

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To amend title XVIII of the Social Security Act to promote transparency of common ownership interests under parts C and D of the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend title XVIII of the Social Security Act to promote transparency of common ownership interests under parts C and D of 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. SHORT TITLE.**

4 This Act may be cited as the “_____ Act
5 of 2023”.

1 **SEC. 2. PROMOTING TRANSPARENCY OF COMMON OWNER-**
2 **SHIP INTERESTS UNDER PARTS C AND D OF**
3 **THE MEDICARE PROGRAM.**

4 (a) MEDICARE ADVANTAGE.—Section 1857(e) of the
5 Social Security Act (42 U.S.C. 1395w–27(e)) is amended
6 by adding at the end the following new paragraph:

7 “(6) REQUIRED DISCLOSURE OF CERTAIN IN-
8 FORMATION RELATING TO HEALTH CARE PROVIDER
9 OWNERSHIP.—

10 “(A) IN GENERAL.—For plan years begin-
11 ning on or after January 1, 2025, a contract
12 under this section with an MA organization
13 shall require the organization to report to the
14 Secretary, at a time and in a manner specified
15 by the Secretary, the information described in
16 subparagraph (B) with respect to such plan
17 year.

18 “(B) INFORMATION DESCRIBED.—For pur-
19 poses of subparagraph (A), the information de-
20 scribed in this subparagraph is, with respect to
21 an MA organization and a plan year, the fol-
22 lowing:

23 “(i) The number of claims for items
24 and services furnished during such plan
25 year by a specified provider (as defined in

1 subparagraph (C)) paid by such organiza-
2 tion.

3 “(ii) The number of claims for items
4 and services furnished during such plan
5 year by a provider of services or supplier
6 not described in clause (i) paid by such or-
7 ganization.

8 “(iii) The average per-enrollee number
9 of qualifying diagnoses (as defined in sub-
10 paragraph (C)) made during such plan
11 year by specified providers (including
12 through chart reviews and home risk as-
13 sessments) with respect to individuals en-
14 rolled under an MA plan offered by such
15 organization, broken down by type of pro-
16 vider (such as primary care and specialty
17 care), as specified by the Secretary.

18 “(iv) The average per-enrollee number
19 of qualifying diagnoses made during such
20 plan year by providers of services and sup-
21 pliers not described in clause (iii) (includ-
22 ing through such reviews and assessments)
23 with respect to such individuals, broken
24 down by type of provider (as specified for
25 purposes of such clause).

1 “(v) The average risk score (as cal-
2 culated under the methodology described in
3 subparagraph (C)(i)) for such an indi-
4 vidual for such plan year who received
5 items and services from a specified pro-
6 vider during such plan year.

7 “(vi) The average risk score for such
8 an individual for such plan year who did
9 not receive items and services from a pro-
10 vider of services or suppliers described in
11 clause (v) during such plan year.

12 “(vii) The average risk score for such
13 an individual for such plan year who re-
14 ceived items and services from a provider
15 that was furnishing such items and serv-
16 ices under contract with an assessment en-
17 tity that was a specified assessment entity.

18 “(viii) The average risk score for such
19 an individual for such plan year who re-
20 ceived items and services from a provider
21 that was furnishing such items and serv-
22 ices under contract with an assessment en-
23 tity that was not a specified assessment
24 entity.

1 “(ix) The number of prior authoriza-
2 tion requests for an item or service sub-
3 mitted to such organization during such
4 plan year, the number of such requests
5 that were approved, the number of such re-
6 quests that were denied, and the number
7 of such denied requests that were subse-
8 quently appealed and then approved, bro-
9 ken down by whether the entity proposing
10 to furnish such item or service was a speci-
11 fied provider or not a specified provider.

12 “(x) For each MA plan offered by
13 such organization during such plan year—

14 “(I) the average premium for
15 such plan;

16 “(II) the total amount expended
17 under such plan as payment for items
18 and services furnished by a specified
19 provider during such year;

20 “(III) the total amount expended
21 under such plan as payment for items
22 and services furnished by a provider
23 not described in subclause (II) during
24 such year;

1 “(IV) the average medical loss
2 ratio under such plan with respect to
3 individuals furnished an item or serv-
4 ice from a specified provider during
5 such year; and

6 “(V) the average medical loss
7 ratio under such plan with respect to
8 individuals not described in subclause
9 (IV).

