

113TH CONGRESS
2D SESSION

H. R. 4437

To amend title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program to further transparency of payment methodologies to pharmacies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2014

Mr. COLLINS of Georgia (for himself and Mr. LOEBSACK) 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 title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program to further transparency of payment methodologies to pharmacies, and for other purposes.

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 “Generic Drug Pricing
5 Fairness Act”.

1 **SEC. 2. PHARMACY BENEFITS MANAGER STANDARDS**
2 **UNDER THE MEDICARE PROGRAM.**

3 (a) IN GENERAL.—Section 1860D–12(b) of the So-
4 cial Security Act (42 U.S.C. 1395w–112(b)) is amended
5 by adding at the end the following new paragraphs:

6 “(7) PHARMACY BENEFITS MANAGER TRANS-
7 PARENCY REQUIREMENTS.—Each contract entered
8 into with a PDP sponsor under this part with re-
9 spect to a prescription drug plan offered by such
10 sponsor shall provide that the PDP may not enter
11 into a contract with any pharmacy benefits manager
12 (referred to in this paragraph as a ‘PBM’) to man-
13 age the prescription drug coverage provided under
14 such plan, or to control the costs of the prescription
15 drug coverage under such plan, unless the PBM ad-
16 heres to the following criteria when handling person-
17 ally identifiable utilization and claims data or other
18 sensitive patient data:

19 “(A) The PBM may not transmit any per-
20 sonally identifiable utilization or claims data,
21 with respect to a plan enrollee, to a pharmacy
22 owned by a PBM if the plan enrollee has not
23 voluntarily elected in writing or via secure elec-
24 tronic means to fill that particular prescription
25 at the PBM-owned pharmacy.

1 “(B) The PBM may not require that a
 2 plan enrollee use a retail pharmacy, mail order
 3 pharmacy, specialty pharmacy, or other phar-
 4 macy entity providing pharmacy services in
 5 which the PBM has an ownership interest or
 6 that has an ownership interest in the PBM or
 7 provide an incentive to a plan enrollee to en-
 8 courage the enrollee to use a retail pharmacy,
 9 mail order pharmacy, specialty pharmacy, or
 10 other pharmacy entity providing pharmacy serv-
 11 ices in which the PBM has an ownership inter-
 12 est or that has an ownership interest in the
 13 PBM, if the incentive is applicable only to such
 14 pharmacies.”.

15 (b) REGULAR UPDATE OF PRESCRIPTION DRUG
 16 PRICING STANDARD.—Paragraph (6) of section 1860D–
 17 12(b) of the Social Security Act (42 U.S.C. 1395w–
 18 112(b)) is amended to read as follows:

19 “(6) REGULAR UPDATE OF PRESCRIPTION
 20 DRUG PRICING STANDARD.—

21 “(A) IN GENERAL.—If the PDP sponsor of
 22 a prescription drug plan uses a standard for re-
 23 imbursement (as described in subparagraph
 24 (B)) of pharmacies based on the cost of a drug,
 25 each contract entered into with such sponsor

1 under this part with respect to the plan shall
2 provide that the sponsor shall—

3 “(i) update such standard not less fre-
4 quently than once every 7 days, beginning
5 with an initial update on January 1 of
6 each year, to accurately reflect the market
7 price of acquiring the drug;

8 “(ii) disclose to applicable pharmacies
9 the sources used for making any such up-
10 date;

11 “(iii) if the source for such a standard
12 for reimbursement is not publicly available,
13 disclose to the applicable pharmacies all in-
14 dividual drug prices to be so updated in
15 advance of the use of such prices for the
16 reimbursement of claims; and

17 “(iv) establish a process to appeal, in-
18 vestigate, and resolve disputes regarding
19 individual drug prices that are less than
20 the pharmacy acquisition price for such
21 drug.

22 “(B) PRESCRIPTION DRUG PRICING
23 STANDARD DEFINED.—For purposes of sub-
24 paragraph (A), a standard for reimbursement
25 of a pharmacy is any methodology or formula

1 for varying the pricing of a drug or drugs dur-
2 ing the term of the pharmacy reimbursement
3 contract that is based on the cost of the drug
4 involved, including drug pricing references and
5 amounts that are based upon average wholesale
6 price, wholesale average cost, average manufac-
7 turer price, average sales price, maximum al-
8 lowable cost (MAC), or other costs, whether
9 publicly available or not.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to plan years beginning on or after
12 January 1, 2015.

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