

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4685

To amend titles XVIII and XIX of the Social Security Act to assure uninterrupted access to necessary medicines under the Medicare prescription drug program.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2006

Mr. DINGELL (for himself, Mr. RANGEL, Mr. SPRATT, Mr. WAXMAN, Mr. BROWN of Ohio, Mr. STARK, Ms. PELOSI, Mr. MARKEY, Mrs. CAPPS, Mr. BOUCHER, Ms. SCHAKOWSKY, Ms. DEGETTE, Mr. PALLONE, Ms. SOLIS, Ms. BALDWIN, Mr. GENE GREEN of Texas, Mr. GORDON, Mr. ALLEN, Mr. INSLEE, Mr. CLEAVER, Ms. SLAUGHTER, Mr. EMANUEL, Mr. NEAL of Massachusetts, Mr. DELAHUNT, Mr. DOGGETT, Mr. CONYERS, Ms. MATSUI, Mr. BERMAN, Mr. LARSON of Connecticut, Mr. CARDIN, Mr. McNULTY, Mr. HOLDEN, Mr. OWENS, Ms. HERSETH, and Mrs. MCCARTHY) introduced the following bill; which was referred to the Committee on Energy and 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 amend titles XVIII and XIX of the Social Security Act to assure uninterrupted access to necessary medicines under the Medicare prescription drug program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Medicare Prescription Drug Emergency Guarantee Act  
 4 of 2006”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of  
 6 this Act is as follows:

- Sec. 1. Short title; table of contents
- Sec. 2. Protections to provide for uninterrupted access to medicines
- Sec. 3. Required application of intermediate sanctions to protect against fraud  
and abuse
- Sec. 4. Changes of enrollment in prescription drug plans and MA–PD plans al-  
lowed twice during year
- Sec. 5. Prohibiting additional restrictions or limitations on coverage during year
- Sec. 6. MedPAC study on appropriate enrollment of dual eligible individuals
- Sec. 7. Prohibition on conditioning Medicaid eligibility on enrollment in Medi-  
care part D coverage or other creditable coverage
- Sec. 8. Reimbursement of third parties for 2006 transition costs

7 **SEC. 2. PROTECTIONS TO PROVIDE FOR UNINTERRUPTED**  
 8 **ACCESS TO MEDICINES.**

9 (a) **MINIMUM STANDARD TRANSITION COVERAGE.**—  
 10 (1) **IN GENERAL.**—Section 1860D–4(b) of the  
 11 Social Security Act (42 U.S.C. 1395w–104(b)) is  
 12 amended by adding at the end the following new  
 13 paragraph:

14 “(4) **UNINTERRUPTED ACCESS TO MEDI-**  
 15 **CINES.**—

16 “(A) **MINIMUM STANDARD TRANSITION**  
 17 **COVERAGE.**—A PDP sponsor offering a pre-  
 18 scription drug plan under this part or an MA–  
 19 PD plan under part C shall provide minimum

1 standard transition coverage in accordance with  
2 subparagraph (B).

3 “(B) REQUIREMENTS.—The minimum  
4 standard transition coverage under this sub-  
5 paragraph, with respect to a part D eligible in-  
6 dividual who is enrolled in a prescription drug  
7 plan (or an individual who is presumed to be  
8 such an individual pursuant to subparagraph  
9 (F)) who presents a prescription for a drug at  
10 a pharmacy, is the following:

11 “(i) GUARANTEED INITIAL SUPPLY,  
12 REGARDLESS OF COVERAGE LIMITATIONS  
13 OR RESTRICTIONS.—In the case that the  
14 PDP sponsor of such plan uses a for-  
15 mulary that does not cover the drug or  
16 otherwise imposes a restriction on the cov-  
17 erage of the drug (such as through the ap-  
18 plication of a preferred status, usage re-  
19 striction, step therapy, prior authorization  
20 or a quantity limits) and during the period  
21 in which such individual has been enrolled  
22 in such plan the individual has not pre-  
23 viously sought coverage under the plan for  
24 such drug the plan shall provide for the  
25 following:

1           “(I) MINIMUM SUPPLY OF PRE-  
2           SCRIPTION DRUG.—The plan must  
3           provide for coverage for at least a 60-  
4           day supply (or a 90-day supply in the  
5           case of an individual who is a resident  
6           of a long-term care facility) of the  
7           drug, or, if less, a supply of the drug  
8           that is the full amount of the pre-  
9           scription.