10 “(C) DEFINITIONS.—In this paragraph:

11 “(i) ASSESSMENT ENTITY.—The term
12 ‘assessment entity’ means an entity with a
13 focus on furnishing in-home medical as-
14 sessments, as specified by the Secretary.

15 “(ii) QUALIFYING DIAGNOSIS.—The
16 term ‘qualifying diagnosis’ means a diag-
17 nosis that is taken into account under the
18 risk adjustment methodology established
19 by the Secretary pursuant to section
20 1853(a)(3).

21 “(iii) SPECIFIED ASSESSMENT ENTI-
22 TY.—The term ‘specified assessment enti-
23 ty’ means, with respect to an MA organiza-
24 tion and a plan year, an assessment entity
25 with respect to which such organization (or

1 any person with an ownership or control
2 interest (as defined in section 1124(a)(3))
3 in such organization) is a person with an
4 ownership or control interest (as so de-
5 fined).

6 “(iv) SPECIFIED PROVIDER.—The
7 term ‘specified provider’ means, with re-
8 spect to an MA organization and a plan
9 year, a provider of services or supplier with
10 respect to which such organization (or any
11 person with an ownership or control inter-
12 est (as defined in section 1124(a)(3)) in
13 such organization) is a person with an
14 ownership or control interest (as so de-
15 fined).”.

16 (b) PHARMACY BENEFIT MANAGER AND PHARMACY
17 INFORMATION.—Section 1860D–12(b) of the Social Secu-
18 rity Act (42 U.S.C. 1395w–112(b)) is amended by adding
19 at the end the following new paragraphs:

20 “(9) PROVISION OF INFORMATION RELATING TO
21 PHARMACY OWNERSHIP.—

22 “(A) IN GENERAL.—For plan years begin-
23 ning on or after January 1, 2025, a contract
24 entered into under this part with a PDP spon-
25 sor shall require the sponsor to report to the

1 Secretary, at a time and in a manner specified
2 by the Secretary, the information described in
3 subparagraph (B) with respect to such plan
4 year.

5 “(B) INFORMATION DESCRIBED.—For pur-
6 poses of subparagraph (A), the information de-
7 scribed in this subparagraph is, for each pre-
8 scription drug plan offered by a PDP sponsor
9 for a plan year, the following:

10 “(i) The negotiated price for each cov-
11 ered part D drug for which benefits are
12 available under such plan for each in-net-
13 work pharmacy (including an identification
14 of whether each such pharmacy is a speci-
15 fied pharmacy).

16 “(ii) The average per-drug amount of
17 direct and indirect remuneration paid by
18 specified pharmacies for such covered part
19 D drugs dispensed during such plan year
20 under such plan.

21 “(iii) The average per-drug amount of
22 direct and indirect remuneration paid by
23 pharmacies not described in clause (ii) for
24 such covered part D drugs dispensed dur-
25 ing such plan year under such plan.

1 “(C) DEFINITIONS.—In this paragraph:

2 “(i) DIRECT AND INDIRECT REMU-
3 NERATION.—The term ‘direct and indirect
4 remuneration’ has the meaning given such
5 term in section 423.308 of title 42, Code
6 of Federal Regulations (or any successor
7 regulation).

8 “(ii) IN-NETWORK PHARMACY.—The
9 term ‘in-network pharmacy’ means, with
10 respect to a prescription drug plan offered
11 by a PDP sponsor, a pharmacy with a con-
12 tract in effect with such sponsor to dis-
13 pense covered part D drugs under such
14 plan.

15 “(iii) NEGOTIATED PRICE.—The term
16 ‘negotiated price’ has the meaning given
17 such term in section 1860D–14A(g)(6).

18 “(iv) SPECIFIED PHARMACY.—The
19 term ‘specified pharmacy’ means, with re-
20 spect to an PDP sponsor and a plan year,
21 a pharmacy with respect to which such
22 sponsor (or any person with an ownership
23 or control interest (as defined in section
24 1124(a)(3)) in such sponsor) is a person

1 with an ownership or control interest (as
2 so defined).

