

108TH CONGRESS
1ST SESSION

H. R. 2461

To amend title XVIII of the Social Security Act to provide for establishment of a Medicare prescription drug benefit covering costs that exceed a percentage of a beneficiary's income.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2003

Ms. LORETTA SANCHEZ of California 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 provide for establishment of a Medicare prescription drug benefit covering costs that exceed a percentage of a beneficiary's income.

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 "Equal Access to Pre-
5 scription Drugs for All Seniors Act".

1 **SEC. 2. MEDICARE PRESCRIPTION DRUG BENEFIT PRO-**
2 **GRAM FOR CATASTROPHIC EXPENSES.**

3 Part B of title XVIII of the Social Security Act is
4 amended by adding at the end the following new section:

5 “ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG
6 BENEFIT PROGRAM

7 “SEC. 1849. (a) IN GENERAL.—The Secretary shall
8 establish a program that provides outpatient prescription
9 drug benefits for individuals who are enrolled under this
10 part and entitled to benefits under part A.

11 “(b) DESIGN OF BENEFIT.—The outpatient prescrip-
12 tion drug benefit program shall be established under sub-
13 section (a) consistent with the following:

14 “(1) PERIOD OF BENEFITS.—Benefits under
15 the program are first available for prescription drugs
16 dispensed on or after January 1, 2005, and shall not
17 be available for drugs dispensed after September 30,
18 2013.

19 “(2) FISCAL LIMITATIONS.—

20 “(A) IN GENERAL.—During the 10-fiscal-
21 year period beginning with fiscal year 2004, the
22 program shall be designed to result in addi-
23 tional, net expenditures under this title equal to
24 \$400,000,000,000, and expenditures consistent
25 with the amounts specified in subparagraph
26 (B). In order to do this, the Secretary shall es-

1 tabish an appropriate deductible under para-
2 graph (3), incentives for efficient use of generic
3 drugs and other management techniques de-
4 scribed in paragraph (8), and efficient methods
5 for payment for covered benefits.

6 “(B) FUNDING STREAM.—The following
7 shall be the amounts available for start-up and
8 administrative costs and payment of benefits
9 under this section:

10 “(i) For start-up and administrative
11 costs, without fiscal year limitation,
12 \$22,811,420,000.

13 “(ii) For payments for benefits in fis-
14 cal year 2005, \$25,756,250,000.

15 “(iii) For payments for benefits in fis-
16 cal year 2006, \$28,859,150,000.

17 “(iv) For payments for benefits in fis-
18 cal year 2007, \$32,219,690,000.

19 “(v) For payments for benefits in fis-
20 cal year 2008, \$36,021,300,000.

21 “(vi) For payments for benefits in fis-
22 cal year 2009, \$40,164,610,000.

23 “(vii) For payments for benefits in
24 fiscal year 2010, \$44,746,360,000.

1 “(viii) For payments for benefits in
2 fiscal year 2011, \$49,904,730,000.

3 “(ix) For payments for benefits in fis-
4 cal year 2012, \$55,974,380,000.

5 “(x) For payments for benefits in fis-
6 cal year 2013, \$63,542,120,000.

7 “(3) CATASTROPHIC NATURE OF BENEFIT.—

8 “(A) IN GENERAL.—The program is de-
9 signed to provide benefits in a calendar year for
10 a beneficiary after the beneficiary has incurred
11 out-of-pocket costs (as defined under the pro-
12 gram) for covered outpatient prescription drugs
13 that exceeds such percentage of income (such as
14 5 percent) as the Secretary shall specify for
15 each year (beginning with 2005) consistent with
16 paragraph (2). Such percentage shall vary from
17 year to year [and may vary based on the in-
18 come of beneficiaries].

19 “(B) INCOME DETERMINATION.—Under
20 the program, income shall be based on the pre-
21 vious year’s income tax return of, in the ab-
22 sence of such a return, on such income eligi-
23 bility statement as the Secretary shall provide
24 for. The Secretary shall provide for a
25 verification of the income on such a statement

1 through the income eligibility verification sys-
2 tem used for purposes of the medicaid and SSI
3 programs or other comparable system approved
4 by the Secretary.

5 “(C) UTILIZATION OF BENEFITS.—The
6 program shall be designed to permit access to
7 benefits in 2 different ways:

8 “(i) MONTHLY PAYMENT OF $\frac{1}{12}$ OF
9 DEDUCTIBLE.—In the case of a beneficiary
10 who is expected to have prescription drug
11 costs over the catastrophic threshold under
12 subparagraph (A) for a year, the Secretary
13 shall permit the beneficiary to elect to ob-
14 tain benefits immediately at the beginning
15 of the year and to pay to the Secretary, on
16 a monthly basis, $\frac{1}{12}$ of the applicable
17 amount of the threshold under such sub-
18 paragraph for the year.

19 “(ii) BENEFITS UPON SATISFACTION
20 OF DEDUCTIBLE.—Access to benefits
21 would be available once prescription drug
22 expenditures, as documented through a
23 smart card or similar method, have met
24 the applicable annual deductible.

1 “(D) USE OF ELECTRONIC SYSTEMS FOR
2 TRACKING EXPENDITURES.—In any case the
3 monitoring of expenditures under the program,
4 both before and after the annual deductible has
5 been met, shall be done electronically through
6 the submittal of claims information and, if ap-
7 plicable, the use of an appropriate electronic
8 transaction card system.

9 “(4) DEFINED TERMS.—The Secretary shall de-
10 fine for purposes of the benefit ‘covered outpatient
11 prescription drugs’, ‘out-of-pocket costs’, and ‘in-
12 come’ consistent with the following:

13 “(A) ‘Income’ shall be based on adjusted
14 gross income for the most recent previous year
15 and shall take into account, in an appropriate
16 manner in the case of a married couple, the in-
17 come of the spouses, and shall also income in-
18 come derived from tax exempt sources, includ-
19 ing social security benefits and municipal bond
20 interest.

21 “(B) ‘Covered outpatient prescription
22 drugs’ shall not include prescription drugs for
23 which any benefits are otherwise available
24 under this part.

1 “(5) APPLICATION OF SECONDARY PAYOR PRO-
2 VISIONS.—The secondary payor provisions of section
3 1862(b) shall apply to this benefits under this pro-
4 gram.

5 “(6) NO PREMIUM; NO IMPACT ON PART B PRE-
6 MIUM.—There shall be no additional premium
7 charged for the benefits under the program and the
8 amount of the monthly premiums under section
9 1839 and under section 1818 shall not be changed
10 or affected as a result of the implementation of the
11 program.

12 “(7) PAYMENT FROM SMI TRUST FUND.—Bene-
13 fits under the program shall be payable from the
14 Federal Supplementary Medical Insurance Trust
15 Fund under section 1841.

16 “(8) USE OF UTILIZATION MECHANISMS.—In
17 implementing the program, the Secretary shall es-
18 tablish appropriate mechanisms to encourage the
19 substitution of generic drugs and appropriate tech-
20 niques for the management of prescription drugs.

21 “(9) PHARMACY ACCESS.—The program shall
22 be designed in a manner so that beneficiaries are
23 provided timely access to prescription drugs and
24 may choose among the broadest range of qualified,
25 participating pharmacies so as to result in the least

1 disruption on current methods for the delivery of
2 outpatient prescription drugs.

3 “(10) USE OF CONTRACTUAL ARRANGE-
4 MENTS.—The program may be implemented through
5 contracts with pharmaceutical benefit managers and
6 other qualified entities, including carriers under this
7 part.”.

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