10           “(II) INFORMATION ON FOR-  
11           MULARY, PRESCRIPTION DRUG PLANS,  
12           AND APPEAL RIGHTS.—The plan must  
13           provide the individual with a standard  
14           notice developed by the Secretary that  
15           informs the individual about the limi-  
16           tations and restrictions of the cov-  
17           erage of the drug, that describes the  
18           rights of the individual with respect to  
19           requesting a determination under sub-  
20           section (g)(2) or an appeal of such a  
21           determination under subsection (h),  
22           that describes any ability of the indi-  
23           vidual to change the election of such  
24           plan under section 1860D–1(b)(1)(B),  
25           and that informs the individual about

1 sources of information on prescription  
2 drug plans to make such a change in  
3 plans.

4 “(III) REFILLS DURING PENDING  
5 APPEAL.—In the case of such an indi-  
6 vidual who brings an appeal under  
7 subsection (h), with respect to the  
8 prescription drug involved, an addi-  
9 tional supply of the drug (for the  
10 amount of days provided to the indi-  
11 vidual under subclause (I)) during the  
12 period ending on the date on which a  
13 final determination is made on the ap-  
14 peal.

15 “(ii) GUARANTEED SUPPLY WHEN UN-  
16 ABLE TO VERIFY PLAN ENROLLMENT.—In  
17 the case that the pharmacy is unable to lo-  
18 cate or verify the individual’s enrollment in  
19 such plan through a reasonable effort:

20 “(I) MINIMUM SUPPLY OF PRE-  
21 SCRIPTION DRUG.—The plan must  
22 provide for coverage for at least a 60-  
23 day supply (or a 90-day supply in the  
24 case of an individual who is a resident  
25 of a long-term care facility) of the

1 drug, or, if less, a supply of the drug  
2 that is the full amount of the pre-  
3 scription.

4 “(II) REFILLS.—The plan must  
5 provide an additional 60-day supply  
6 (or a 90-day supply in the case of an  
7 individual who is a resident of a long-  
8 term care facility) of the drug, or if  
9 less, a supply of the drug that is the  
10 full amount of the prescription, if the  
11 pharmacy continues to be unable to  
12 locate the individual’s enrollment  
13 through such reasonable efforts when  
14 a prescription is presented on or after  
15 the date that a prescription refill is  
16 appropriate.

17 “(C) REIMBURSEMENTS.—

18 “(i) REIMBURSEMENTS TO PHAR-  
19 MACIES.—

20 “(I) IN GENERAL.—If a phar-  
21 macy provides prescription drugs for  
22 which the minimum standard transi-  
23 tion coverage is required under sub-  
24 paragraph (B), the Secretary shall re-  
25 imburse the pharmacy for the costs

1 incurred in providing the prescription  
2 drugs, including acquisition costs, dis-  
3 pensing costs, and other overhead  
4 costs. The Secretary shall provide  
5 prompt payment (consistent with the  
6 provisions of section 1842(c)(2)) of  
7 such reimbursements from the Medi-  
8 care Prescription Drug Account under  
9 section 1860D–16 of the Social Secu-  
10 rity Act (42 U.S.C. 1395w–116).  
11 Such reimbursements shall be deemed  
12 to be payments from such Account  
13 under subsection (b) of such section.

14 “(II) SANCTIONS FOR FRAUDU-  
15 LENT CLAIMS.—In the case of a phar-  
16 macy that knowingly provides to the  
17 Secretary false information in connec-  
18 tion with a claim for reimbursement  
19 under subclause (I), the Secretary  
20 may impose a civil money penalty in  
21 an amount not to exceed \$10,000 for  
22 each such claim. The provisions of  
23 section 1128A (other than subsections  
24 (a) and (b) and the second sentence of  
25 subsection (f)) shall apply to a civil

1 money penalty under the previous sen-  
2 tence in the same manner as such  
3 provisions apply to a penalty or pro-  
4 ceeding under section 1128A(a).

5 “(ii) RECOVERY FROM PLANS OF  
6 PHARMACY REIMBURSEMENTS.—The Sec-  
7 retary shall establish a process for recov-  
8 ering the reimbursements made to phar-  
9 macies under clause (i) from prescription  
10 drug plans and MA–PD plans if the Sec-  
11 retary determines that such plans should  
12 have incurred such costs. Amounts recov-  
13 ered pursuant to the preceding sentence  
14 shall be deposited in the Medicare Pre-  
15 scription Drug Account.

