

105TH CONGRESS  
1ST SESSION

# H. R. 1201

To amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. STARK introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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

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## A BILL

To amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries.

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 “Medicare Medication  
3 Evaluation and Dispensing System Act of 1997”.

4 **SEC. 2. ESTABLISHMENT OF MEDICATION EVALUATION  
5 AND DISPENSING SYSTEM UNDER MEDICARE.**

6 (a) IN GENERAL.—Title XVIII of the Social Security  
7 Act (42 U.S.C. 1395 et seq.) is amended by inserting after  
8 section 1888 the following new section:

9 “MEDICARE MEDICATION EVALUATION AND DISPENSING  
10 SYSTEM

11 “SEC. 1889. (a) ESTABLISHMENT.—

12 “(1) IN GENERAL.—In accordance with the re-  
13 quirements of this section, the Secretary shall estab-  
14 lish and operate the Medicare Medication Evaluation  
15 and Dispensing System (hereafter in this section re-  
16 ferred to as the ‘MMEDS’) to provide for—

17 “(A) prospective and retrospective review  
18 of prescription drugs furnished to Medicare  
19 beneficiaries (in accordance with subsection  
20 (b));

21 “(B) educating physicians, patients, and  
22 pharmacists regarding the appropriate use of  
23 prescription drugs (in accordance with sub-  
24 section (c)); and

25 “(C) the establishment of standards for  
26 counseling Medicare beneficiaries (consistent

1 with the laws of the State in which a bene-  
2 ficiary resides) regarding the appropriate use of  
3 prescription drugs.

4 “(2) TREATMENT OF DRUGS NOT COVERED  
5 UNDER MEDICARE.—The MMEDS shall provide for  
6 review, information, and counseling with respect to  
7 any prescription drug furnished to a Medicare bene-  
8 ficiary without regard to whether or not payment  
9 may be made for the drug under this title.

10 “(3) MEDICARE BENEFICIARY DEFINED.—In  
11 this section, a ‘Medicare beneficiary’ is any individ-  
12 ual entitled to benefits under part A or enrolled  
13 under part B.

14 “(b) REQUIREMENTS FOR REVIEW OF PRESCRIP-  
15 TIONS.—

16 “(1) IN GENERAL.—The MMEDS shall provide  
17 on-line prospective review of prescriptions on a 24-  
18 hour basis and periodic retrospective review of  
19 claims.

20 “(2) PROSPECTIVE DRUG UTILIZATION RE-  
21 VIEW.—

22 “(A) IN GENERAL.—The MMEDS shall  
23 provide for on-line prospective review of each  
24 outpatient prescription drug prescribed for a  
25 Medicare beneficiary before the prescription is

1 filled or the drug is furnished, including screen-  
2 ing for potential drug therapy problems due to  
3 therapeutic duplication, drug-to-drug inter-  
4 actions, drug-disease contraindications, and in-  
5 correct drug dosage or duration of drug treat-  
6 ment.

7 “(B) DISCUSSION OF APPROPRIATE USE.—  
8 In conducting prospective review under the  
9 MMEDS, any individual or entity that dis-  
10 penses an outpatient prescription drug shall  
11 offer (consistent with the law of the State in  
12 which the patient resides) to discuss with the  
13 patient to whom the drug is furnished or the  
14 patient’s caregiver (in person if practicable, or  
15 through access to a toll-free telephone service)  
16 information regarding the appropriate use of  
17 the drug, potential interactions between the  
18 drug and other drugs dispensed to the individ-  
19 ual, and such other matters as the Secretary  
20 may require.

21 “(C) ADDITIONAL DUTIES.—In carrying  
22 out this paragraph, the Secretary shall—

23 “(i) develop public domain software  
24 which could be used by carriers and phar-

1           macies to provide the on-line prospective  
2           review; and

3           “(ii) study the feasibility and desir-  
4           ability of requiring patient diagnosis codes  
5           on prescriptions and the feasibility of ex-  
6           panding the prospective drug utilization re-  
7           view program to include the identification  
8           of drug-disease contraindications, inter-  
9           actions with over-the-counter drugs, and  
10          drug-allergy interactions.

11          “(3) RETROSPECTIVE DRUG UTILIZATION RE-  
12          VIEW.—As part of the MMEDS, the Secretary shall  
13          provide for a retrospective drug utilization review  
14          program to provide for the ongoing periodic exam-  
15          ination of claims data and other records on out-  
16          patient prescription drugs furnished to Medicare  
17          beneficiaries in order to identify patterns of inappro-  
18          priate or medically unnecessary patient care.

