

112TH CONGRESS  
2D SESSION

# H. R. 4209

To amend title XXVII of the Public Health Service Act to limit co-payment, coinsurance, or other cost-sharing requirements applicable to prescription drugs in a specialty drug tier to the dollar amount (or its equivalent) of such requirements applicable to prescription drugs in a non-preferred brand drug tier, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2012

Mr. MCKINLEY (for himself, Mrs. CAPPS, Mr. YOUNG of Florida, Mr. CUELLAR, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

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1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Patients’ Access to  
3 Treatments Act of 2012”.

4 **SEC. 2. CO-PAYMENT, COINSURANCE, AND OTHER COST-**  
5 **SHARING REQUIREMENTS APPLICABLE TO**  
6 **PRESCRIPTION DRUGS IN A SPECIALTY DRUG**  
7 **TIER.**

8 (a) IN GENERAL.—Subpart II of part A of title  
9 XXVII of the Public Health Service Act (42 U.S.C. 300gg  
10 et seq.) is amended by adding at the end the following:

11 **“SEC. 2719B. CO-PAYMENT, COINSURANCE, AND OTHER**  
12 **COST-SHARING REQUIREMENTS APPLICABLE**  
13 **TO PRESCRIPTION DRUGS IN A SPECIALTY**  
14 **DRUG TIER.**

15 “(a) REQUIREMENT.—A group health plan, or a  
16 health insurance issuer offering group or individual health  
17 insurance, that provides coverage for prescription drugs  
18 and uses a formulary or other tiered cost-sharing struc-  
19 ture shall not impose co-payment, coinsurance, or other  
20 cost-sharing requirements applicable to prescription drugs  
21 in a specialty drug tier that exceed the dollar amount (or  
22 its equivalent) of co-payment, coinsurance, or other cost-  
23 sharing requirements applicable to prescription drugs in  
24 a non-preferred brand drug tier (or prescription drugs in  
25 a brand drug tier if there is no non-preferred brand drug  
26 tier).

1       “(b) SPECIAL RULE.—If a formulary used by a group  
2 health plan or a health insurance issuer offering group or  
3 individual health insurance contains more than one non-  
4 preferred brand drug tier, then the requirements of sub-  
5 section (a) shall be applied with respect to the non-pre-  
6 ferred brand drug tier for which beneficiary cost-sharing  
7 is lowest.

8       “(c) DEFINITIONS.—In this section:

9           “(1) The term ‘prescription drug’ means—

10               “(A) a drug subject to section 503(b)(1) of  
11 the Federal Food, Drug, or Cosmetic Act; and

12               “(B) includes a drug described in subpara-  
13 graph (A) that is a biological product (as de-  
14 fined in section 351(i) of this Act).

15           “(2) The term ‘non-preferred brand drug tier’  
16 means, with respect to a group health plan or health  
17 insurance issuer offering group or individual health  
18 insurance coverage that uses a formulary or other  
19 tiered cost-sharing structure, a category of drugs—

20               “(A) within a tier in such formulary for  
21 which beneficiary cost-sharing is greater than  
22 tiers for generic drugs or preferred brand drugs  
23 in the plan’s formulary;

24               “(B) that are prescription drugs; and

1           “(C) that are not included within a spe-  
2           cialty drug tier.

3           “(3) The term ‘specialty drug tier’ means, with  
4           respect to a group health plan or health insurance  
5           issuer offering group or individual health insurance  
6           coverage that uses a formulary or other tiered cost-  
7           sharing structure, a category of drugs—

8           “(A) within a tier in such formulary for  
9           which beneficiary cost-sharing is greater than  
10          tiers for generic drugs, preferred brand drugs,  
11          or non-preferred drugs in the plan’s formulary;  
12          and

13          “(B) that are prescription drugs.”.

14          (b) EFFECTIVE DATE.—Section 2719B of the Public  
15          Health Service Act, as added by subsection (a), applies  
16          to plan years beginning on or after the date of the enact-  
17          ment of this Act.

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