3 “(10) PROVISION OF INFORMATION BY PHAR-
4 MACY BENEFIT MANAGERS.—

5 “(A) IN GENERAL.—For plan years begin-
6 ning on or after January 1, 2025, a contract
7 entered into under this part with a PDP spon-
8 sor shall prohibit such sponsor from entering
9 into a contract with a specified pharmacy ben-
10 efit manager for purposes of performing any
11 service with respect to covered part D drugs
12 dispensed under any prescription drug plan of-
13 fered by such sponsor for such plan year unless
14 such manager agrees to report to the Secretary,
15 at a time and in a manner specified by the Sec-
16 retary, the information described in subpara-
17 graph (B) with respect to each prescription
18 drug plan for which such manager is providing
19 any such service during such plan year, regard-
20 less of the sponsor of such plan.

21 “(B) INFORMATION DESCRIBED.—For pur-
22 poses of subparagraph (A), the information de-
23 scribed in this subparagraph is, with respect to
24 a pharmacy benefit manager performing serv-

1 ices under a prescription drug plan for a plan
2 year, the following:

3 “(i) With respect to the total amount
4 of pharmacy and manufacturer rebates col-
5 lected by such manager (or collected on be-
6 half of such plan by any other entity with
7 a contract in effect with such manager for
8 such collection) for all covered part D
9 drugs dispensed under such plan during
10 such plan year—

11 “(I) the total amount of such re-
12 bates passed through to the PDP
13 sponsor of such plan; and

14 “(II) the total amount of such re-
15 bates retained by such manager or
16 such other entities.

17 “(ii) The total amount paid by such
18 manager to pharmacies for drugs furnished
19 under such plan during such plan year.

20 “(iii) The total amount of payments
21 made by such sponsor to such manager as
22 reimbursement for such manager’s pay-
23 ments described in clause (ii).

24 “(iv) The total amount of payments
25 made by such sponsor to such manager as

1 fees for services furnished by such man-
2 ager with respect to such plan for such
3 plan year (not including payments de-
4 scribed in clause (iii)).

5 “(v) The total amount of administra-
6 tive costs incurred by such manager for
7 furnishing such services under such plan
8 for such plan year.

9 “(vi) A specification as to whether
10 such manager is a specified pharmacy ben-
11 efit manager with respect to the PDP
12 sponsor of such plan.

13 “(C) DEFINITION.—In this paragraph, the
14 term ‘specified pharmacy benefit manager’
15 means, with respect to an PDP sponsor and a
16 plan year, a pharmacy benefit manager with re-
17 spect to which such sponsor (or any person with
18 an ownership or control interest (as defined in
19 section 1124(a)(3)) in such sponsor) is a person
20 with an ownership or control interest (as so de-
21 fined).

22 “(11) PROVISION OF INFORMATION BY PHAR-
23 MACIES.—

24 “(A) IN GENERAL.—For plan years begin-
25 ning on or after January 1, 2025, a contract

1 entered into under this part with a PDP spon-
2 sor shall prohibit such sponsor from entering
3 into a contract with a specified pharmacy for
4 purposes of dispensing covered part D drugs
5 dispensed under any prescription drug plan of-
6 fered by such sponsor for such plan year unless
7 such pharmacy agrees to report to the Sec-
8 retary, at a time and in a manner specified by
9 the Secretary, the information described in sub-
10 paragraph (B) with respect to each prescription
11 drug plan for which such pharmacy has a con-
12 tract in effect for dispensing covered part D
13 drugs during such plan year, regardless of the
14 sponsor of such plan.

15 “(B) INFORMATION DESCRIBED.—For pur-
16 poses of subparagraph (A), the information de-
17 scribed in this subparagraph is, with respect to
18 a pharmacy dispensing covered part D drugs
19 under a prescription drug plan for a plan year,
20 the following:

21 “(i) The negotiated price for each cov-
22 ered part D drug for which benefits are
23 available under such plan that may be dis-
24 pensed by such pharmacy.

1 “(ii) The average per-drug amount of
2 direct and indirect remuneration paid by
3 such pharmacy to such plan for such cov-
4 ered part D drugs dispensed during such
5 plan year under such plan.

6 “(iii) A specification as to whether
7 such pharmacy is a specified pharmacy
8 with respect to the PDP sponsor of such
9 plan.

