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(Original Signature of Member)

115TH CONGRESS  
1ST SESSION

# H. R.

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To amend title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program and Medicare Advantage program to further transparency of payment methodologies to pharmacies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. COLLINS of Georgia introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program and Medicare Advantage program to further transparency of payment methodologies to pharmacies, 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 “Prescription Drug  
5 Price Transparency Act”.

1 **SEC. 2. PHARMACY BENEFITS MANAGER STANDARDS**  
2 **UNDER THE MEDICARE PROGRAM FOR PRE-**  
3 **SCRIPTION DRUG PLANS AND MA-PD PLANS.**

4 (a) IN GENERAL.—Section 1860D–12(b) of the So-  
5 cial Security Act (42 U.S.C. 1395w–112(b)) is amended  
6 by adding at the end the following new paragraph:

7 “(7) PHARMACY BENEFITS MANAGER TRANS-  
8 PARENCY REQUIREMENTS.—Each contract entered  
9 into with a PDP sponsor under this part with re-  
10 spect to a prescription drug plan offered by such  
11 sponsor or with an MA organization offering an  
12 MA–PD plan under part C shall provide that the  
13 sponsor or organization, respectively, may not enter  
14 into a contract with any pharmacy benefits manager  
15 (referred to in this paragraph as a ‘PBM’) to man-  
16 age the prescription drug coverage provided under  
17 such plan, or to control the costs of the prescription  
18 drug coverage under such plan, unless the PBM ad-  
19 heres to the following criteria when handling person-  
20 ally identifiable utilization and claims data or other  
21 sensitive patient data:

22 “(A) The PBM may not transmit any per-  
23 sonally identifiable utilization, protected health  
24 information, or claims data, with respect to a  
25 plan enrollee, to a pharmacy owned by a PBM  
26 if the plan enrollee has not voluntarily elected

1 in writing or via secure electronic means to fill  
2 that particular prescription at the PBM-owned  
3 pharmacy.

4 “(B) The PBM may not require that a  
5 plan enrollee use a retail pharmacy, mail order  
6 pharmacy, specialty pharmacy, or other phar-  
7 macy entity providing pharmacy services in  
8 which the PBM has an ownership interest or  
9 that has an ownership interest in the PBM, or  
10 provide an incentive to a plan enrollee to en-  
11 courage the enrollee to use a retail pharmacy,  
12 mail order pharmacy, specialty pharmacy, or  
13 other pharmacy entity providing pharmacy serv-  
14 ices in which the PBM has an ownership inter-  
15 est or that has an ownership interest in the  
16 PBM, if the incentive is applicable only to such  
17 pharmacies.”.

18 (b) REGULAR UPDATE OF PRESCRIPTION DRUG  
19 PRICING STANDARD.—Paragraph (6) of section 1860D–  
20 12(b) of the Social Security Act (42 U.S.C. 1395w–  
21 112(b)) is amended to read as follows:

22 “(6) REGULAR UPDATE OF PRESCRIPTION  
23 DRUG PRICING STANDARD.—

24 “(A) IN GENERAL.—If the PDP sponsor of  
25 a prescription drug plan (or MA organization

1 offering an MA–PD plan) uses a standard for  
2 reimbursement (as described in subparagraph  
3 (B)) of pharmacies based on the cost of a drug,  
4 each contract entered into with such sponsor  
5 under this part (or organization under part C)  
6 with respect to the plan shall provide that the  
7 sponsor (or organization) shall—

8 “(i) update such standard not less fre-  
9 quently than once every 7 days, beginning  
10 with an initial update on January 1 of  
11 each year, to accurately reflect the market  
12 price of acquiring the drug;

13 “(ii) disclose to applicable pharmacies  
14 and the contracting entities of such phar-  
15 macies the sources used for making any  
16 such update immediately without require-  
17 ment of request;

18 “(iii) if the source for such a standard  
19 for reimbursement is not publicly available,  
20 disclose to the applicable pharmacies and  
21 the respective contracting entities of such  
22 pharmacies all individual drug prices to be  
23 so updated in advance of the use of such  
24 prices for the reimbursement of claims;

1           “(iv) establish a process to appeal, in-  
2           vestigate, and resolve disputes regarding  
3           individual drug prices that are less than  
4           the pharmacy acquisition price for such  
5           drug, which must be adjudicated within 7  
6           days of the pharmacy filing its appeal; and

7           “(v) provide all such pricing data in  
8           an .xml spreadsheet format or a com-  
9           parable easily accessible and complete  
10          spreadsheet format.

