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111TH CONGRESS
1ST SESSION

S. 1201

To amend title XVIII of the Social Security Act to include costs incurred by the Indian Health Service, a federally qualified health center, an AIDS drug assistance program, certain hospitals, or a pharmaceutical manufacturer patient assistance program in providing prescription drugs toward the annual out-of-pocket threshold under part D of the Medicare program.

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2009

Mr. BINGAMAN (for himself, Mr. BEGICH, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

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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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Helping Fill the Medicare Rx Gap Act of 2009''.

SEC. 2. INCLUDING COSTS INCURRED BY THE INDIAN HEALTH SERVICE, A FEDERALLY QUALIFIED HEALTH CENTER, AN AIDS DRUG ASSISTANCE PROGRAM, CERTAIN HOSPITALS, OR A PHARMACEUTICAL MANUFACTURER PATIENT ASSISTANCE PROGRAM IN PROVIDING PRESCRIPTION DRUGS TOWARD THE ANNUAL OUT-OF-POCKET THRESHOLD UNDER PART D.

(a) IN GENERAL.—Section 1860D–2(b)(4)(C) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii)—

(A) by striking ''such costs shall be treated as incurred only if'' and inserting ''subject to clause (iii), such costs shall be treated as incurred if'';

(B) by striking '', under section 1860D–14, or under a State Pharmaceutical Assistance Program'';

(C) by striking ''(other than under such section or such a Program)''; and

(D) by striking the period at the end and inserting "; and"; and

(3) by inserting after clause (ii) the following new clause:

"(iii) such costs shall be treated as incurred and shall not be considered to be reimbursed under clause (ii) if such costs are borne or paid—

"(I) under section 1860D–14;

"(II) under a State Pharmaceutical Assistance Program;

"(III) by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act);

"(IV) by a federally qualified health center (as defined in section 1861(aa)(4));

"(V) under an AIDS Drug Assistance Program under part B of title XXVI of the Public Health Service Act;

"(VI) by a subsection (d) hospital (as defined in section

1886(d)(1)(B)) that meets the requirements of clauses (i) and (ii) of section 340B(a)(4)(L) of the Public Health Service Act; or

"(VII) by a pharmaceutical manufacturer patient assistance program, either directly or through the distribution or donation of covered part D drugs, which shall be valued at the negotiated price of such covered part D drug under the enrollee's prescription drug plan or MA–PD plan as of the date that the drug was distributed or donated.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to costs incurred on or after January 1, 2010.

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