

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To establish patient protections with respect to highly rebated drugs.

IN THE HOUSE OF REPRESENTATIVES

M ___. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish patient protections with respect to highly
rebated drugs.

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. REQUIREMENTS WITH RESPECT TO COST-**
4 **SHARING FOR HIGHLY REBATED DRUGS.**

5 Subpart II of part A of title XXVII of the Public
6 Health Service Act (42 U.S.C. 300gg–11 et seq.) is
7 amended by adding at the end the following:

1 **“SEC. 2729A. REQUIREMENTS WITH RESPECT TO COST-**
2 **SHARING FOR HIGHLY REBATED DRUGS.**

3 “(a) IN GENERAL.—Beginning on April 1, 2024, and
4 annually thereafter, the Secretary shall certify (or recer-
5 tify, if applicable) as a ‘highly rebated drug’ any drug
6 identified in reports submitted under section 2799A–10
7 for which total rebates, reductions in price, and other
8 forms of remuneration in the previous year exceeded 50
9 percent of total annual spending on such drug in such
10 year.

11 “(b) DEDUCTIBLE AND COST-SHARING LIMITATIONS
12 FOR CERTIFIED DRUGS.—Beginning on January 1, 2025,
13 a group health plan or a health insurance issuer offering
14 group or individual health insurance coverage (or entity
15 that provides pharmacy benefits management services on
16 behalf of such a plan or issuer) that provides coverage of
17 any highly rebated drug shall not impose cost-sharing in
18 excess of, per 30-day supply, the quotient of the annual
19 net price paid by such group health plan or health insur-
20 ance issuer (or entity that provides pharmacy benefits
21 management services on behalf of such a plan or issuer),
22 in the previous calendar year, per 30-day supply of such
23 specific highly rebated drug, divided by 12.

24 “(c) HIGHLY REBATED DRUG PREVIOUSLY SUBJECT
25 TO FORMULARY EXCLUSION.—Beginning on January 1,
26 2025, in the case of a specific highly rebated drug covered

1 by a group health plan or health insurance issuer offering
2 group or individual health insurance coverage (or entity
3 that provides pharmacy benefits management services on
4 behalf of such plan or issuer) that provides coverage of
5 a specific highly rebated drug that was not covered in the
6 previous year, such group health plan or health insurance
7 issuer shall not receive from a drug manufacturer a reduc-
8 tion in price or other remuneration with respect to such
9 specific highly rebated drug received by an enrollee in the
10 plan or coverage and covered by the plan or coverage, un-
11 less—

12 “(1) any such reduction in price is reflected at
13 the point of sale to the enrollee; and

14 “(2) any such other remuneration is a flat fee-
15 based service fee not contingent on total volume of
16 sales that a manufacturer of prescription drugs pays
17 to an entity that provides pharmacy benefits man-
18 agement services.

19 “(d) REPORTS TO CONGRESS.—Not later than Janu-
20 ary 1, 2026, and annually thereafter, the Secretary, the
21 Secretary of Labor, and the Secretary of the Treasury
22 shall submit a joint report to the appropriate congres-
23 sional committees, which shall include—

24 “(1) the wholesale acquisition costs of each spe-
25 cific highly rebated drug per 30-day supply;

1 “(2) the net price of each specific highly re-
2 bated drug per 30-day supply;

3 “(3) trends in wholesale acquisition costs of
4 each specific highly rebated drug; and

5 “(4) trends in net price of each specific highly
6 rebated drug.

7 “(e) DEFINITIONS.—In this section:

8 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term ‘appropriate Congressional Com-
10 mittees’ means—

11 “(A) the Committee on Health, Education,
12 Labor, and Pensions of the Senate;

13 “(B) the Committee on Finance of the
14 Senate;

15 “(C) the Committee on Energy and Com-
16 merce of the House of Representatives;

17 “(D) the Committee on Ways and Means
18 of the House of Representatives; and

19 “(E) the Committee on Education and the
20 Workforce of the House of Representatives.

21 “(2) ENTITY THAT PROVIDES PHARMACY BENE-
22 FITS MANAGEMENT SERVICES.—The term ‘entity
23 that provides pharmacy benefits management serv-
24 ices’ means—

1 “(A) any entity that, pursuant to a written
2 agreement with a group health plan or a health
3 insurance issuer offering group or individual
4 health insurance coverage, directly or through
5 an intermediary—

6 “(i) acts as a price negotiator on be-
7 half of the plan or coverage; or

8 “(ii) manages the prescription drug
9 benefits provided by the plan or coverage,
10 which may include the processing and pay-
11 ment of claims for prescription drugs, the
12 performance of drug utilization review, the
13 processing of drug prior authorization re-
14 quests, the adjudication of appeals or
15 grievances related to the prescription drug
16 benefit, contracting with network phar-
17 macies, controlling the cost of covered pre-
18 scription drugs, or the provision of related
19 services; or

20 “(B) any entity that is owned, affiliated, or
21 related under a common ownership structure
22 with an entity described in subparagraph (A).

23 “(3) NET PRICE.—The term ‘net price’, with
24 respect to a prescription drug, means the final price
25 paid by a group health plan or health insurance

- 1 issuer offering group or individual health insurance
- 2 coverage after applying any rebates or product-spe-
- 3 cific remuneration.”.