

108TH CONGRESS
2D SESSION

S. 2257

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2004

Mr. DURBIN (for himself, Mr. DAYTON, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

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 “Medicare Prescription
5 Drug Savings and Choice Act of 2004”.

6 **SEC. 2. ESTABLISHMENT OF MEDICARE OPERATED PRE-**
7 **SCRIPTION DRUG PLAN OPTION.**

8 (a) IN GENERAL.—Subpart 2 of part D of the Social
9 Security Act, as added by section 101 of the Medicare Pre-
10 scription Drug, Improvement, and Modernization Act of

1 2003 (Public Law 108–173, 117 Stat. 2071), is amended
2 by inserting after section 1860D–11 the following new sec-
3 tion:

4 “MEDICARE OPERATED PRESCRIPTION DRUG PLAN
5 OPTION

6 “SEC. 1860D–11A. (a) IN GENERAL.—Notwith-
7 standing any other provision of this part, for each year
8 (beginning with 2006), in addition to any plans offered
9 under section 1860D–11, the Secretary shall offer one or
10 more medicare operated prescription drug plans (as de-
11 fined in subsection (c)) with a service area that consists
12 of the entire United States and shall enter into negotia-
13 tions with pharmaceutical manufacturers to reduce the
14 purchase cost of covered part D drugs for eligible part
15 D individuals in accordance with subsection (b).

16 “(b) NEGOTIATIONS.—Notwithstanding section
17 1860D–11(i), for purposes of offering a medicare operated
18 prescription drug plan under this section, the Secretary
19 shall negotiate with pharmaceutical manufacturers with
20 respect to the purchase price of covered part D drugs and
21 shall encourage the use of more affordable therapeutic
22 equivalents to the extent such practices do not override
23 medical necessity as determined by the prescribing physi-
24 cian. To the extent practicable and consistent with the
25 previous sentence, the Secretary shall implement strate-
26 gies similar to those used by other Federal purchasers of

1 prescription drugs, and other strategies, to reduce the pur-
2 chase cost of covered part D drugs.

3 “(c) MEDICARE OPERATED PRESCRIPTION DRUG
4 PLAN DEFINED.—For purposes of this part, the term
5 ‘medicare operated prescription drug plan’ means a pre-
6 scription drug plan that offers qualified prescription drug
7 coverage and access to negotiated prices described in sec-
8 tion 1860D–2(a)(1)(A). Such a plan may offer supple-
9 mental prescription drug coverage in the same manner as
10 other qualified prescription drug coverage offered by other
11 prescription drug plans.

12 “(d) MONTHLY BENEFICIARY PREMIUM.—

13 “(1) QUALIFIED PRESCRIPTION DRUG COV-
14 ERAGE.—The monthly beneficiary premium for
15 qualified prescription drug coverage and access to
16 negotiated prices described in section 1860D–
17 2(a)(1)(A) to be charged under a medicare operated
18 prescription drug plan shall be uniform nationally.
19 Such premium for months in 2006 shall be \$35 and
20 for months in succeeding years shall be based on the
21 average monthly per capita actuarial cost of offering
22 the medicare operated prescription drug plan for the
23 year involved, including administrative expenses.

24 “(2) SUPPLEMENTAL PRESCRIPTION DRUG COV-
25 ERAGE.—Insofar as a medicare operated prescrip-

1 tion drug plan offers supplemental prescription drug
 2 coverage, the Secretary may adjust the amount of
 3 the premium charged under paragraph (1).

4 “(3) REQUIREMENT FOR AT LEAST ONE PLAN
 5 WITH A \$35 PREMIUM IN 2006.—The Secretary shall
 6 ensure that at least one medicare operated prescrip-
 7 tion drug plan offered in 2006 has a monthly pre-
 8 mium of \$35.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 1860D–3(a) of the Social Security
 11 Act (42 U.S.C. 1395w–103(a)) is amended by add-
 12 ing at the end the following new paragraph:

13 “(4) AVAILABILITY OF THE MEDICARE OPER-
 14 ATED PRESCRIPTION DRUG PLAN.—

15 “(A) IN GENERAL.—A medicare operated
 16 prescription drug plan (as defined in section
 17 1860D–11A(c)) shall be offered nationally in
 18 accordance with section 1860D–11A.

19 “(B) RELATIONSHIP TO OTHER PLANS.—

20 “(i) IN GENERAL.—Subject to clause
 21 (ii), a medicare operated prescription drug
 22 plan shall be offered in addition to any
 23 qualifying plan or fallback prescription
 24 drug plan offered in a PDP region and
 25 shall not be considered to be such a plan

1 for purposes of meeting the requirements
2 of this subsection.

3 “(ii) DESIGNATION AS A FALLBACK
4 PLAN.—Notwithstanding any other provi-
5 sion of this part, the Secretary may des-
6 ignate the medicare operated prescription
7 drug plan as the fallback prescription drug
8 plan for any fallback service area (as de-
9 fined in section 1860D–11(g)(3)) deter-
10 mined to be appropriate by the Sec-
11 retary.”.

12 (2) Section 1860D–13(c)(3) of such Act (42
13 U.S.C. 1395w–113(c)(3)) is amended—

14 (A) in the heading, by inserting “and
15 medicare operated prescription drug plans”
16 after “Fallback plans”; and

17 (B) by inserting “or a medicare operated
18 prescription drug plan” after “a fallback pre-
19 scription drug plan”.

20 (3) Section 1860D–16(b)(1) of such Act (42
21 U.S.C. 1395w–116(b)(1)) is amended—

22 (A) in subparagraph (C), by striking
23 “and” after the semicolon at the end;

24 (B) in subparagraph (D), by striking the
25 period at the end and inserting “; and”; and

1 “(E) payments for expenses incurred with
2 respect to the operation of medicare operated
3 prescription drug plans under section 1860D–
4 11A.”.

5 (4) Section 1860D–41(a) of such Act (42
6 U.S.C. 141(a)) is amended by adding at the end the
7 following new paragraph:

8 “(19) MEDICARE OPERATED PRESCRIPTION
9 DRUG PLAN.—The term ‘medicare operated prescrip-
10 tion drug plan’ has the meaning given such term in
11 section 1860D–11A(c).”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as if included in the enact-
14 ment of section 101 of the Medicare Prescription Drug,
15 Improvement, and Modernization Act of 2003 (Public Law
16 108–173; 117 Stat. 2071).

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