10 “(C) ELECTION TO REPORT INFORMATION
11 FOR NONSPECIFIED PHARMACIES.—The Sec-
12 retary shall provide a process under which a
13 pharmacy that is not a specified pharmacy may
14 elect to report the information described in sub-
15 paragraph (B) with respect to a prescription
16 drug plan to the Secretary in the same manner
17 as a specified pharmacy submits such informa-
18 tion.

19 “(D) DEFINITIONS.—In this paragraph,
20 the terms ‘direct and indirect remuneration’,
21 ‘negotiated price’, and ‘specified pharmacy’
22 have the meanings given such terms in para-
23 graph (9).”.

24 (c) PROVISION OF INFORMATION BY SPECIFIED PRO-
25 VIDERS.—Section 1866(j) of the Social Security Act (42

1 U.S.C. 1395cc(j)) is amended by adding at the end the
2 following new paragraph:

3 “(10) REQUIRED DISCLOSURE OF INFORMATION
4 RELATING TO COMMON OWNERSHIP WITH MA ORGA-
5 NIZATIONS.—

6 “(A) IN GENERAL.—Beginning January 1,
7 2025, as a condition of enrollment (and mainte-
8 nance of enrollment) under this title, a provider
9 of services or supplier that is a specified pro-
10 vider with respect to any MA organization for
11 a plan year shall agree to submit to the Sec-
12 retary, at a time and in a manner specified by
13 the Secretary, the information described in sub-
14 paragraph (B) with respect to such plan year.

15 “(B) INFORMATION DESCRIBED.—For pur-
16 poses of subparagraph (A), the information de-
17 scribed in this subparagraph is, with respect to
18 a provider of services or supplier and a plan
19 year, the following:

20 “(i) The number of claims submitted
21 by such provider or supplier for items and
22 services furnished to enrollees of an appli-
23 cable MA plan during such plan year .

24 “(ii) The number of claims submitted
25 by such provider or supplier for items and

1 services furnished to enrollees of an MA
2 plan that is not an applicable MA plan
3 during such plan year.

4 “(iii) The average per-enrollee number
5 of qualifying diagnoses (as defined in sub-
6 paragraph (C)) made during such plan
7 year by such provider of services or sup-
8 plier with respect to individuals enrolled
9 under an applicable MA plan.

10 “(iv) The average per-enrollee number
11 of qualifying diagnoses (as so defined)
12 made during such plan year by such pro-
13 vider of services or supplier with respect to
14 individuals enrolled under an MA plan that
15 is not an applicable MA plan.

16 “(v) The number of prior authoriza-
17 tion requests for an item or service sub-
18 mitted by such provider of services or sup-
19 plier to all MA plans during such plan
20 year, the number of such requests that
21 were approved, the number of such re-
22 quests that were denied, and the number
23 of such denied requests that were subse-
24 quently appealed and then approved, bro-
25 ken down by such requests submitted to

1 applicable MA plans and such requests
2 submitted to plans that are not applicable
3 MA plans.

4 “(C) DEFINITIONS.—In this paragraph:

5 “(i) APPLICABLE MA PLAN.—The
6 term ‘applicable MA plan’ means, with re-
7 spect to a provider of services or supplier,
8 an MA plan offered by an MA organization
9 with respect to which such provider or sup-
10 plier is a specified provider.

11 “(ii) QUALIFYING DIAGNOSIS.—The
12 term ‘qualifying diagnosis’ means a diag-
13 nosis that is taken into account under the
14 risk adjustment methodology established
15 by the Secretary pursuant to section
16 1853(a)(3).

17 “(iii) SPECIFIED PROVIDER.—The
18 term ‘specified provider’ means, with re-
19 spect to an MA organization and a plan
20 year, a provider of services or supplier with
21 respect to which such organization (or any
22 person with an ownership or control inter-
23 est (as defined in section 1124(a)(3)) in
24 such organization) is a person with an

1 ownership or control interest (as so de-
2 fined).”.

3 (d) PUBLICATION.—Not later than January 1, 2027,
4 the Secretary of Health and Human Services shall estab-
5 lish a process under which information submitted to the
6 Secretary pursuant to the amendments made by this sec-
7 tion is publicly disclosed. Such process shall ensure that
8 any information so disclosed does not identify a specific
9 drug manufacturer, provider of services or supplier, phar-
10 macy, pharmacy benefit manager, or any price charged
11 with respect to a particular drug.