

**AMENDMENT TO THE AMENDMENT
IN THE NATURE OF A SUBSTITUTE TO THE
COMMITTEE PRINT
RELATING TO THE MEDICAID PROGRAM
OFFERED BY M__ . _____**

At the end of subtitle B, add the following:

1 **SEC. ____ . REMOVING DIRECT SALES OF DRUGS NEAR EXPI-**
2 **RATION DURING THE COVID-19 EMERGENCY**
3 **FROM THE CALCULATION OF CERTAIN PRIC-**
4 **ING METRICS UNDER THE MEDICAID PRO-**
5 **GRAM.**

6 (a) IN GENERAL.—Section 1927 of the Social Secu-
7 rity Act (42 U.S.C. 1396r-8) is amended—

8 (1) in subsection (c)(1)(C)—

9 (A) in clause (i)—

10 (i) in subclause (V), by striking “and”
11 at the end;

12 (ii) in subclause (VI), by striking the
13 period and inserting “; and”; and

14 (iii) by adding at the end the fol-
15 lowing new subclause:

16 “(VII) any prices charged with
17 respect to the direct sale by a manu-

1 facturer of a short-dated drug (as de-
2 fined in clause (iv)) during the period
3 beginning on the first day of the
4 emergency period described in section
5 1135(g)(1)(B) and ending on the date
6 that is 6 months after the last day of
7 such emergency period.”; and

8 (B) by adding at the end the following new
9 clause:

10 “(iv) SHORT-DATED DRUG DE-
11 FINED.—

12 “(I) IN GENERAL.—For purposes
13 of clause (i)(VII), the term ‘short-
14 dated drug’ means, in the case of a
15 drug with an applicable shelf life (as
16 defined in subclause (II))—

17 “(aa) of 1 year or greater, a
18 drug expiring (as determined by
19 the labeled expiration date) not
20 later than 1 year after the date
21 of sale of such drug; and

22 “(bb) of less than 1 year, a
23 drug expiring (as determined by
24 the labeled expiration date) not
25 later than the end of the period

1 beginning on the date of sale of
2 such drug and ending on the date
3 that is the number of days of the
4 applicable shelf life of such drug
5 after such date of sale.

6 “(II) APPLICABLE SHELF
7 LIFE.—The term ‘applicable shelf life’
8 means, with respect to a drug, 50 per-
9 cent of the number of days occurring
10 during the period beginning on the
11 date such drug is manufactured and
12 ending on the date such drug expires
13 (as determined by the labeled expira-
14 tion date), rounded to the nearest
15 whole day.”; and

16 (2) in subsection (k)(1)(B)—

17 (A) in subclause (IV), by striking “and” at
18 the end;

19 (B) in subclause (V), by striking the period
20 and inserting “; and”; and

21 (C) by adding at the end the following new
22 subclause:

23 “(VI) any prices described in
24 subsection (c)(1)(C)(i)(VII).”.

1 (b) OUTREACH TO MANUFACTURERS.—The Sec-
2 retary of Health and Human Services shall notify drug
3 manufacturers of the amendments made by subsection (a)
4 through an electronic communication through MLN Con-
5 nects or such other method as determined appropriate by
6 the Secretary.