19          “(4) USE OF ELECTRONIC SYSTEM.—

20          “(A) IN GENERAL.—As part of the  
21          MMEDS, the Secretary shall establish, by not  
22          later than June 1, 1998, a point-of-sale elec-  
23          tronic system for use by carriers and phar-  
24          macies in the submission of information re-  
25          specting outpatient prescription drugs dis-

1           pensed to Medicare beneficiaries. Such system  
2           shall be consistent with the standards estab-  
3           lished by the National Council of Prescription  
4           Drug Programs.

5           “(B) TECHNICAL ASSISTANCE.—The Sec-  
6           retary shall provide technical assistance in the  
7           use of the electronic system established under  
8           subparagraph (A) to carriers and pharmacies.

9           “(c) EDUCATION REGARDING APPROPRIATE USE OF  
10          PRESCRIPTION DRUGS.—

11           “(1) IN GENERAL.—Under the MMEDS, the  
12          Secretary (either directly or through contract) shall  
13          provide for an educational outreach program to edu-  
14          cate patients, pharmacists, and other health care  
15          providers concerning—

16           “(A) instances or patterns of unnecessary  
17          or inappropriate prescribing or dispensing prac-  
18          tices for outpatient prescription drugs,

19           “(B) instances or patterns of substandard  
20          care with respect to such drugs,

21           “(C) potential adverse reactions and inter-  
22          actions, and

23           “(D) appropriate use of generic products.

24           “(2) INFORMATION ON CHANGES IN PRESCRIB-  
25          ING AND DISPENSING PRACTICES.—Under the pro-

1       gram described in paragraph (1), the Secretary shall  
2       provide information (in such format as the Secretary  
3       considers appropriate) on changes in prescribing and  
4       dispensing practices to promote the appropriate use  
5       of prescription drugs.

6       “(d) PRIVACY PROTECTION.—The Secretary shall es-  
7       tablish standards to protect from public disclosure any in-  
8       formation provided by or through the MMEDS that identi-  
9       fies an individual and relates to the individual’s physical  
10      or mental health and the identity of any individual (wheth-  
11      er a patient or an individual involved in the prescribing,  
12      dispensing, or administration of the drug) who is the sub-  
13      ject of such information.

14      “(e) ASSISTANCE FOR PARTICIPATING PHAR-  
15      MACISTS.—

16              “(1) IN GENERAL.—The Secretary shall provide  
17      to each pharmacist meeting the requirements of  
18      paragraph (2)—

19                      “(A) a distinctive emblem (suitable for dis-  
20                      play to the public) indicating that the pharmacy  
21                      participates in the MMEDS, and

22                      “(B) upon request, such technical assist-  
23                      ance as the Secretary determines may be nec-  
24                      essary for the pharmacist to submit information

1 to and retrieve information from the electronic  
2 system established under subsection (b)(4).

3 “(2) REQUIREMENTS DESCRIBED.—A phar-  
4 macist meets the requirements of this paragraph if  
5 the pharmacist is legally authorized under State law  
6 (or the State regulatory mechanism provided by  
7 State law) of the State in which the drug is received  
8 by the beneficiary to dispense outpatient prescription  
9 drugs and meets other participation standards estab-  
10 lished by the Secretary with respect to the following:

11 “(A) Maintenance of patient records.

12 “(B) Accuracy of information submitted  
13 under the MMEDS.

14 “(C) Patient counseling.

15 “(D) Performance of drug use review ac-  
16 tivities under the MMEDS.

17 “(f) ADOPTION OF MEDICAID PROGRAMS.—To the  
18 extent considered appropriate by the Secretary, the  
19 MMEDS with respect to drugs furnished in a State may  
20 include elements applicable to the furnishing of covered  
21 outpatient drugs under the State Medicaid program under  
22 section 1927.”.

23 (b) RECOMMENDATIONS ON COORDINATION WITH  
24 PROGRAMS UNDER OTHER PLANS.—Not later than Octo-

1 ber 1, 1998, the Secretary of Health and Human Services  
2 shall submit recommendations to Congress on measures—

3 (1) to ensure the coordination of information  
4 collected and disseminated under the Medicare Medi-  
5 cation Evaluation and Dispensing System estab-  
6 lished under section 1889 of the Social Security Act  
7 (as added by subsection (a)) with information pro-  
8 vided to and collected from similar programs provid-  
9 ing services to Medicare beneficiaries enrolled in  
10 health care plans (including plans of an organization  
11 described in section 1833(a)(1)(A) of such Act or an  
12 eligible organization with an agreement in effect  
13 under section 1876 of such Act, plans serving as pri-  
14 mary plans section 1862(b) of such Act, and Medi-  
15 care supplemental policies described in section 1882  
16 of such Act); and

17 (2) to avoid the duplication of services provided  
18 under such System with services provided under  
19 such similar programs.

