

116TH CONGRESS
2D SESSION

S. 4959

To increase transparency and access to group health plan and health issuer reporting, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2020

Mr. BRAUN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To increase transparency and access to group health plan and health issuer reporting, 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. REPORTING ON PHARMACY BENEFITS AND**
4 **DRUG COSTS.**

5 (a) PSHA.—Subpart II of part A of title XXVII of
6 the Public Health Service Act (42 U.S.C. 300gg–11 et
7 seq.) is amended by adding at the end the following:

1 **“SEC. 2729A. REPORTING ON PHARMACY BENEFITS AND**
2 **DRUG COSTS.**

3 “(a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this section, and not later than
5 March 1 of each year thereafter, a group health plan or
6 health insurance issuer offering group or individual health
7 insurance coverage (except for a church plan) shall submit
8 to the Secretary, the Secretary of Labor, and the Sec-
9 retary of the Treasury the following information with re-
10 spect to the health plan or coverage in the previous plan
11 year:

12 “(1) The beginning and end dates of the plan
13 year.

14 “(2) The number of enrollees.

15 “(3) Each State in which the plan or coverage
16 is offered.

17 “(4) The 50 brand prescription drugs most fre-
18 quently dispensed by pharmacies for claims paid by
19 the plan or coverage, and the total number of paid
20 claims for each such drug.

21 “(5) The 50 most costly prescription drugs with
22 respect to the plan or coverage by total annual
23 spending, and the annual amount spent by the plan
24 or coverage for each such drug.

25 “(6) The 50 prescription drugs with the great-
26 est increase in plan expenditures over the plan year

1 preceding the plan year that is the subject of the re-
2 port, and, for each such drug, the change in
3 amounts expended by the plan or coverage in each
4 such plan year.

5 “(7) Total spending on health care services by
6 such group health plan or health insurance coverage,
7 broken down by—

8 “(A) the type of costs, including—

9 “(i) hospital costs;

10 “(ii) health care provider and clinical
11 service costs, for primary care and spe-
12 cialty care separately;

13 “(iii) costs for prescription drugs; and

14 “(iv) other medical costs, including
15 wellness services; and

16 “(B) spending on prescription drugs by—

17 “(i) the health plan or coverage; and

18 “(ii) the enrollees.

19 “(8) The average monthly premium—

20 “(A) paid by employers on behalf of enroll-
21 ees, as applicable; and

22 “(B) paid by enrollees.

23 “(9) Any impact on premiums by rebates, fees,
24 and any other remuneration paid by drug manufac-
25 turers to the plan or coverage or its administrators

1 or service providers, with respect to prescription
2 drugs prescribed to enrollees in the plan or coverage,
3 including—

4 “(A) the amounts so paid for each thera-
5 peutic class of drugs; and

6 “(B) the amounts so paid for each of the
7 25 drugs that yielded the highest amount of re-
8 bates and other remuneration under the plan or
9 coverage from drug manufacturers during the
10 plan year.

11 “(10) Any reduction in premiums and out-of-
12 pocket costs associated with rebates, fees, or other
13 remuneration described in paragraph (9).

14 “(b) REPORT.—Not later than 18 months after the
15 date on which the first report is required under subsection
16 (a) and biannually thereafter, the Secretary, acting
17 through the Assistant Secretary of Planning and Evalua-
18 tion and in coordination with the Inspector General of the
19 Department of Health and Human Services, shall make
20 available on the internet website of the Department of
21 Health and Human Services a report on prescription drug
22 reimbursements under group health plans and group and
23 individual health insurance coverage, prescription drug
24 pricing trends, and the role of prescription drug costs in
25 contributing to premium increases or decreases under such

1 plans or coverage, aggregated in such a way as no drug
 2 or plan specific information will be made public.

3 “(c) PRIVACY PROTECTIONS.—No confidential or
 4 trade secret information submitted to the Secretary under
 5 subsection (a) shall be included in the report under sub-
 6 section (b).”.