11          “(B)    PRESCRIPTION    DRUG    PRICING  
12          STANDARD   DEFINED.—For purposes of sub-  
13          paragraph (A), a standard for reimbursement  
14          of a pharmacy is any methodology or formula  
15          for varying the pricing of a drug or drugs dur-  
16          ing the term of the pharmacy reimbursement  
17          contract that is based on the cost of the drug  
18          involved, including drug pricing references and  
19          amounts that are based upon average wholesale  
20          price, wholesale average cost, average manufac-  
21          turer price, average sales price, maximum al-  
22          lowable cost (MAC), or other costs, whether  
23          publicly available or not.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to plan years beginning on or after  
3 January 1, 2018.

4 **SEC. 3. REGULAR UPDATE OF PRESCRIPTION DRUG PRIC-**  
5 **ING STANDARD UNDER TRICARE RETAIL**  
6 **PHARMACY PROGRAM.**

7 Section 1074g(d) of title 10, United States Code, is  
8 amended by adding at the end the following new para-  
9 graph:

10 “(3) To the extent practicable, with respect to the  
11 TRICARE retail pharmacy program described in sub-  
12 section (a)(2)(E)(ii), the Secretary shall ensure that a con-  
13 tract entered into with a TRICARE managed care support  
14 contractor includes requirements described in section  
15 1860D–12(b)(6) of the Social Security Act (42 U.S.C.  
16 1395w–112(b)(6)) to ensure the provision of information  
17 regarding the pricing standard for prescription drugs.”.

18 **SEC. 4. PRESCRIPTION DRUG TRANSPARENCY IN THE FED-**  
19 **ERAL EMPLOYEE HEALTH BENEFITS PRO-**  
20 **GRAM.**

21 (a) IN GENERAL.—Section 8902 of title 5, United  
22 States Code, is amended by adding at the end the fol-  
23 lowing new subsections:

24 “(p) A contract may not be made or a plan approved  
25 under this chapter under which a carrier has an agree-

1 ment with a pharmacy benefits manager (in this sub-  
2 section referred to as a ‘PBM’) to manage prescription  
3 drug coverage or to control the costs of the prescription  
4 drug coverage unless the carrier and PBM adhere to the  
5 following criteria:

6           “(1) The PBM may not transmit any personally  
7 identifiable utilization, protected health information,  
8 or claims data with respect to an individual enrolled  
9 under such contract or plan to a pharmacy owned by  
10 the PBM if the individual has not voluntarily elected  
11 in writing or via secure electronic means to fill that  
12 particular prescription at such a pharmacy.

13           “(2) The PBM may not require that an indi-  
14 vidual enrolled under such contract or plan use a re-  
15 tail pharmacy, mail order pharmacy, specialty phar-  
16 macy, or other pharmacy entity providing pharmacy  
17 services in which the PBM has an ownership interest  
18 or that has an ownership interest in the PBM or  
19 provide an incentive to a plan enrollee to encourage  
20 the enrollee to use a retail pharmacy, mail order  
21 pharmacy, specialty pharmacy, or other pharmacy  
22 entity providing pharmacy services in which the  
23 PBM has an ownership interest or that has an own-  
24 ership interest in the PBM, if the incentive is appli-  
25 cable only to such pharmacies.

1       “(q)(1) If a contract made or plan approved under  
2 this chapter provides for a standard for reimbursement  
3 (as described in paragraph (2)) with respect to a prescrip-  
4 tion drug plan, such contract or plan shall provide that  
5 the applicable carrier—

6           “(A) update such standard not less frequently  
7 than once every 7 days, beginning with an initial up-  
8 date on January 1 of each year, to accurately reflect  
9 the market price of acquiring the drug;

10          “(B) disclose to applicable pharmacies and the  
11 contracting entities of such pharmacies the sources  
12 used for making any such update immediately with-  
13 out requirement of request;

14          “(C) if the source for such a standard for reim-  
15 bursement is not publicly available, disclose to the  
16 applicable pharmacies and contracting entities of  
17 such pharmacies all individual drug prices to be so  
18 updated in advance of the use of such prices for the  
19 reimbursement of claims; and

20          “(D) establish a process to appeal, investigate,  
21 and resolve disputes regarding individual drug prices  
22 that are less than the pharmacy acquisition price for  
23 such drug, which must be adjudicated within 7 days  
24 of the pharmacy filing its appeal; and

1           “(E) provide all such pricing data in an .xml  
2           spreadsheet format or a comparable easily accessible  
3           and complete spreadsheet format.

4           “(2) For purposes of paragraph (1), a standard for  
5 reimbursement of a pharmacy is any methodology or for-  
6 mula for varying the pricing of a drug or drugs during  
7 the term of the pharmacy reimbursement contract that is  
8 based on the cost of the drug involved, including drug prie-  
9 ing references and amounts that are based upon average  
10 wholesale price, wholesale average cost, average manufac-  
11 turer price, average sales price, maximum allowable cost,  
12 or other costs, whether publicly available or not.”.

13           (b) APPLICATION.—The amendment made by sub-  
14 section (a) shall apply to any contract entered into under  
15 section 8902 of title 5, United States Code, on or after  
16 the date of enactment of this section.