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113TH CONGRESS
1ST SESSION

H. R. 2960

To amend title XVIII of the Social Security Act to require sponsors of Medicare prescription drug plans to implement procedures to prevent fraud and abuse, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2013

Mr. PALLONE introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and the Judiciary, 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 sponsors of Medicare prescription drug plans to implement procedures to prevent fraud and abuse, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Medicare Prescription Drug Integrity Act of 2013’’.

SEC. 2. PREVENTION OF FRAUD AND ABUSE IN MEDICARE PRESCRIPTION DRUG PLANS.

(a) PROCEDURES FOR PDP SPONSORS TO IDENTIFY FRAUD AND ABUSE.—Section 1860D–4(c) of the Social Security Act (42 U.S.C. 1395w–104(c)) is amended—

(1) in paragraph (1)(D)—

(A) by inserting ", designed to" after "program"; and

(B) by inserting ", that includes the procedures described in paragraph (4)" after "waste"; and

(2) by adding at the end the following:

"(4) PROCEDURES TO PREVENT FRAUD AND ABUSE.—

"(A) PDP SPONSOR PROCEDURES.—A PDP sponsor shall have in place procedures designed to—

"(i) identify an individual that has obtained coverage for a covered part D drug at a frequency or amount not medically necessary, as determined in accordance with utilization guidelines established by the Secretary;

"(ii) subject to procedures developed by the Secretary, limit coverage for some or all classes of covered part D drugs for an individual identified under clause (i) to drugs prescribed by one or more designated prescribers or dispensed by one or more designated dispensers, or both, for a reasonable period of time following the date the individual is notified of such identification;

"(iii) provide to the Secretary the name, and other information that the Secretary may require, of individuals identified pursuant to clause (i);

"(iv) as directed by the Secretary, limit coverage for some or all classes of covered part D drugs for an individual identified pursuant to clause (i) by a PDP sponsor with whom such individual was previously enrolled; and

"(v) deny payment of a claim for a controlled substance in schedule II or III as established under Controlled Substances Act unless the PDP sponsor has verified at point-of-sale that the prescriber and dispenser are authorized by the Administrator of the Drug Enforcement Administration to prescribe or dispense such controlled substances.

"(B) AUTHORIZATION FOR THE SECRETARY TO SHARE INFORMATION.—The Secretary may share information with respect to an individual provided under subparagraph (A)(iii) with a PDP sponsor enrolling such individual.".

(b) DUAL ELIGIBLES.—Section 1860D–1(b)(3)(D) of the Social Security Act (42 U.S.C. 1395w–101(b)(3)(D)) is amended by inserting ", subject to such limits as the Secretary may establish for individuals identified pursuant to section 1860D–4(c)(4)(A)(i)" after "the Secretary".

(c) EXCLUSION AND DENIAL OF PAYMENT FOR INAPPROPRIATE PRESCRIBING AND DISPENSING.—

(1) EXCLUSION FOR INAPPROPRIATE PRESCRIBING OR DISPENSING.—Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following:

"(17) INAPPROPRIATE PRESCRIBING OR DISPENSING.—Any individual or entity that the Secretary determines has prescribed or dispensed under title XVIII—

"(A) a covered part D drug to an individual under a prescription drug plan or a MA-PD plan, as such terms are defined for purposes of part D of such title, that could not have been prescribed or dispensed to the individual on the date of such prescribing or dispensing; or

"(B) any drug under such title at a frequency or amount that—

"(i) represents a practice or pattern of abusive prescribing or dispensing; or

"(ii) presents a risk to enrollee health or safety.".

(2) DENIAL OF PAYMENT FOR INAPPROPRIATE PRESCRIBING OR DISPENSING.—Section 1860D–2(e)(3) of the Social Security Act (42 U.S.C. 1395w–102(e)(3)) is amended—

(A) in subparagraph (A), by striking "; or" and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting "; or";

(C) by inserting after subparagraph (B) the following:

"(C) which is prescribed or dispensed by an individual or entity that the Secretary determines, subject to such review, redetermination, and appeal as the Secretary provides, has prescribed or dispensed to an individual under a prescription drug plan or a MA–PD plan a covered part D drug—

"(i) that could not have been prescribed or dispensed to the individual on the date of such prescribing or dispensing; or

"(ii) at a frequency or amount that presents a risk to the health or safety of an enrollee or that represents a practice or pattern of abusive prescribing or dispensing."; and

(D) by adding at the end the following: "The exclusion of a prescriber or dispenser under subparagraph (C) shall be for such period of time as the Secretary shall specify."

(d) REGISTRATION OF AUTHORIZATION FOR INDIVIDUALS TO PRESCRIBE AND DISPENSE CONTROLLED SUBSTANCES.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following:

"(i) UNIQUE HEALTH IDENTIFIERS FOR MEMBERS OF GROUP PRACTICES.—

"(1) IN GENERAL.—The Attorney General shall—

"(A) compile and maintain a list of the unique health identifiers of prescribers and dispensers that are members of a group practice registered under this section and have authority to prescribe or dispense controlled substances in schedules II and III; and

"(B) make the list compiled under subparagraph (A) available to all PDP sponsors.

"(2) DEFINITIONS.—In this section:

"(A) GROUP PRACTICE.—The term 'group practice' has the meaning given such term in section 1877(h)(4) of the Social Security Act.

"(B) UNIQUE HEALTH IDENTIFIER.—The term 'unique health identifier' has the meaning given such term in section 1173(b) of the Social Security Act.

"(C) PDP SPONSOR.—The term 'PDP sponsor' has the meaning given such term in section 1860D–41(a)(13) of the Social Security Act.".

(e) USE OF RECOVERY AUDIT CONTRACTOR RECOVERIES TO PREVENT FRAUD AND WASTE.—Section 1893(h)(1)(C) of the Social Security Act (42 U.S.C. 1395ddd(h)(1)(C)) is amended—

(1) by striking "the Secretary shall retain" and inserting "the Secretary—

"(i) shall retain";

(2) in clause (i), as added by paragraph (1)—

(A) by inserting ", in addition to any other funds that may be available," after "available"; and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(ii) may retain an additional portion of the amounts recovered (not to exceed 25 percent of such amounts recovered) which shall be available, in addition to any other funds that may be available, to such program management account until expended for purposes of carrying out the amendments made by the Medicare Prescription Drug Integrity Act of 2013.".

(f) IMPLEMENTATION.—The Secretary of Health and Human Services may implement the amendments made by subsections (a), (b), and (c)(2) by regulations, guidance, or otherwise.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.—The amendments made by subsection (a) shall apply with respect to plan years beginning after the date that is 8 months after the date of the enactment of this Act, except that subparagraph (A)(v) of section 1860D–4(c)(4) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to plan years beginning after the date that is 6 months after the date on which the Secretary of Health and Human Services determines PDP sponsors, as defined in section 1860D–41(a)(13) of the Social Security Act (42 U.S.C. 1395w–151(a)(13)), have access at the point-of-sale to the information necessary to determine valid prescribing and dispensing authority.

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