

116TH CONGRESS
2D SESSION

S. 3466

To amend title XVIII of the Social Security Act to eliminate cost sharing for biosimilar biological products furnished under part B of the Medicare program during the first 5 years such products are marketed.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2020

Ms. MCSALLY (for herself and Mr. JONES) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to eliminate cost sharing for biosimilar biological products furnished under part B of the Medicare program during the first 5 years such products are marketed.

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 “Acting to Cancel
5 Copays and Ensure Substantial Savings for Biosimilars
6 Act of 2020” or the “ACCESS for Biosimilars Act of
7 2020”.

1 **SEC. 2. ELIMINATING COST SHARING FOR BIOSIMILAR BIO-**
 2 **LOGICAL PRODUCTS FURNISHED UNDER**
 3 **PART B OF THE MEDICARE PROGRAM.**

4 Section 1833 of the Social Security Act (42 U.S.C.
 5 1395l) is amended—

6 (1) in subsection (a)(1)(S), by inserting “(or, in
 7 the case of such a biological that is a specified bio-
 8 similar biological product (as defined in subsection
 9 (cc)) furnished during a year (beginning with 2021)
 10 to an individual who is a cost-sharing reduction eli-
 11 gible individual (as defined in such subsection) with
 12 respect to such year, 100 percent)” after “80 per-
 13 cent”; and

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

16 “(cc) SPECIFIED BIOSIMILAR BIOLOGICAL PRODUCT
 17 REDUCED COST-SHARING PROVISIONS.—

18 “(1) DEFINITIONS.—

19 “(A) COST-SHARING REDUCTION ELIGIBLE
 20 INDIVIDUAL DEFINED.—For purposes of sub-
 21 section (a)(1)(S) and with respect to a year, the
 22 term ‘cost-sharing reduction eligible individual’
 23 means an individual who, as of January 1 of
 24 such year—

25 “(i) is enrolled under this part; and

1 “(ii) does not have qualifying coverage
 2 (as defined in subparagraph (B)).

3 “(B) QUALIFYING COVERAGE.—

4 “(i) IN GENERAL.—For purposes of
 5 subparagraph (A), the term ‘qualifying
 6 coverage’ means, with respect to an indi-
 7 vidual, coverage—

8 “(I) under—

9 “(aa) a group health plan or
 10 health insurance coverage (as
 11 such terms are defined in section
 12 2791 of the Public Health Serv-
 13 ice Act);

14 “(bb) a Federal health care
 15 program (as defined in section
 16 1128B(f)), other than the pro-
 17 gram established under this title;

18 “(cc) the health insurance
 19 program under chapter 89 of
 20 title 5, United States Code;

21 “(dd) a medicare supple-
 22 mental policy under section 1882;
 23 or

24 “(ee) an MA or MA-PD
 25 plan; and

1 “(II) that meets—

2 “(aa) in the case of coverage
3 described in any of items (aa)
4 through (dd) of subclause (I), the
5 condition described in clause (ii);
6 and

7 “(bb) in the case of coverage
8 described in item (ee) of sub-
9 clause (I), the condition described
10 in clause (iii).

11 “(ii) CONDITION FOR COVERAGE
12 OTHER THAN PART C COVERAGE.—For
13 purposes of clause (i)(II)(aa), the condition
14 described in this clause, with respect to an
15 individual enrolled in coverage described in
16 any of items (aa) through (dd) of clause
17 (i)(I) during a year, is that such coverage
18 provides for the payment of all cost shar-
19 ing owed by such individual under this
20 part (or, if applicable, under an MA or
21 MA–PD plan) with respect to a specified
22 biosimilar biological product (as defined in
23 subparagraph (C)) furnished under this
24 part (or, if applicable, under an MA or
25 MA–PD plan) during such year, not taking

1 into account the application of any deduct-
 2 ible under such coverage.

3 “(iii) CONDITION FOR PART C COV-
 4 ERAGE.—For purposes of clause
 5 (i)(II)(bb), the condition described in this
 6 clause, with respect to an individual en-
 7 rolled in an MA or MA–PD plan during a
 8 year, is that such plan provides for no cost
 9 sharing for such individual with respect to
 10 a specified biological biosimilar product (as
 11 defined in subparagraph (C)) furnished
 12 under such plan during such year.

13 “(C) SPECIFIED BIOSIMILAR BIOLOGICAL
 14 PRODUCT.—For purposes of subsection
 15 (a)(1)(S), the term ‘specified biosimilar biologi-
 16 cal product’ means a biosimilar biological prod-
 17 uct (as defined in subsection (c)(6) of section
 18 1847A)—

19 “(i) for which the payment amount
 20 determined under subsection (b)(8) of such
 21 section for such product is less than the
 22 payment amount determined under sub-
 23 section (b)(4) of such section for the ref-
 24 erence biological product (as defined in
 25 subsection (c)(6) of such section); and

1 “(ii) that is furnished during the 5-
2 year period beginning on the later of—

3 “(I) January 1, 2021; or

4 “(II) the date on which the bio-
5 similar biological product is first mar-
6 keted.

7 “(2) DETERMINATIONS.—The Secretary shall
8 establish a process—

9 “(A) for determining whether an individual
10 is a cost-sharing reduction eligible individual for
11 a year; and

12 “(B) for notifying MA organizations of
13 such a determination made with respect to an
14 individual enrolled under an MA plan or MA-
15 PD plan offered by such organization during
16 such year.”.

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