II

106TH CONGRESS
2D SESSION

S. 2963

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make publicly available medicaid drug pricing information.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mr. BRYAN (for himself Mr. GRAHAM, and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make publicly available medicaid drug pricing information.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Awareness of Market-Based Drug Prices Act of 2000''.

SEC. 2. PUBLIC DISCLOSURE OF MARKET-BASED DRUG PRICING INFORMATION.

(a) IN GENERAL.—Section 1927(b)(3)(D) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)) is amended to read as follows:

"(D) PUBLIC AVAILABILITY OF INFORMATION.—

"(i) TIMELY AVAILABILITY OF INFORMATION.—Notwithstanding any other provision of law, with respect to a manufacturer with an agreement in effect under this section, not later than 30 days after the date the Secretary receives from such manufacturer the information required to be reported under this paragraph (or verifies such information with a wholesaler), the Secretary shall make the information described in clause (ii), including the identity of the manufacturer to which the information applies, publicly available through the Internet or other means of communication.

"(ii) INFORMATION DESCRIBED.—The information described in this clause is the following:

"(I) AVERAGE MANUFACTURER'S PRICE.—The average manufacturer price (as defined in subsection (k)(1)) for each of the manufacturer's covered outpatient drugs.

"(II) BEST PRICE.—With respect to single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each of the manufacturer's covered outpatient drugs.

"(III) BASE AVERAGE MANUFACTURER PRICE AND INITIAL AVERAGE MANUFACTURER PRICE FOR NEWLY MARKETED DRUGS USED TO DETERMINE AN ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—The average manufacturer price described in subparagraphs (A)(ii)(II) (without regard to the percentage increase determined under that subparagraph) and (B) of subsection (c)(2) for each dosage form and strength of a single

source drug or an innovator multiple source drug used to determine, with respect to a rebate period, an additional rebate for such dosage form and strength for such a drug.

''(iii) NONDISCLOSURE OF CERTAIN INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers (or verified with wholesalers) under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A) may not be disclosed except—

''(I) as the Secretary determines to be necessary to carry out this section;

''(II) to permit the Comptroller General to review the information provided; or

''(III) to permit the Director of the Congressional Budget Office to review the information provided.

''(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting any requirement appli-

cable to the Secretary of Veterans Affairs regarding the confidentiality of information required to be disclosed to the Secretary of Veterans Affairs by a manufacturer under section 8126 of title 38, United States Code.''.

(b) EFFECTIVE DATE; IMPLEMENTATION.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) take effect upon the date of enactment of this Act and apply to the most recent reported price information under section 1927(b)(3) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)) as of such date, and all such information reported under such section after such date.

(2) ADDITIONAL PERIOD FOR IMPLEMENTATION.—Notwithstanding the 30-day requirement for the public availability of market-based drug pricing information under section 1927(b)(3)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i)), with respect to the initial public availability of such information, the Secretary of Health and Human Services shall have up to 90 days from the date of the enactment of this Act in which to make such information so available.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 1927(b)(3)(D) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)), as amended by section 2(a), such sums as may be necessary to carry out such section. Amounts appropriated pursuant to this section shall be in addition to amounts otherwise appropriated to carry out title XIX of such Act (42 U.S.C. 1396 et seq.).

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