16 “(iii) APPLICATION OF INTERMEDIATE  
17 SANCTIONS.—In the case of a failure of a  
18 prescription drug plan under this part or  
19 an MA–PD plan under part C to provide  
20 for the minimum coverage required under  
21 subparagraph (B), the failure shall be  
22 treated as a failure to provide medically  
23 necessary items and services under section  
24 1857(g)(1)(A), as applied by section  
25 1860D–12(b)(3)(E), and the Secretary

1           shall impose intermediate sanctions under  
2           such section 1857(g).

3           “(D) COST-SHARING.—The cost-sharing  
4           for a prescription filled pursuant to subpara-  
5           graph (B) for an individual shall be in accord-  
6           ance with the prescription drug plan in which  
7           the individual attests to be enrolled and the  
8           class of individual (such as subsidy-eligible indi-  
9           viduals) to which the individual so attests.

10           “(E) REFUNDS TO INDIVIDUALS WITH IN-  
11           APPROPRIATE CHARGES.—If the Secretary de-  
12           termines, in accordance with a method deter-  
13           mined by the Secretary, that an individual was  
14           inappropriately charged for a prescription drug  
15           dispensed to such individual under this part or  
16           part C, the Secretary shall—

17                   “(i) reduce payments to the sponsor  
18                   of the prescription drug plan under section  
19                   1860D–15 or to the organization offering  
20                   the MA–PD plan under section 1853 that  
21                   inappropriately charged the individual by  
22                   an amount equal to the amount the indi-  
23                   vidual was inappropriately charged; and

24                   “(ii) refund such amount to the indi-  
25                   vidual within 30 days of the date of the de-

1 termination that the individual was inap-  
2 propriately charged.

3 “(F) PRESUMPTIVE ELIGIBILITY.—

4 “(i) SUBSIDY-ELIGIBLE INDIVID-  
5 UALS.—For purposes of this paragraph, an  
6 individual shall be presumed to be a dual  
7 eligible individual or subsidy-eligible indi-  
8 vidual if the individual self attests to being  
9 such an individual, respectively.

10 “(ii) PLAN ENROLLMENT.—For pur-  
11 poses of this paragraph, an individual shall  
12 be presumed to be enrolled in a prescrip-  
13 tion drug plan under this part or an MA-  
14 PD plan under part C if the individual self  
15 attests to being enrolled under such plan.

16 “(iii) INDIVIDUAL LIABLE FOR COSTS  
17 OF FALSE ATTESTATION.—

18 “(I) IN GENERAL.—If the Sec-  
19 retary, as the result of verification ac-  
20 tivities conducted by the Secretary,  
21 determines after a fair hearing that  
22 an individual has knowingly made a  
23 false self-attestation described in  
24 clause (i) or (ii) or in subparagraph  
25 (D), the Secretary may, subject to

1 subclause (II), seek recovery from the  
2 individual for the full amount of the  
3 cost of benefits provided to the indi-  
4 vidual under this paragraph as a re-  
5 sult of such self attestation.

6 “(II) EXCEPTION.—The Sec-  
7 retary shall at its discretion not seek  
8 recovery under subclause (I) if the  
9 Secretary determines that it would not  
10 be cost-effective to do so.

11 “(III) REIMBURSEMENTS TO  
12 FEDERAL GOVERNMENT.—Any  
13 amounts recovered by the Secretary in  
14 accordance with this clause shall be  
15 returned to the prescription drug plan  
16 or MA–PD plan if the Secretary has  
17 previously recovered payment from  
18 such plan.

19 “(iv) REQUIREMENTS FOR SELF AT-  
20 TESTATION.—The Secretary shall promul-  
21 gate requirements for self attestations  
22 under this subparagraph, but the failure of  
23 the Secretary to promulgate such require-  
24 ments shall not preclude the applications

1 of the previous provisions of this subpara-  
2 graph.”.

3 (2) EFFECTIVE DATE.—The amendment made  
4 by paragraph (1) shall take effect on the date of the  
5 enactment of this Act, but shall apply to prescription  
6 drugs dispensed on and after January 1, 2006.

