

118TH CONGRESS
1ST SESSION

H. R. 6844

To amend title XVIII of the Social Security Act to prohibit the Secretary of Health and Human Services from entering into contracts with PDP sponsors of prescription drug plans that have a contract with certain pharmacy benefits managers.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2023

Ms. TENNEY 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 prohibit the Secretary of Health and Human Services from entering into contracts with PDP sponsors of prescription drug plans that have a contract with certain pharmacy benefits managers.

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 “Ensuring PBM Com-
5 petition Act”.

1 **SEC. 2. PROHIBITING THE SECRETARY OF HEALTH AND**
2 **HUMAN SERVICES FROM ENTERING INTO**
3 **CONTRACTS WITH PDP SPONSORS OF PRE-**
4 **SCRIPTION DRUG PLANS THAT HAVE A CON-**
5 **TRACT WITH CERTAIN PHARMACY BENEFITS**
6 **MANAGERS.**

7 Section 1860D–12(b) of the Social Security Act (42
8 U.S.C. 1395w–112(b)) is amended by adding at the end
9 the following new paragraph:

10 “(9) PROHIBITION ON ENTERING INTO CON-
11 TRACTS WITH PDP SPONSORS THAT HAVE A CON-
12 TRACT WITH A CERTAIN PHARMACY BENEFITS MAN-
13 AGERS.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), beginning on the date that is 5
16 years after the date of enactment of this para-
17 graph, the Secretary shall not enter into, or
18 renew, a contract with a PDP sponsor for the
19 offering of a prescription drug plan in a PDP
20 region for a year if such sponsor has a contract
21 for such year with a pharmacy benefits man-
22 ager that, directly or indirectly, or through one
23 or more intermediaries, owns, controls, or oth-
24 erwise has a financial interest in, a pharmacy.

25 “(B) AUTHORITY TO DELAY REQUIRE-
26 MENT.—The Secretary may delay the require-

1 ment in subparagraph (A) by not more than 2
2 years.

3 “(C) PHARMACY BENEFITS MANAGER DE-
4 FINED.—For purposes of this paragraph, the
5 term ‘pharmacy benefits manager’ means any
6 entity (or any affiliate, subsidiary, or agent of
7 such entity) that, pursuant to an agreement
8 with a PDP sponsor, either directly or through
9 an intermediary acts as a price negotiator or
10 group purchaser on behalf of such sponsor, or
11 manages the prescription drug benefits provided
12 by such sponsor, including the processing and
13 paying claims for covered part D drugs, per-
14 forming drug utilization review, processing drug
15 prior authorization requests, adjudicating ap-
16 peals or grievances related to covered part D
17 drugs, contracting with network pharmacies,
18 controlling the cost of such drugs, or providing
19 any services related to managing such drug
20 benefits.”.

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