

105TH CONGRESS  
2D SESSION

# H. R. 4646

To provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1998

Mr. TURNER (for himself, Mr. MALONEY of Connecticut, Ms. CARSON, Mr. GOODE, Mr. KUCINICH, Mr. EVANS, Mr. LUTHER, Ms. MCKINNEY, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. STUPAK, Ms. PELOSI, Mr. SPRATT, Mr. PETERSON of Minnesota, Mr. JOHN, Ms. STABENOW, Mr. DAVIS of Illinois, Mr. POMEROY, Ms. DEGETTE, Mr. TIERNEY, Mr. FORD, Mr. FARR of California, Mr. MINGE, Mr. WAXMAN, Mr. BERRY, Ms. SANCHEZ, Mr. DELAHUNT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON of Illinois, Ms. HOOLEY of Oregon, Mr. TANNER, Mrs. CAPPS, Mr. BISHOP, Mr. ENGEL, Mr. BROWN of Ohio, Mr. SAWYER, Ms. JACKSON-LEE of Texas, Mr. PALLONE, Mr. CLEMENT, Ms. ESHOO, Mr. WEXLER, Mr. MEEKS of New York, Mr. CONDIT, Mr. BLUMENAUER, Mr. KIND, Mrs. MALONEY of New York, Mr. MATSUI, Mr. SANDLIN, Mr. ORTIZ, Mr. STENHOLM, Mr. LAMPSON, Mr. GREEN, Mr. HINOJOSA, Mr. FROST, Mr. RODRIGUEZ, Mr. BENTSEN, Mr. HALL of Texas, Mr. BOSWELL, Mr. WEYGAND, Mrs. THURMAN, Mr. PASCRELL, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on 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

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## A BILL

To provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries.

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 “Prescription Drug  
5 Fairness Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7        (a) FINDINGS.—The Congress finds the following:

8            (1) Senior citizens are the major consumers of  
9        prescription drugs in the United States and are pay-  
10        ing the highest prices for prescription drugs.

11            (2) The discriminatory pricing practices of  
12        major drug manufacturers results in senior citizens  
13        paying over twice the price that drug manufacturers  
14        charge their most-favored customers, such as Health  
15        Maintenance Organizations (HMOs) and hospital  
16        chains.

17            (3) Medicare beneficiaries without prescription  
18        drug coverage represent the most vulnerable seg-  
19        ment of prescription drug customers. Making pre-  
20        scription drugs available to them at lower prices  
21        would lower the health care costs for this population,  
22        improve the health and well-being of this population  
23        and consequently, lower the cost to the taxpayers of  
24        the Medicare program.

1           (4) Authorizing the wholesale purchase of pre-  
2           scription drugs at the Federal Supply Schedule  
3           prices plus administrative cost will result in a benefit  
4           to the Medicare population without cost to the tax-  
5           payers.

6           (5) Authorizing similar benefits through hospice  
7           programs will assist in extending the benefits of  
8           lower prescription drug prices to those with terminal  
9           illnesses.

10          (b) PURPOSE.—The purpose of this Act is to protect  
11 Medicare beneficiaries from discriminatory pricing by drug  
12 manufacturers and to make prescription drugs available  
13 to Medicare beneficiaries at substantially reduced prices,  
14 by allowing pharmacies to purchase drugs for Medicare  
15 beneficiaries at the substantially reduced price available  
16 under the Federal Supply Schedule.

17 **SEC. 3. PARTICIPATING PHARMACIES.**

18          (a) AGREEMENTS TO PARTICIPATE.—Any qualified  
19 pharmacy may enter into an agreement with the Secretary  
20 that enables the pharmacy to sell covered outpatient drugs  
21 to Medicare beneficiaries at a reduced price, by authoriz-  
22 ing the pharmacy to operate as a participating pharmacy  
23 under this Act.

