

116TH CONGRESS
1ST SESSION

H. R. 2115

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2019

Received; read twice and referred to the Committee on Finance

AN ACT

To amend titles XI and XVIII of the Social Security Act to provide greater transparency for discounts provided by manufacturers, to include real-time benefit information as part of a prescription drug plan's electronic prescription program under the Medicare program, 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 “Public Disclosure of
5 Drug Discounts and Real-Time Beneficiary Drug Cost
6 Act”.

7 **SEC. 2. PUBLIC DISCLOSURE OF DRUG DISCOUNTS.**

8 Section 1150A of the Social Security Act (42 U.S.C.
9 1320b–23) is amended—

10 (1) in subsection (c), in the matter preceding
11 paragraph (1), by inserting “(other than as per-
12 mitted under subsection (e))” after “disclosed by the
13 Secretary”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(e) PUBLIC AVAILABILITY OF CERTAIN INFORMA-
17 TION.—

18 “(1) IN GENERAL.—In order to allow the com-
19 parison of PBMs’ ability to negotiate rebates, dis-
20 counts, direct and indirect remuneration fees, ad-
21 ministrative fees, and price concessions and the
22 amount of such rebates, discounts, direct and indi-
23 rect remuneration fees, administrative fees, and
24 price concessions that are passed through to plan
25 sponsors, beginning January 1, 2020, the Secretary

1 shall make available on the Internet website of the
2 Department of Health and Human Services the in-
3 formation with respect to the second preceding cal-
4 endar year provided to the Secretary on generic dis-
5 pensing rates (as described in paragraph (1) of sub-
6 section (b)) and information provided to the Sec-
7 retary under paragraphs (2) and (3) of such sub-
8 section that, as determined by the Secretary, is with
9 respect to each PBM.

10 “(2) AVAILABILITY OF DATA.—In carrying out
11 paragraph (1), the Secretary shall ensure the fol-
12 lowing:

13 “(A) CONFIDENTIALITY.—The information
14 described in such paragraph is displayed in a
15 manner that prevents the disclosure of informa-
16 tion, with respect to an individual drug or an
17 individual plan, on rebates, discounts, direct
18 and indirect remuneration fees, administrative
19 fees, and price concessions.

20 “(B) CLASS OF DRUG.—The information
21 described in such paragraph is made available
22 by class of drug, using an existing classification
23 system, but only if the class contains such num-
24 ber of drugs, as specified by the Secretary (but
25 not fewer than three drugs), to ensure confiden-

1 tiality of proprietary information or other infor-
 2 mation that is prevented to be disclosed under
 3 subparagraph (A).”.

4 **SEC. 3. REQUIRING PRESCRIPTION DRUG PLAN SPONSORS**
 5 **TO INCLUDE REAL-TIME BENEFIT INFORMA-**
 6 **TION AS PART OF SUCH SPONSOR’S ELEC-**
 7 **TRONIC PRESCRIPTION PROGRAM UNDER**
 8 **THE MEDICARE PROGRAM.**

9 Section 1860D–4(e)(2) of the Social Security Act (42
 10 U.S.C. 1395w–104(e)(2)) is amended—

11 (1) in subparagraph (D), by striking “To the
 12 extent” and inserting “Except as provided in sub-
 13 paragraph (F), to the extent”; and

14 (2) by adding at the end the following new sub-
 15 paragraph:

16 “(F) REAL-TIME BENEFIT INFORMA-
 17 TION.—

18 “(i) IN GENERAL.—Not later than
 19 January 1, 2021, the program shall imple-
 20 ment real-time benefit tools that are capa-
 21 ble of integrating with a prescribing health
 22 care professional’s electronic prescribing or
 23 electronic health record system for the
 24 transmission of formulary and benefit in-
 25 formation in real time to prescribing health

1 care professionals. With respect to a cov-
2 ered part D drug, such tools shall be capa-
3 ble of transmitting such information spe-
4 cific to an individual enrolled in a prescrip-
5 tion drug plan. Such information shall in-
6 clude the following:

7 “(I) A list of any clinically-appro-
8 priate alternatives to such drug in-
9 cluded in the formulary of such plan.

10 “(II) Cost-sharing information
11 for such drug and such alternatives,
12 including a description of any vari-
13 ance in cost sharing based on the
14 pharmacy dispensing such drug or
15 such alternatives.

16 “(III) Information relating to
17 whether such drug is included in the
18 formulary of such plan and any prior
19 authorization or other utilization man-
20 agement requirements applicable to
21 such drug and such alternatives so in-
22 cluded.

23 “(ii) ELECTRONIC TRANSMISSION.—
24 The provisions of subclauses (I) and (II) of
25 clause (ii) of subparagraph (E) shall apply

1 to an electronic transmission described in
2 clause (i) in the same manner as such pro-
3 visions apply with respect to an electronic
4 transmission described in clause (i) of such
5 subparagraph.

6 “(iii) SPECIAL RULE FOR 2021.—The
7 program shall be deemed to be in compli-
8 ance with clause (i) for 2021 if the pro-
9 gram complies with the provisions of sec-
10 tion 423.160(b)(7) of title 42, Code of
11 Federal Regulations (or a successor regula-
12 tion), for such year.

13 “(iv) RULE OF CONSTRUCTION.—
14 Nothing in this subparagraph shall be con-
15 strued as to allow a real-time benefits tool
16 to steer an individual, without the consent
17 of the individual, to a particular pharmacy
18 or pharmacy setting over their preferred
19 pharmacy setting nor prohibit the designa-
20 tion of a preferred pharmacy under such
21 tool.”.

22 **SEC. 4. SENSE OF CONGRESS REGARDING THE NEED TO EX-**
23 **PAND COMMERCIALLY AVAILABLE DRUG**
24 **PRICING COMPARISON PLATFORMS.**

25 It is the sense of Congress that—

(3) pharmacy benefit managers should work to disclose generic and brand name drug prices to such platforms to ensure that—

(B) overall drug prices can be reduced as more educated purchasing decisions are made based on price transparency.

Attest: CHERYL L. JOHNSON,
Clerk.