEE CARDS.—With respect to cards  
 14 dispensed before, on, or after the date of the enact-  
 15 ment of this Act, the amendment made by sub-  
 16 section (b) shall apply to such cards on and after the  
 17 date that is 90 days after such date of enactment.  
 18 Any card dispensed before such date that is 90 days  
 19 after the date of enactment that violates the second  
 20 sentence of section 1860D–4(b)(2)(A) of the Social  
 21 Security Act, as added by subsection (b), shall be re-  
 22 issued by such 90-day date.

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