

118TH CONGRESS
1ST SESSION

H. R. 4881

To amend title XVIII of the Social Security Act to limit cost sharing for drugs under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2023

Ms. MALLIOTAKIS (for herself and Mr. WENSTRUP) 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 limit cost sharing for drugs 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. LIMITATION ON COST SHARING TO NET PRICE**

4 **AMOUNT UNDER MEDICARE PART D.**

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

7 (1) in subsection (b)—

8 (A) in paragraph (2)(A), by striking “(8)
9 and (9)” and inserting “(8), (9), and (10)”;

1 (B) in paragraph (9)(B)(ii), by striking
2 “For a plan year” and inserting “Subject to
3 paragraph (10), for a plan year”; and

4 (C) by adding at the end the following new
5 paragraph:

6 “(10) LIMITATION ON COST SHARING TO NET
7 PRICE AMOUNT.—

8 “(A) IN GENERAL.—For a plan year begin-
9 ning on or after January 1, 2027, the coverage
10 provides benefits for a supply of a covered part
11 D drug dispensed by a pharmacy, for costs in
12 excess of the deductible specified in paragraph
13 (1) and prior to an individual reaching the out-
14 of-pocket threshold under paragraph (4), with
15 cost-sharing for a month’s supply that does not
16 exceed the average net price for such a supply
17 of such drug during such plan year (or, if
18 lower, the applicable cash price for such a sup-
19 ply of such drug so dispensed by such phar-
20 macy).

21 “(B) DEFINITIONS.—In this paragraph:

22 “(i) APPLICABLE CASH PRICE.—The
23 term ‘applicable cash price’ means, with
24 respect to a supply of a covered part D
25 drug dispensed by a pharmacy, the price

1 that such pharmacy would charge for such
2 supply of such drug dispensed to an indi-
3 vidual without benefits for such drug
4 under any Federal health care program (as
5 defined in section 1128B), a group health
6 plan or group or individual health insur-
7 ance coverage (as such terms are defined
8 in section 2791 of the Public Health Serv-
9 ice Act), or the program established under
10 chapter 89 of title 5, United States Code.

11 “(ii) AVERAGE NET PRICE.—The term
12 ‘average net price’ means, with respect to
13 a supply of a covered part D drug, a pre-
14 scription drug plan, and a plan year, the
15 average amount paid under such plan (in-
16 cluding any amounts paid by an individual
17 enrolled under such plan as cost sharing
18 for such drug) as payment for such a sup-
19 ply of such drug dispensed during such
20 year, less any rebates or other forms of re-
21 munerations received under such plan with
22 respect to such drug.”; and

23 (2) in subsection (c), by adding at the end the
24 following new paragraph:

1 “(7) COST SHARING LIMITED TO NET PRICE.—
2 The coverage is provided in accordance with sub-
3 section (b)(10).”.

4 (b) CONFORMING AMENDMENT TO COST-SHARING
5 FOR LOW-INCOME INDIVIDUALS.—Section 1860D–
6 14(a)(1)(D)(iii) of the Social Security Act (42 U.S.C.
7 1395w–114(a)(1)(D)(iii)) is amended by adding at the
8 end the following new sentence: “For plan year 2027 and
9 subsequent plan years, the copayment amount applicable
10 under this clause to a supply of a covered part D drug
11 dispensed to the individual may not exceed the amount
12 provided under section 1860D–2(b)(10).”.

13 (c) GAO REPORT.—Not later than January 1, 2029,
14 the Comptroller General of the United States shall submit
15 to Congress a report containing—

16 (1) an analysis of compliance with the amend-
17 ments made by this section;

18 (2) an analysis of enforcement of such amend-
19 ments;

20 (3) recommendations with respect to improving
21 such enforcement; and

22 (4) recommendations relating to improving pub-
23 lic disclosure, and public awareness of, the require-
24 ments of such amendments.

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