7 (b) ERISA.—Subpart B of part 7 of subtitle B of
 8 title I of the Employee Retirement Income Security Act
 9 of 1974 (29 U.S.C. 1185 et seq.) is amended by adding
 10 at the end the following:

11 **“SEC. 716. REPORTING ON PHARMACY BENEFITS AND**
 12 **DRUG COSTS.**

13 “(a) IN GENERAL.—Not later than 1 year after the
 14 date of enactment of this section, and not later than
 15 March 1 of each year thereafter, a group health plan (or
 16 health insurance coverage offered in connection with such
 17 a plan) shall submit to the Secretary, the Secretary of
 18 Health and Human Services, and the Secretary of the
 19 Treasury the following information with respect to the
 20 health plan or coverage in the previous plan year:

21 “(1) The beginning and end dates of the plan
 22 year.

23 “(2) The number of participants and bene-
 24 ficiaries.

1 “(3) Each State in which the plan or coverage
2 is offered.

3 “(4) The 50 brand prescription drugs most fre-
4 quently dispensed by pharmacies for claims paid by
5 the plan or coverage, and the total number of paid
6 claims for each such drug.

7 “(5) The 50 most costly prescription drugs with
8 respect to the plan or coverage by total annual
9 spending, and the annual amount spent by the plan
10 or coverage for each such drug.

11 “(6) The 50 prescription drugs with the great-
12 est increase in plan expenditures over the plan year
13 preceding the plan year that is the subject of the re-
14 port, and, for each such drug, the change in
15 amounts expended by the plan or coverage in each
16 such plan year.

17 “(7) Total spending on health care services by
18 such group health plan or health insurance coverage,
19 broken down by—

20 “(A) the type of costs, including—

21 “(i) hospital costs;

22 “(ii) health care provider and clinical
23 service costs, for primary care and spe-
24 cialty care separately;

25 “(iii) costs for prescription drugs; and

1 “(iv) other medical costs, including
2 wellness services; and

3 “(B) spending on prescription drugs by—

4 “(i) the health plan or coverage; and

5 “(ii) the participants and bene-
6 ficiaries.

7 “(8) The average monthly premium—

8 “(A) paid by employers on behalf of par-
9 ticipants and beneficiaries, as applicable; and

10 “(B) paid by participants and bene-
11 ficiaries.

12 “(9) Any impact on premiums by rebates, fees,
13 and any other remuneration paid by drug manufac-
14 turers to the plan or coverage or its administrators
15 or service providers, with respect to prescription
16 drugs prescribed to participants and beneficiaries in
17 the plan or coverage, including—

18 “(A) the amounts so paid for each thera-
19 peutic class of drugs; and

20 “(B) the amounts so paid for each of the
21 25 drugs that yielded the highest amount of re-
22 bates and other remuneration under the plan or
23 coverage from drug manufacturers during the
24 plan year.

1 “(10) Any reduction in premiums and out-of-
2 pocket costs associated with rebates, fees, or other
3 remuneration described in paragraph (9).

4 “(b) REPORT.—Not later than 18 months after the
5 date on which the first report is required under subsection
6 (a) and biannually thereafter, the Secretary, acting in co-
7 ordination with the Inspector General of the Department
8 of Labor, shall make available on the internet website of
9 the Department of Labor a report on prescription drug
10 reimbursements under group health plans (or health in-
11 surance coverage offered in connection with such a plan),
12 prescription drug pricing trends, and the role of prescrip-
13 tion drug costs in contributing to premium increases or
14 decreases under such plans or coverage, aggregated in
15 such a way as no drug or plan specific information will
16 be made public.

17 “(c) PRIVACY PROTECTIONS.—No confidential or
18 trade secret information submitted to the Secretary under
19 subsection (a) shall be included in the report under sub-
20 section (b).”.