7 (b) NOTICE FOR CHANGE IN FORMULARY AND  
8 OTHER RESTRICTIONS OR LIMITATIONS ON COVERAGE.—

9 (1) IN GENERAL.—Section 1860D–4(a) of such  
10 Act (42 U.S.C. 1395w–104(a)) is amended by add-  
11 ing at the end the following new paragraph:

12 “(5) ANNUAL NOTICE OF CHANGES IN FOR-  
13 MULARY AND OTHER RESTRICTIONS OR LIMITATIONS  
14 ON COVERAGE.—Each PDP sponsor offering a pre-  
15 scription drug plan (and each MA organization of-  
16 fering an MA–PD plan) shall furnish to each en-  
17 rollee at the time of each annual coordinated election  
18 period (referred to in section 1860D–1(b)(1)(B)(iii))  
19 for a plan year a notice of any changes in the for-  
20 mulary or other restrictions or limitations on cov-  
21 erage of a covered part D drug under the plan that  
22 will take effect for the plan year.”.

23 (2) EFFECTIVE DATE.—The amendment made  
24 by paragraph (1) shall apply to annual coordinated

1 election periods beginning after the date of the en-  
2 actment of this Act.

3 (c) STANDARDIZED FORMS AND PROCEDURES FOR  
4 RECONSIDERATIONS AND APPEALS.—

5 (1) IN GENERAL.—Section 1860D–4 of such  
6 Act (42 U.S.C. 1395w–104) is amended by adding  
7 at the end the following new subsection:

8 “(1) STANDARDIZED FORMS AND PROCEDURES FOR  
9 RECONSIDERATIONS AND APPEALS.—

10 “(1) STANDARD ENROLLEE NOTICE.—The Sec-  
11 retary shall develop a standard notice to be distrib-  
12 uted by a prescription drug plan (or an MA–PD  
13 plan) to an enrollee when a covered part D drug pre-  
14 scribed for the enrollee is not covered, or the cov-  
15 erage of such drug is otherwise restricted, by the  
16 plan.

17 “(2) STANDARDIZED PROCESS FOR RECONSID-  
18 ERATIONS AND APPEALS.—The Secretary shall re-  
19 quire prescription drug plans and MA–PD plans to  
20 follow the same standardized process for reconsider-  
21 ations and redeterminations under subsections (g)  
22 and (h). Such process shall require that determina-  
23 tions regarding medical necessity are based on pro-  
24 fessional medical judgement, the medical condition

1 of the enrollee, the treating physician’s recommenda-  
2 tion, and other medical evidence.”.

3 (2) EFFECTIVE DATE.—The Secretary of  
4 Health and Human Services shall provide for the  
5 standard notice and the standardized process, and  
6 the application of such notice and process, under the  
7 amendment made by paragraph (1) by not later  
8 than January 1, 2007.

9 **SEC. 3. REQUIRED APPLICATION OF INTERMEDIATE SANC-**  
10 **TIONS TO PROTECT AGAINST FRAUD AND**  
11 **ABUSE.**

12 (a) IN GENERAL.—Section 1860D–12(b)(3)(E) of  
13 the Social Security Act (42 U.S.C. 1395w–112(b)(3)(E))  
14 is amended by inserting “and the reference to ‘may pro-  
15 vide’ in section 1857(g)(1) is deemed a reference to ‘shall  
16 provide’” after “this part”.

17 (b) APPLICATION TO MA–PD PLANS.—Section  
18 1857(g)(1) of such Act (42 U.S.C. 1395w–27(g)(1)) is  
19 amended by inserting “(or in the case of an MA–PD plan  
20 or a prescription drug plan under part D, the Secretary  
21 shall provide)” after “may provide”.

1 **SEC. 4. CHANGES OF ENROLLMENT IN PRESCRIPTION**  
2 **DRUG PLANS AND MA-PD PLANS ALLOWED**  
3 **TWICE DURING YEAR.**

4 (a) **ADDITIONAL ELECTION PERMITTED ONCE EACH**  
5 **YEAR OUTSIDE OF ANNUAL COORDINATED ELECTION**  
6 **PERIOD.**—Section 1851(e)(4) of the Social Security Act  
7 (42 U.S.C. 1395w–21(e)(4)) is amended by inserting  
8 “once every year, and in addition,” after “make a new  
9 election under this section”.

10 (b) **EFFECTIVE DATE.**—The amendment made by  
11 subsection (a) shall take effect as of the date of the enact-  
12 ment of this Act.

