II

104TH CONGRESS
2D SESSION

# S. 1759

To amend title 5, United States Code, to require that written notice be furnished by the Office of Personnel Management before making any substantial change in the health benefits program for Federal employees.

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IN THE SENATE OF THE UNITED STATES

MAY 15, 1996

Ms. MIKULSKI (for herself and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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# A BILL

To amend title 5, United States Code, to require that written notice be furnished by the Office of Personnel Management before making any substantial change in the health benefits program for Federal employees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the “Federal Health Program Benefit Change Accountability Act”.

(b) FINDINGS.—The Congress finds that—

(1) effective beginning in 1996, Federal retirees enrolled in the Governmentwide service benefit plan under chapter 89 of title 5, United States Code, are subject to a copayment for prescription drugs obtained from a retail pharmacy, but are exempt from such copayment if they instead use a plan's mail order pharmacy;

(2) that difference in policy—

(A) increases out-of-pocket health care costs for and imposes financial penalties on the large majority of Federal retirees who use their local pharmacies to have prescriptions filled;

(B) fails to recognize the integral role of local pharmacies in contributing to the health of their patrons, such as through face-to-face counseling;

(C) unfairly discriminates in favor of out-of-state mail order pharmacies at the expense of local retail pharmacies;

(D) transfers millions of dollars in wages and tax revenues out of State, and therefore hurts local economies and small businesses; and

(E) reduces the accessibility of local pharmacies for all individuals, particularly those living in rural areas;

(3) in making this major change, it appears that the Office of Personnel Management—

(A) did not determine the impact on the quality of pharmacy care provided to Federal retirees, who use a disproportionate share of prescription medications, but instead focused primarily on economic considerations;

(B) did not consider alternative cost containment options in the prescription drug program, which has disproportionately focused its cost containment approaches on retail pharmacies;

(C) did not determine, and has not yet demonstrated, whether the anticipated savings result from lower costs of mail order drug products or because retirees are simply paying more in copayments for their prescription at local pharmacies;

(D) did not determine whether such change was consistent with the structure of current private market prescription drug programs, which traditionally give retirees a fair economic choice of using mail order pharmacies or retail pharmacies;

(E) did not assess the ability of the contractor to fulfill the terms of the contract for mail order prescriptions, given that thousands of retirees were inconvenienced when the mail order pharmacies were unable to meet the demand for prescriptions; and

(F) did not assess the impact of the change on the overall health care marketplace, given that the Office of Personnel Management is a major payor of health care services and products; and

(4) the Office of Personnel Management should be held more accountable for major changes made in Federal health care program benefit designs, and should be required to justify the impact of such changes in terms of cost savings, access, and quality of care, before such changes are implemented.

**SEC. 2. REPORTING REQUIREMENT.**

(a) IN GENERAL.—Section 8910 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) The Office shall prepare an annual report in which it shall describe, to the extent practicable, any substantial changes in maximums, limitations, exclusions, or other definitions of benefits that it intends to propose for implementation in the upcoming contract year.

''(2) Included in a report under this subsection shall be, with respect to each such change—

''(A) a statement of justification for the change;

''(B) an analysis of the anticipated savings, to the extent that the change would be justified on the basis of cost savings, as well as any alternative options considered and the reasons why the proposed change is considered preferable;

''(C) a description of the anticipated impact of the proposed change on access to and quality of care, and on costs to enrollees likely to be affected;

''(D) an assessment of the ability of carriers to implement the proposed change in a manner that is efficient and that promotes the interests referred to in subparagraph (C); and

''(E) an analysis of the anticipated economic impact of the proposed change with respect to providers and enrollees, respectively.

''(3) The Office shall have each report under this subsection published in the Federal Register, and shall submit a copy of each such report to both Houses of Congress, as early in the year as possible, consistent with the goal of affording interested persons a meaningful opportunity to comment.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to changes taking effect in any contract year beginning later than 6 months after the date of the enactment of this Act.

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