

113TH CONGRESS  
1ST SESSION

# S. 1365

To amend title XVIII of the Social Security Act to allow for fair application of the exceptions process for drugs in tiers in formularies in prescription drug plans under Medicare part D.

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IN THE SENATE OF THE UNITED STATES

JULY 25, 2013

Mr. NELSON (for himself and Ms. COLLINS) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to allow for fair application of the exceptions process for drugs in tiers in formularies in prescription drug plans under Medicare part D.

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 “Part D Beneficiary  
5 Appeals Fairness Act”.

1 **SEC. 2. FAIR EXCEPTIONS PROCESS FOR DRUG IN TIERS**  
2 **UNDER MEDICARE PART D.**

3 Section 1860D–4(g)(2) of the Social Security Act (42  
4 U.S.C. 1395w–104(g)(2)) is amended—

5 (1) in the first sentence—

6 (A) by striking “for tiered cost-sharing for  
7 drugs included within a formulary and” and in-  
8 serting “for any tiered cost-sharing structure  
9 within a formulary (including a structure that”;  
10 and

11 (B) by inserting “, or provides for different  
12 co-payment or coinsurance amounts for drugs  
13 in different tiers included within the for-  
14 mulary)” before “, a part D eligible individual”;

15 (2) in the second sentence, by inserting “in any  
16 plan formulary” before “could be covered”; and

17 (3) by inserting the following before the last  
18 sentence: “In no case may the Secretary allow a  
19 PDP sponsor to make any formulary tier of the  
20 tiered cost-sharing structure (including a formulary  
21 tier used for very high cost or unique items) ineli-  
22 gible for lower-cost sharing through an exception  
23 under this paragraph.”.

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