

110TH CONGRESS
2D SESSION

H. R. 5317

To amend part D of title XVIII of the Social Security Act to limit the increase in premium costs for beneficiaries under the Medicare prescription drug program to no more than the Social Security cost-of-living adjustment, and to direct the Secretary of Health and Human Services to negotiate lower prescription drug prices on behalf of Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2008

Mr. WEXLER 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 limit the increase in premium costs for beneficiaries under the Medicare prescription drug program to no more than the Social Security cost-of-living adjustment, and to direct the Secretary of Health and Human Services to negotiate lower prescription drug prices on behalf of Medicare beneficiaries.

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 “Medicare Prescription
3 Drug Affordability Act of 2008”.

4 **SEC. 2. LIMITING MEDICARE PART D COST INCREASES TO**
5 **THE SOCIAL SECURITY COST-OF-LIVING IN-**
6 **CREASE.**

7 (a) IN GENERAL.—Section 1860D–11(e)(2) of the
8 Social Security Act (42 U.S.C. 1395w–111) is amended
9 by adding at the end the following new subparagraph:

10 “(E) BID AMOUNT INCREASE BY NO MORE
11 THAN SOCIAL SECURITY COST-OF-LIVING IN-
12 CREASE.—

13 “(i) IN GENERAL.—The Secretary de-
14 termines that the amount of the bid sub-
15 mitted for the plan year under subsection
16 (b) is not greater than—

17 “(I) the amount of the bid ap-
18 proved for such plan for the previous
19 plan year, increased by

20 “(II) the SS COLA percentage.

21 “(ii) EXCEPTION FOR A PLAN WITH
22 NO PREVIOUS PLAN YEAR.—The require-
23 ment of clause (i) shall not apply with re-
24 spect to a plan for which there was no pre-
25 vious plan year.

1 “(iii) SS COLA PERCENTAGE DE-
 2 FINED.—For purposes of this subpara-
 3 graph, the term ‘SS COLA percentage’
 4 with respect to a plan year in a calendar
 5 year is the percentage increase under sec-
 6 tion 215(i) in primary insurance amounts
 7 effective for December of the second pre-
 8 vious calendar year.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall apply with respect to plan years begin-
 11 ning on or after January 1, 2009.

12 **SEC. 3. NEGOTIATION OF LOWER COVERED PART D DRUG**
 13 **PRICES ON BEHALF OF MEDICARE BENE-**
 14 **FICIARIES.**

15 (a) NEGOTIATION BY HHS.—Section 1860D–11 of
 16 the Social Security Act (42 U.S.C. 1395w–111) is amend-
 17 ed by striking subsection (i) (relating to noninterference)
 18 and inserting the following:

19 “(i) NEGOTIATION OF LOWER DRUG PRICES.—

20 “(1) IN GENERAL.—Notwithstanding any other
 21 provision of law, the Secretary shall negotiate with
 22 pharmaceutical manufacturers the prices (including
 23 discounts, rebates, and other price concessions) that
 24 may be charged to PDP sponsors and MA organiza-
 25 tions for covered part D drugs for part D eligible in-

1 individuals who are enrolled under a prescription drug
2 plan or under an MA–PD plan.

3 “(2) NO CHANGE IN RULES FOR
4 FORMULARIES.—

5 “(A) IN GENERAL.—Nothing in paragraph
6 (1) shall be construed to authorize the Sec-
7 retary to establish or require a particular for-
8 mulary.

9 “(B) CONSTRUCTION.—Subparagraph (A)
10 shall not be construed as affecting the Sec-
11 retary’s authority to ensure appropriate and
12 adequate access to covered part D drugs under
13 prescription drug plans and under MA–PD
14 plans, including compliance of such plans with
15 formulary requirements under section 1860D–
16 4(b)(3).

17 “(3) CONSTRUCTION.—Nothing in this sub-
18 section shall be construed as preventing the sponsor
19 of a prescription drug plan, or an organization offer-
20 ing an MA–PD plan, from obtaining a discount or
21 reduction of the price for a covered part D drug
22 below the price negotiated under paragraph (1).

23 “(4) SEMI-ANNUAL REPORTS TO THE CON-
24 GRESS.—Not later than June 1, 2008, and every six
25 months thereafter, the Secretary shall submit to the

1 Committees on Ways and Means, Energy and Com-
2 merce, and Oversight and Government Reform of
3 the House of Representatives and the Committee on
4 Finance of the Senate a report on negotiations con-
5 ducted by the Secretary to achieve lower prices for
6 Medicare beneficiaries, and the prices and price dis-
7 counts achieved by the Secretary as a result of such
8 negotiations.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the date of the enact-
11 ment of this Act and shall first apply to negotiations and
12 prices for plan years beginning on January 1, 2009.

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