

114TH CONGRESS
2D SESSION

S. 2858

To amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate for lower prices for Medicare prescription drugs.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2016

Mr. FRANKEN (for himself and Ms. KLOBUCHAR) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate for lower prices for Medicare prescription drugs.

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 “Prescription Drug and
5 Health Improvement Act of 2016”.

6 **SEC. 2. NEGOTIATING FAIR PRICES FOR MEDICARE PRE-**
7 **SCRIPTION DRUGS.**

8 (a) NEGOTIATING FAIR PRICES.—

1 (1) IN GENERAL.—Section 1860D–11 of the
 2 Social Security Act (42 U.S.C. 1395w–111) is
 3 amended by striking subsection (i) (relating to non-
 4 interference) and by inserting the following:

5 “(i) NEGOTIATING FAIR PRICES WITH MANUFAC-
 6 TURERS.—

7 “(1) IN GENERAL.—Notwithstanding any other
 8 provision of law, in furtherance of the goals of pro-
 9 viding quality care and containing costs under this
 10 part, the Secretary shall, with respect to applicable
 11 covered part D drugs, and may, with respect to
 12 other covered part D drugs, negotiate, as appro-
 13 priate (in a manner which may be similar to Federal
 14 entities), with pharmaceutical manufacturers the
 15 prices (which may include discounts, rebates, and
 16 other price concessions) that may be charged to
 17 PDP sponsors and MA organizations for such drugs
 18 for part D eligible individuals who are enrolled in a
 19 prescription drug plan or in an MA–PD plan.

20 “(2) APPLICABLE COVERED PART D DRUG DE-
 21 FINED.—For purposes of this subsection, the term
 22 ‘applicable covered part D drug’ means a covered
 23 part D drug that the Secretary determines to be ap-
 24 propriate for negotiation under paragraph (1) based

1 on one or more of the following factors as applied
2 to such drug:

3 “(A) Spending on a per beneficiary basis.

4 “(B) Spending under this title.

5 “(C) Unit cost increases over the preceding
6 years.

7 “(D) Initial launch price.

8 “(E) Any other criteria determined by the
9 Secretary.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by paragraph (1) shall take effect on the date of the
12 enactment of this Act and shall first apply to nego-
13 tiations and prices for plan years beginning on Jan-
14 uary 1, 2018.

15 (b) BIENNIAL REPORTS TO CONGRESS.—

16 (1) IN GENERAL.—Not later than 3 years after
17 the date of the enactment of this Act, and every 6
18 months thereafter, the Secretary of Health and
19 Human Services shall submit to Congress a report
20 on the following:

21 (A) The negotiations conducted by the Sec-
22 retary under section 1860D–11(i) of the Social
23 Security Act (42 U.S.C. 1395w–111(i)), as
24 amended by subsection (a), including a descrip-
25 tion of how such negotiations are achieving

1 lower prices for covered part D drugs (as de-
2 fined in section 1860D–2(e) of the Social Secu-
3 rity Act (42 U.S.C. 1395w–102(e))) for Medi-
4 care beneficiaries.

5 (B) Data on spending under part D of the
6 Medicare program on covered part D drugs, in-
7 cluding data on covered part D drugs with—

8 (i) high spending on a per beneficiary
9 basis;

10 (ii) high spending for the program
11 overall; and

12 (iii) high unit cost increases over the
13 past five years.

14 (C) A list of the covered part D drugs with
15 no therapeutic substitute and data on spending
16 under part D of the Medicare program on such
17 drugs.

18 (2) PUBLIC AVAILABILITY OF REPORT.—The
19 Secretary of Health and Human Services shall pub-
20 lish on the Internet website of the Centers for Medi-
21 care & Medicaid Services a copy of each report sub-
22 mitted under paragraph (1).

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