20 (c) SPECIAL RULES FOR CARRIERS.—

21 (1) USE OF REGIONAL CARRIERS.—Section  
22 1842(b)(2) of the Social Security Act (42 U.S.C.  
23 1395u(b)(2)) is amended by adding at the end the  
24 following new subparagraph:

1       “(E) With respect to activities related to the Medi-  
2 care Medication Evaluation and Dispensing System under  
3 section 1889, the Secretary may enter into contracts with  
4 carriers under this section to perform the activities on a  
5 regional basis.”.

6           (2)       ADDITIONAL       FUNCTIONS.—Section  
7       1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is  
8       amended—

9                   (A) by striking “and” at the end of sub-  
10                   paragraph (I); and

11                   (B) by inserting after subparagraph (I) the  
12                   following new subparagraphs:

13                   “(J) if it makes determinations with respect to  
14                   outpatient prescription drugs which are subject to  
15                   the Medicare Medication Evaluation and Dispensing  
16                   System under section 1889, will receive information  
17                   transmitted under the electronic system established  
18                   under section 1889(b)(4);

19                   “(K) will enter into such contracts with organi-  
20                   zations described in subsection (f)(3) as the Sec-  
21                   retary determines may be necessary to implement  
22                   and operate (and for related functions with respect  
23                   to) the electronic system established under section  
24                   1889(b)(4); and”.

1           (3) PAYMENT ON OTHER THAN A COST  
2 BASIS.—Section 1842(c)(1)(A) of such Act (42  
3 U.S.C. 1395u(c)(1)(A)) is amended—

4                   (A) by inserting “(A)” after “(c)(1)”,

5                   (B) in the first sentence, by inserting “,  
6 except as otherwise provided in subparagraph  
7 (B),” after “under this part, and”, and

8                   (C) by adding at the end the following:

9           “(B) To the extent that a contract under this section  
10 provides for activities related to the Medicare Medication  
11 Evaluation and Dispensing System under section 1889,  
12 the Secretary may provide for payment for those activities  
13 based on any method of payment determined by the Sec-  
14 retary to be appropriate.”.

15           (4) USE OF OTHER ENTITIES.—Section 1842(f)  
16 of such Act (42 U.S.C. 1395u(f)) is amended—

17                   (A) by striking “and” at the end of para-  
18 graph (1),

19                   (B) by striking the period at the end of  
20 paragraph (2) and inserting “; and”, and

21                   (C) by adding at the end the following:

22           “(3) with respect to activities related to the  
23 Medicare Medication Evaluation and Dispensing  
24 System under section 1889, any other private entity

1 which the Secretary determines is qualified to con-  
2 duct such activities.”.

3 **SEC. 3. RECOMMENDATIONS ON MEDICARE COVERAGE OF**  
4 **PHARMACIST PROFESSIONAL SERVICES.**

5 Not later than the expiration of the 2-year period  
6 which begins on the date of the initial operation of the  
7 Medicare Medication Evaluation and Dispensing System  
8 under section 1889 of the Social Security Act (as added  
9 by section 2(a)), the Secretary of Health and Human  
10 Services shall submit to Congress (in consultation with ac-  
11 tively practicing pharmacists)—

12 (1) an analysis of the effect on net aggregate  
13 expenditures under the Medicare program from the  
14 establishment and operation of such System; and

15 (2) such recommendations as the Secretary con-  
16 siders appropriate regarding the coverage of and  
17 payment for pharmacist professional services under  
18 part B of the Medicare program as the Secretary  
19 considers appropriate, except that the Secretary may  
20 recommend coverage of and payment for such serv-  
21 ices only under a methodology which does not result  
22 in an increase in net expenditures under the pro-  
23 gram (taking into account reductions in expendi-  
24 tures under the program as a result of demonstrable

1 reductions in the inappropriate use of outpatient  
2 prescription drugs).

3 **SEC. 4. DISTRIBUTION OF CONSUMER GUIDE TO OUT-**  
4 **PATIENT PRESCRIPTION DRUGS.**

5 Not later than January 1, 1998, the Secretary of  
6 Health and Human Services shall publish and disseminate  
7 a consumer guide to outpatient prescription drugs to as-  
8 sist Medicare beneficiaries in reducing expenditures for  
9 outpatient prescription drugs and to assist individuals and  
10 entities furnishing items and services to such beneficiaries  
11 in determining the cost-effectiveness of such drugs.

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