21 (c) IRC.—Subchapter B of chapter 100 of the Inter-
22 nal Revenue Code of 1986 is amended by adding at the
23 end the following:

1 **“SEC. 9816. REPORTING ON PHARMACY BENEFITS AND**
2 **DRUG COSTS.**

3 “(a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this section, and not later than
5 March 1 of each year thereafter, a group health plan shall
6 submit to the Secretary, the Secretary of Health and
7 Human Services, and the Secretary of Labor the following
8 information with respect to the health plan in the previous
9 plan year:

10 “(1) The beginning and end dates of the plan
11 year.

12 “(2) The number of participants and bene-
13 ficiaries.

14 “(3) Each State in which the plan is offered.

15 “(4) The 50 brand prescription drugs most fre-
16 quently dispensed by pharmacies for claims paid by
17 the plan, and the total number of paid claims for
18 each such drug.

19 “(5) The 50 most costly prescription drugs with
20 respect to the plan by total annual spending, and the
21 annual amount spent by the plan for each such
22 drug.

23 “(6) The 50 prescription drugs with the great-
24 est increase in plan expenditures over the plan year
25 preceding the plan year that is the subject of the re-
26 port, and, for each such drug, the change in

1 amounts expended by the plan in each such plan
 2 year.

3 “(7) Total spending on health care services by
 4 such group health plan, broken down by—

5 “(A) the type of costs, including—

6 “(i) hospital costs;

7 “(ii) health care provider and clinical
 8 service costs, for primary care and spe-
 9 cialty care separately;

10 “(iii) costs for prescription drugs; and

11 “(iv) other medical costs, including
 12 wellness services; and

13 “(B) spending on prescription drugs by—

14 “(i) the health plan; and

15 “(ii) the participants and bene-
 16 ficiaries.

17 “(8) The average monthly premium—

18 “(A) paid by employers on behalf of par-
 19 ticipants and beneficiaries, as applicable; and

20 “(B) paid by participants and bene-
 21 ficiaries.

22 “(9) Any impact on premiums by rebates, fees,
 23 and any other remuneration paid by drug manufac-
 24 turers to the plan or its administrators or service
 25 providers, with respect to prescription drugs pre-

1 scribed to participants or beneficiaries in the plan,
2 including—

3 “(A) the amounts so paid for each thera-
4 peutic class of drugs; and

5 “(B) the amounts so paid for each of the
6 25 drugs that yielded the highest amount of re-
7 bates and other remuneration under the plan
8 from drug manufacturers during the plan year.

9 “(10) Any reduction in premiums and out-of-
10 pocket costs associated with rebates, fees, or other
11 remuneration described in paragraph (9).

12 “(b) REPORT.—Not later than 18 months after the
13 date on which the first report is required under subsection
14 (a) and biannually thereafter, the Secretary, acting in co-
15 ordination with the Inspector General of the Department
16 of the Treasury, shall make available on the internet
17 website of the Department of the Treasury a report on
18 prescription drug reimbursements under group health
19 plans, prescription drug pricing trends, and the role of
20 prescription drug costs in contributing to premium in-
21 creases or decreases under such plans, aggregated in such
22 a way as no drug or plan specific information will be made
23 public.

24 “(c) PRIVACY PROTECTIONS.—No confidential or
25 trade secret information submitted to the Secretary under

1 subsection (a) shall be included in the report under sub-
 2 section (b).”.

3 (d) CLERICAL AMENDMENTS.—

4 (1) ERISA.—The table of contents in section 1
 5 of the Employee Retirement Income Security Act of
 6 1974 (29 U.S.C. 1001 et seq.) is amended by insert-
 7 ing after the item relating to section 714 the fol-
 8 lowing new items:

“Sec. 715. Additional market reforms.

“Sec. 716. Reporting on pharmacy benefits and drug costs.”.

9 (2) IRC.—The table of sections for subchapter
 10 B of chapter 100 of the Internal Revenue Code of
 11 1986 is amended by adding at the end the following
 12 new item:

“Sec. 9816. Reporting on pharmacy benefits and drug costs.”.

○