13 **SEC. 5. PROHIBITING ADDITIONAL RESTRICTIONS OR LIMI-**  
14 **TATIONS ON COVERAGE DURING YEAR.**

15 (a) **IN GENERAL.**—Section 1860D–4(b)(4) of the So-  
16 cial Security Act (42 U.S.C. 1395w–104(b)(4)) is amend-  
17 ed by inserting after subparagraph (F) the following new  
18 subparagraph:

19 “(G) **PROHIBITING ADDITIONAL RESTRIC-**  
20 **TIONS OR LIMITATIONS ON COVERAGE DURING**  
21 **YEAR.**—A prescription drug plan and an MA–  
22 PD plan may only impose a restriction or limi-  
23 tation on the coverage of a covered part D drug  
24 (such as through the application of a formulary,  
25 preferred status, usage restriction, step therapy,  
26 prior authorization, or a quantity limitation)

1           only at the beginning of a plan year, except in  
2           the case that the Commissioner of Food and  
3           Drugs issues a clinical warning during a year  
4           that imposes such a restriction or limitation on  
5           the drug.”.

6           (b) **EFFECTIVE DATE.**—The amendment made by  
7           subsection (a) shall take effect on the date of the enact-  
8           ment of this Act and shall apply to the removal of a drug  
9           or a change in the status of such drug on and after such  
10          date.

11   **SEC. 6. MEDPAC STUDY ON APPROPRIATE ENROLLMENT**  
12                                   **OF DUAL ELIGIBLE INDIVIDUALS.**

13          (a) **STUDY.**—The Medicare Payment Advisory Com-  
14          mission shall conduct a study to determine the extent to  
15          which full-benefit dual eligible individuals (as defined in  
16          section 1935(c)(6) of the Social Security Act (42 U.S.C.  
17          1396u5(c)(6)) were enrolled (by assignment or otherwise)  
18          in the most appropriate prescription drug plans under  
19          part D of title XVIII of such Act for such individuals.

20          (b) **REPORT.**—The Commission shall submit a report  
21          to Congress on the study under subsection (a) not later  
22          than February 1, 2007.

1 **SEC. 7. PROHIBITION ON CONDITIONING MEDICAID ELI-**  
2 **BILITY ON ENROLLMENT IN MEDICARE PART**  
3 **D COVERAGE OR OTHER CREDITABLE COV-**  
4 **ERAGE.**

5 (a) IN GENERAL.—Section 1935 of the Social Secu-  
6 rity Act (42 U.S.C. 1396v) is amended by adding at the  
7 end the following new subsection:

8 “(f) PROHIBITION ON CONDITIONING MEDICAID ELI-  
9 GIBILITY ON ENROLLMENT IN MEDICARE PART D COV-  
10 ERAGE OR OTHER CREDITABLE COVERAGE.—

11 “(1) IN GENERAL.—A State shall not condition  
12 eligibility for medical assistance under the State  
13 plan for a part D eligible individual (as defined in  
14 section 1860D–1(a)(3)(A)) who is enrolled in cred-  
15 itable prescription drug coverage described in any of  
16 subparagraphs (C) through (H) of section 1860D–  
17 13(b)(4) on the individual’s enrollment in a prescrip-  
18 tion drug plan under part D of title XVIII or an  
19 MA–PD plan under part C of such title.

20 “(2) COORDINATION OF BENEFITS WITH PART  
21 D FOR OTHER INDIVIDUALS.—Nothing in this sub-  
22 section shall be construed as prohibiting a State  
23 from coordinating medical assistance under the  
24 State plan with benefits under part D of title XVIII  
25 for individuals not described in paragraph (1).”.

1 (b) TREATMENT OF STATE PLAN AMENDMENTS, RE-  
2 DETERMINATION OF ELIGIBILITY.—In the case of a State  
3 that, as of the date of the enactment of this Act, has an  
4 approved amendment to its State plan under title XIX of  
5 the Social Security Act with a provision that conflicts with  
6 section 1935(f) of such Act (as added by subsection (a)),  
7 such provision is, as of such date of enactment, null and  
8 void. The State shall redetermine any applications for  
9 medical assistance that have been denied solely on the  
10 basis of such a State plan amendment not later than De-  
11 cember 31, 2006. Such redetermination shall be effective  
12 as of the date of the individual’s application for medical  
13 assistance.

