116TH CONGRESS 1ST SESSION H.R. 2115

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. Be it enacted by the Senate and House of Representa tives of the United States of America in Congress assembled,
 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Public Disclosure of5 Drug Discounts and Real-Time Beneficiary Drug Cost6 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—

(1) in subsection (c), in the matter preceding
paragraph (1), by inserting "(other than as permitted under subsection (e))" after "disclosed by the
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, administrative fees, and price concessions and the 21 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

shall make available on the Internet website of the
Department of Health and Human Services the in-
formation with respect to the second preceding cal-
endar year provided to the Secretary on generic dis-
pensing rates (as described in paragraph (1) of sub-
section (b)) and information provided to the Sec-
retary under paragraphs (2) and (3) of such sub-
section that, as determined by the Secretary, is with
respect to each PBM.
"(2) AVAILABILITY OF DATA.—In carrying out
paragraph (1), the Secretary shall ensure the fol-
lowing:
"(A) Confidentiality.—The information
described in such paragraph is displayed in a
manner that prevents the disclosure of informa-
tion, with respect to an individual drug or an
individual plan, on rebates, discounts, direct
and indirect remuneration fees, administrative
fees, and price concessions.
"(B) CLASS OF DRUG.—The information
described in such paragraph is made available
by class of drug, using an existing classification
system, but only if the class contains such num-

n ct ve m le n nber of drugs, as specified by the Secretary (but

not fewer than three drugs), to ensure confiden-

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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

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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

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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—

1	(1) commercially available drug pricing com-
2	parison platforms can, at no cost, help patients find
3	the lowest price for their medications at their local
4	pharmacy;
5	(2) such platforms should be integrated, to the
6	maximum extent possible, in the health care delivery
7	ecosystem; and
8	(3) pharmacy benefit managers should work to
9	disclose generic and brand name drug prices to such
10	platforms to ensure that—
11	(A) patients can benefit from the lowest
12	possible price available to them; and
13	(B) overall drug prices can be reduced as
14	more educated purchasing decisions are made
15	based on price transparency.

Passed the House of Representatives October 28, 2019.

Attest:

Clerk.

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