

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1781

[Report No. 116-]

To amend titles XVIII and XIX of the Social Security Act to provide the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission with access to certain drug payment information, including certain rebate information.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2019

Mr. CARTER of Georgia (for himself, Mr. O'HALLERAN, Mr. RICE of South Carolina, Mr. PANETTA, Mr. GIANFORTE, and Mr. WELCH) 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

APRIL --, 2019

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 14, 2019]

# **A BILL**

To amend titles XVIII and XIX of the Social Security Act to provide the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission with access to certain drug payment information, including certain rebate information.

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 “Payment Commission*  
5 *Data Act of 2019”.*

6 **SEC. 2. PROVIDING THE MEDICARE PAYMENT ADVISORY**  
7 **COMMISSION AND MEDICAID AND CHIP PAY-**  
8 **MENT AND ACCESS COMMISSION WITH AC-**  
9 **CESS TO CERTAIN DRUG PAYMENT INFORMA-**  
10 **TION, INCLUDING CERTAIN REBATE INFOR-**  
11 **MATION.**

12 *(a) ACCESS TO CERTAIN PART D PAYMENT DATA.—*  
13 *Section 1860D–15(f) of the Social Security Act (42 U.S.C.*  
14 *1395w–115(f)) is amended—*

15 *(1) in paragraph (2)—*

16 *(A) in subparagraph (A)(ii), by striking*  
17 *“and” at the end;*

18 *(B) in subparagraph (B), by striking the*  
19 *period at the end and inserting “; and”; and*

20 *(C) by inserting at the end the following*  
21 *new subparagraph:*

22 *“(C) by the Executive Director of the Medi-*  
23 *care Payment Advisory Commission for purposes*  
24 *of monitoring, making recommendations, and*  
25 *analysis of the program under this title and by*

1           *the Executive Director of the Medicaid and*  
2           *CHIP Payment and Access Commission for pur-*  
3           *poses of monitoring, making recommendations,*  
4           *and analysis of the Medicaid program estab-*  
5           *lished under title XIX and the Children’s Health*  
6           *Insurance Program under title XXI.”; and*

7           (2) *by adding at the end the following new para-*  
8           *graph:*

9           “(3) *ADDITIONAL RESTRICTIONS ON DISCLOSURE*  
10          *OF INFORMATION.—The Executive Directors described*  
11          *in paragraph (2)(C) shall not disclose any of the fol-*  
12          *lowing information disclosed to such Executive Direc-*  
13          *tors or obtained by such Executive Directors pursuant*  
14          *to such paragraph, with respect to a prescription*  
15          *drug plan offered by a PDP sponsor or an MA–PD*  
16          *plan offered by an MA organization:*

17                 “(A) *The specific amounts or the identity of*  
18                 *the source of any rebates, discounts, price conces-*  
19                 *sions, or other forms of direct or indirect remun-*  
20                 *eration under such prescription drug plan or*  
21                 *such MA–PD plan.*

22                 “(B) *Information submitted with the bid*  
23                 *submitted under section 1860D–11(b) by such*  
24                 *PDP sponsor or under section 1854(a) by such*  
25                 *MA organization.*

1           “(C) *In the case of such information from*  
2           *prescription drug event records, in a form that*  
3           *would not be permitted under section 423.505(m)*  
4           *of title 42, Code of Federal Regulations, or any*  
5           *successor regulation, if made by the Centers for*  
6           *Medicare & Medicaid Services.”.*

7           ***(b) ACCESS TO CERTAIN REBATE AND PAYMENT DATA***  
8           ***UNDER MEDICARE AND MEDICAID.—Section 1927(b)(3)(D)***  
9           ***of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)) is***  
10          ***amended—***

11           (1) *in the matter before clause (i), by striking*  
12           *“subsection (a)(6)(A)(i)” and inserting “subsection*  
13           *(a)(6)(A)”;*

14           (2) *in clause (iv), by striking “and” at the end;*

15           (3) *in clause (v), by striking the period at the*  
16           *end and inserting “, and”;*

17           (4) *by inserting after clause (v) the following*  
18           *new clause:*

19                           *“(vi) to permit the Executive Director*  
20                           *of the Medicare Payment Advisory Commis-*  
21                           *sion and the Executive Director of the Med-*  
22                           *icaid and CHIP Payment and Access Com-*  
23                           *mission to review the information pro-*  
24                           *vided.”;*

1           (5) *in the matter at the end, by striking*  
2           “1860D-4(c)(2)(E)” *and inserting* “1860D-  
3           4(c)(2)(G)”; *and*

4           (6) *by adding at the end the following new sen-*  
5           *tence: “Any information disclosed to the Executive*  
6           *Director of the Medicare Payment Advisory Commis-*  
7           *sion or the Executive Director of the Medicaid and*  
8           *CHIP Payment and Access Commission pursuant to*  
9           *this subparagraph shall not be disclosed by either*  
10          *such Executive Director in a form which discloses the*  
11          *identity of a specific manufacturer or wholesaler or*  
12          *prices charged for drugs by such manufacturer or*  
13          *wholesaler.”.*