

Calendar No. 90

109TH CONGRESS
1ST SESSION

S. 873

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2005

Mr. DURBIN introduced the following bill; which was read the first time

APRIL 22, 2005

Read the second time and placed on the calendar

A BILL

To amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under 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 “Medicare Prescription
5 Drug Savings and Choice Act of 2005”.

1 **SEC. 2. ESTABLISHMENT OF MEDICARE OPERATED PRE-**
2 **SCRIPTION DRUG PLAN OPTION.**

3 (a) IN GENERAL.—Subpart 2 of part D of the Social
4 Security Act is amended by inserting after section 1860D–
5 11 the following new section:

6 “MEDICARE OPERATED PRESCRIPTION DRUG PLAN
7 OPTION

8 “SEC. 1860D–11A. (a) IN GENERAL.—Notwith-
9 standing any other provision of this part, for each year
10 (beginning with 2006), in addition to any plans offered
11 under section 1860D–11, the Secretary shall offer one or
12 more medicare operated prescription drug plans (as de-
13 fined in subsection (c)) with a service area that consists
14 of the entire United States and shall enter into negotia-
15 tions with pharmaceutical manufacturers to reduce the
16 purchase cost of covered part D drugs for eligible part
17 D individuals in accordance with subsection (b).

18 “(b) NEGOTIATIONS.—Notwithstanding section
19 1860D–11(i), for purposes of offering a medicare operated
20 prescription drug plan under this section, the Secretary
21 shall negotiate with pharmaceutical manufacturers with
22 respect to the purchase price of covered part D drugs and
23 shall encourage the use of more affordable therapeutic
24 equivalents to the extent such practices do not override
25 medical necessity as determined by the prescribing physi-
26 cian. To the extent practicable and consistent with the

1 previous sentence, the Secretary shall implement strate-
2 gies similar to those used by other Federal purchasers of
3 prescription drugs, and other strategies, to reduce the pur-
4 chase cost of covered part D drugs.

5 “(c) MEDICARE OPERATED PRESCRIPTION DRUG
6 PLAN DEFINED.—For purposes of this part, the term
7 ‘medicare operated prescription drug plan’ means a pre-
8 scription drug plan that offers qualified prescription drug
9 coverage and access to negotiated prices described in sec-
10 tion 1860D–2(a)(1)(A). Such a plan may offer supple-
11 mental prescription drug coverage in the same manner as
12 other qualified prescription drug coverage offered by other
13 prescription drug plans.

14 “(d) MONTHLY BENEFICIARY PREMIUM.—

15 “(1) QUALIFIED PRESCRIPTION DRUG COV-
16 ERAGE.—The monthly beneficiary premium for
17 qualified prescription drug coverage and access to
18 negotiated prices described in section 1860D–
19 2(a)(1)(A) to be charged under a medicare operated
20 prescription drug plan shall be uniform nationally.
21 Such premium for months in 2006 shall be \$35 and
22 for months in succeeding years shall be based on the
23 average monthly per capita actuarial cost of offering
24 the medicare operated prescription drug plan for the
25 year involved, including administrative expenses.

1 “(2) SUPPLEMENTAL PRESCRIPTION DRUG COV-
2 ERAGE.—Insofar as a medicare operated prescrip-
3 tion drug plan offers supplemental prescription drug
4 coverage, the Secretary may adjust the amount of
5 the premium charged under paragraph (1).

6 “(3) REQUIREMENT FOR AT LEAST ONE PLAN
7 WITH A \$35 PREMIUM IN 2006.—The Secretary shall
8 ensure that at least one medicare operated prescrip-
9 tion drug plan offered in 2006 has a monthly pre-
10 mium of \$35.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 1860D–3(a) of the Social Security
13 Act (42 U.S.C. 1395w–103(a)) is amended by add-
14 ing at the end the following new paragraph:

15 “(4) AVAILABILITY OF THE MEDICARE OPER-
16 ATED PRESCRIPTION DRUG PLAN.—

17 “(A) IN GENERAL.—A medicare operated
18 prescription drug plan (as defined in section
19 1860D–11A(c)) shall be offered nationally in
20 accordance with section 1860D–11A.

21 “(B) RELATIONSHIP TO OTHER PLANS.—

22 “(i) IN GENERAL.—Subject to clause
23 (ii), a medicare operated prescription drug
24 plan shall be offered in addition to any
25 qualifying plan or fallback prescription

1 drug plan offered in a PDP region and
2 shall not be considered to be such a plan
3 for purposes of meeting the requirements
4 of this subsection.

5 “(ii) DESIGNATION AS A FALLBACK
6 PLAN.—Notwithstanding any other provi-
7 sion of this part, the Secretary may des-
8 ignate the medicare operated prescription
9 drug plan as the fallback prescription drug
10 plan for any fallback service area (as de-
11 fined in section 1860D–11(g)(3)) deter-
12 mined to be appropriate by the Sec-
13 retary.”.

14 (2) Section 1860D–13(c)(3) of such Act (42
15 U.S.C. 1395w–113(c)(3)) is amended—

16 (A) in the heading, by inserting “and
17 medicare operated prescription drug plans”
18 after “Fallback plans”; and

19 (B) by inserting “or a medicare operated
20 prescription drug plan” after “a fallback pre-
21 scription drug plan”.

22 (3) Section 1860D–16(b)(1) of such Act (42
23 U.S.C. 1395w–116(b)(1)) is amended—

24 (A) in subparagraph (C), by striking
25 “and” after the semicolon at the end;

1 (B) in subparagraph (D), by striking the
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(E) payments for expenses incurred with
6 respect to the operation of medicare operated
7 prescription drug plans under section 1860D–
8 11A.”.

9 (4) Section 1860D–41(a) of such Act (42
10 U.S.C. 141(a)) is amended by adding at the end the
11 following new paragraph:

12 “(19) MEDICARE OPERATED PRESCRIPTION
13 DRUG PLAN.—The term ‘medicare operated prescrip-
14 tion drug plan’ has the meaning given such term in
15 section 1860D–11A(c).”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect as if included in the enact-
18 ment of section 101 of the Medicare Prescription Drug,
19 Improvement, and Modernization Act of 2003 (Public Law
20 108–173; 117 Stat. 2071).

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