To amend title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program to further transparency of payment methodologies to pharmacies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2014

Mr. COLLINS of Georgia (for himself and Mr. LOEBER) 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.

A BILL

To amend title XVIII of the Social Security Act to provide for pharmacy benefits manager standards under the Medicare prescription drug program to further transparency of payment methodologies to pharmacies, and for other purposes.

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 “Generic Drug Pricing Fairness Act”.

VerDate Mar 15 2010 19:33 Apr 11, 2014 Jkt 039200 PO 00000 Frm 00001 Fmt 6652 Sfmt 6201 E:\BILLS\H4437.IH H4437TKELLEY on DSK3SPTVN1PROD with BILLS
SEC. 2. PHARMACY BENEFITS MANAGER STANDARDS UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraphs:

“(7) PHARMACY BENEFITS MANAGER TRANSPARENCY REQUIREMENTS.—Each contract entered into with a PDP sponsor under this part with respect to a prescription drug plan offered by such sponsor shall provide that the PDP may not enter into a contract with any pharmacy benefits manager (referred to in this paragraph as a ‘PBM’) to manage the prescription drug coverage provided under such plan, or to control the costs of the prescription drug coverage under such plan, unless the PBM adheres to the following criteria when handling personally identifiable utilization and claims data or other sensitive patient data:

“(A) The PBM may not transmit any personally identifiable utilization or claims data, with respect to a plan enrollee, to a pharmacy owned by a PBM if the plan enrollee has not voluntarily elected in writing or via secure electronic means to fill that particular prescription at the PBM-owned pharmacy.
“(B) The PBM may not require that a plan enrollee use a retail pharmacy, mail order pharmacy, specialty pharmacy, or other pharmacy entity providing pharmacy services in which the PBM has an ownership interest or that has an ownership interest in the PBM or provide an incentive to a plan enrollee to encourage the enrollee to use a retail pharmacy, mail order pharmacy, specialty pharmacy, or other pharmacy entity providing pharmacy services in which the PBM has an ownership interest or that has an ownership interest in the PBM, if the incentive is applicable only to such pharmacies.”.

(b) Regular Update of Prescription Drug Pricing Standard.—Paragraph (6) of section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended to read as follows:

“(6) Regular Update of Prescription Drug Pricing Standard.—

“(A) In General.—If the PDP sponsor of a prescription drug plan uses a standard for reimbursement (as described in subparagraph (B)) of pharmacies based on the cost of a drug, each contract entered into with such sponsor
under this part with respect to the plan shall
provide that the sponsor shall—

“(i) update such standard not less fre-
quently than once every 7 days, beginning
with an initial update on January 1 of
each year, to accurately reflect the market
price of acquiring the drug;

“(ii) disclose to applicable pharmacies
the sources used for making any such up-
date;

“(iii) if the source for such a standard
for reimbursement is not publicly available,
disclose to the applicable pharmacies all in-
dividual drug prices to be so updated in
advance of the use of such prices for the
reimbursement of claims; and

“(iv) establish a process to appeal, in-
vestigate, and resolve disputes regarding
individual drug prices that are less than
the pharmacy acquisition price for such
drug.

“(B) Prescription drug pricing
standard defined.—For purposes of sub-
paragraph (A), a standard for reimbursement
of a pharmacy is any methodology or formula
for varying the pricing of a drug or drugs during the term of the pharmacy reimbursement contract that is based on the cost of the drug involved, including drug pricing references and amounts that are based upon average wholesale price, wholesale average cost, average manufacturer price, average sales price, maximum allowable cost (MAC), or other costs, whether publicly available or not.”.

(c) **Effective Date.**—The amendments made by this section shall apply to plan years beginning on or after January 1, 2015.