24          (b) RIGHT OF PARTICIPATING PHARMACIES TO OB-  
25 TAIN DRUGS.—An agreement under this section shall enti-

1 the participating pharmacy to purchase any covered  
2 outpatient drug that is listed on the Federal Supply  
3 Schedule of the General Services Administration at the  
4 participating pharmacy discount price for that drug deter-  
5 mined under subsection (d).

6 (c) QUANTITY OF DRUGS PURCHASED.—An agree-  
7 ment under this section shall permit the participating  
8 pharmacy to purchase under this Act as much of a covered  
9 outpatient drug as is sold by the pharmacy to Medicare  
10 beneficiaries.

11 (d) PARTICIPATING PHARMACY DISCOUNT PRICE.—

12 (1) IN GENERAL.—The Secretary shall deter-  
13 mine a participating pharmacy discount price for  
14 each covered outpatient drug.

15 (2) DETERMINATION.—The participating phar-  
16 macy discount price for a covered outpatient drug  
17 shall be determined by adding—

18 (A) the price at which the drug is available  
19 to Federal agencies from the Federal Supply  
20 Schedule under section 8126 of title 38, United  
21 States Code; plus

22 (B) an amount that reflects the adminis-  
23 trative costs incurred by the Secretary in ad-  
24 ministering this Act.

1 (e) SPECIAL RULE FOR MEDICARE BENEFICIARIES  
2 ENROLLED IN A HOSPICE PROGRAM.—In the case of a  
3 Medicare beneficiary who makes an election to receive hos-  
4 pice care under section 1812(d)(1) of the Social Security  
5 Act (42 U.S.C. 1395d(d)(1)) provided by, or under ar-  
6 rangements made by, a particular hospice program under  
7 part A of title XVIII of such Act, the hospice program  
8 may enter into agreements with a participating pharmacy  
9 to procure for and deliver to such a Medicare beneficiary  
10 covered outpatient drugs at a reduced price under this sec-  
11 tion.

12 **SEC. 4. ADMINISTRATION.**

13 (a) IN GENERAL.—The Secretary shall administer  
14 this Act in a manner that uses existing methods of obtain-  
15 ing and distributing drugs to the maximum extent pos-  
16 sible, consistent with efficiency and cost effectiveness.

17 (b) REGULATIONS.—The Secretary shall issue such  
18 regulations as may be necessary to implement this Act.

19 **SEC. 5. REPORTS TO CONGRESS REGARDING EFFECTIVE-**  
20 **NESS OF ACT.**

21 (a) IN GENERAL.—Not later than 2 years after the  
22 date of the enactment of this Act, and annually thereafter,  
23 the Secretary shall report to the Congress regarding the  
24 effectiveness of this Act in—

1           (1) protecting Medicare beneficiaries from dis-  
2           crimatory pricing by drug manufacturers; and

3           (2) making prescription drugs available to  
4           Medicare beneficiaries at substantially reduced  
5           prices.

6           (b) CONSULTATION.—In preparing such reports, the  
7           Secretary shall consult with public health experts, affected  
8           industries, organizations representing consumers and  
9           older Americans, and other interested persons.

10          (c) RECOMMENDATIONS.—The Secretary shall in-  
11          clude in such reports any recommendations they consider  
12          appropriate for changes in this Act to further reduce the  
13          cost of covered outpatient drugs to Medicare beneficiaries.

14          **SEC. 6. DEFINITIONS.**

15          In this Act:

16               (1) COVERED OUTPATIENT DRUG.—The term  
17               “covered outpatient drug” has the meaning given  
18               that term in section 1927(k)(2) of the Social Secu-  
19               rity Act (42 U.S.C. 1396r–8(k)(2)).

20               (2) MEDICARE BENEFICIARY.—The term  
21               “Medicare beneficiary” means an individual entitled  
22               to benefits under part A of title XVIII of the Social  
23               Security Act or enrolled under part B of such title,  
24               or both.

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of Health and Human Services.

3 **SEC. 7. EFFECTIVE DATE.**

4           The Secretary shall implement this Act as expedi-  
5           tiously as practicable and in a manner consistent with the  
6           obligations of the United States.

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