14 **SEC. 8. REIMBURSEMENT OF THIRD PARTIES FOR 2006**  
15 **TRANSITION COSTS.**

16 (a) REIMBURSEMENT.—

17 (1) IN GENERAL.—Notwithstanding section  
18 1935(d) of the Social Security Act (42 U.S.C.  
19 1396u–5(d) or any other provision of law, the Sec-  
20 retary of Health and Human Services shall reim-  
21 burse covered third parties for 100 percent of the  
22 costs incurred by the covered third party during  
23 2006 for covered part D drugs for part D eligible in-  
24 dividuals who are enrolled in a prescription drug  
25 plan under part D of title XVIII of such Act (or an

1 MA–PD plan under part C of such title) which the  
2 individual reasonably expected would have been cov-  
3 ered under such part but were not because the indi-  
4 vidual was unable to access on a timely basis pre-  
5 scription drug benefits to which the individual was  
6 entitled under such part. Such payments shall be  
7 made from the Medicare Prescription Drug Account  
8 under section 1860D–16 of the Social Security Act  
9 (42 U.S.C. 1395w–116) and shall be deemed to be  
10 payments from such Account under subsection (b) of  
11 such section. The provisions of clauses (ii) through  
12 (iv) of subparagraph (F) of paragraph (4) of section  
13 1860D–4(b) of the Social Security Act, as added by  
14 section 2(a), shall apply under this paragraph in the  
15 same manner as they apply under such paragraph  
16 (4).

17 (2) SANCTIONS FOR FRAUDULENT CLAIMS.—  
18 The provisions of subclause (II) of section 1860D–  
19 4(b)(4)(C)(i) of the Social Security Act, as added by  
20 section 2(a), shall apply to a covered third party  
21 with respect to a claim for reimbursement under  
22 paragraph (1) in the same manner that such provi-  
23 sions apply to a pharmacy in connection with a  
24 claim for reimbursement under subclause (I) of such  
25 section 1860D–4(b)(4)(C)(i).

1           (3) RETROACTIVE APPLICATION TO BEGINNING  
2           OF 2006.—The costs incurred by a third party which  
3           may be reimbursed under paragraph (1) shall in-  
4           clude costs incurred during the period beginning on  
5           January 1, 2006, and before the date of enactment  
6           of this Act.

7           (b) RECOVERY OF COSTS FROM PLANS BY SEC-  
8           RETARY.—The Secretary of Health and Human Services  
9           shall establish a process for recovering the costs described  
10          in subsection (a)(1) from prescription drug plans and  
11          MA–PD plans if the Secretary determines that such plans  
12          should have incurred such costs. Amounts recovered pur-  
13          suant to the preceding sentence shall be deposited in the  
14          Medicare Prescription Drug Account described in sub-  
15          section (a)(1).

16          (c) DEFINITIONS.—For purposes of this section:

17               (1) COVERED PART D DRUG.—The term “cov-  
18               ered part D drug” has the meaning given such term  
19               under section 1860D–2(e) of the Social Security Act  
20               (42 U.S.C. 1395w–102(e)).

21               (2) COVERED THIRD PARTY.—The term “cov-  
22               ered third party” means any individual or party  
23               (such as a State, charity, or family member of the  
24               part D eligible individual involved) other than a  
25               party that is obligated under part D of title XVIII

1 of the Social Security Act to incur the costs in-  
2 volved. Such term shall not include a pharmaceutical  
3 company or an assistance program sponsored or as-  
4 sisted (in whole or in part) by such company.

5 (3) MA-PD PLAN.—The term “MA-PD plan”  
6 has the meaning given such term under section  
7 1860D-41(a)(14) of the Social Security Act (42  
8 U.S.C. 1395w-151(a)(14)).

9 (4) PART D ELIGIBLE INDIVIDUAL.—The term  
10 “part D eligible individual” has the meaning given  
11 such term under section 1860D-1(a)(3)(A) of the  
12 Social Security Act (42 U.S.C. 1394w-  
13 101(a)(3)(A)).

14 (5) PRESCRIPTION DRUG PLAN.—The term  
15 “prescription drug plan” has the meaning given  
16 such term under section 1860D-1(a)(3)(C) of the  
17 Social Security Act (42 U.S.C. 1394w-  
18 101(a)(3)(C)).

19 (6) STATE.—The term “State” includes the  
20 District of Columbia.

○