116th Congress  
1st Session

H. R. 2115

AN ACT

To amend titles XI and XVIII of the Social Security Act to provide greater transparency for discounts provided by manufacturers, to include real-time benefit information as part of a prescription drug plan’s electronic prescription program under the Medicare program, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Disclosure of
Drug Discounts and Real-Time Beneficiary Drug Cost
Act”.

SEC. 2. PUBLIC DISCLOSURE OF DRUG DISCOUNTS.

Section 1150A of the Social Security Act (42 U.S.C.
1320b–23) is amended—

(1) in subsection (c), in the matter preceding
paragraph (1), by inserting “(other than as per-
mitted under subsection (e))” after “disclosed by the
Secretary”; and

(2) by adding at the end the following new sub-
section:

“(e) PUBLIC AVAILABILITY OF CERTAIN INFORMA-
TION.—

“(1) IN GENERAL.—In order to allow the com-
parison of PBMs’ ability to negotiate rebates, dis-
counts, direct and indirect remuneration fees, ad-
ministrative fees, and price concessions and the
amount of such rebates, discounts, direct and indi-
rect remuneration fees, administrative fees, and
price concessions that are passed through to plan
sponsors, beginning January 1, 2020, the Secretary
shall make available on the Internet website of the
Department of Health and Human Services the in-
formation with respect to the second preceding cal-
endar year provided to the Secretary on generic dis-
ensing rates (as described in paragraph (1) of sub-
section (b)) and information provided to the Sec-
retary under paragraphs (2) and (3) of such sub-
section that, as determined by the Secretary, is with
respect to each PBM.

“(2) AVAILABILITY OF DATA.—In carrying out
paragraph (1), the Secretary shall ensure the fol-
lowing:

“(A) CONFIDENTIALITY.—The information
described in such paragraph is displayed in a
manner that prevents the disclosure of informa-
tion, with respect to an individual drug or an
individual plan, on rebates, discounts, direct
and indirect remuneration fees, administrative
fees, and price concessions.

“(B) CLASS OF DRUG.—The information
described in such paragraph is made available
by class of drug, using an existing classification
system, but only if the class contains such num-
ber of drugs, as specified by the Secretary (but
not fewer than three drugs), to ensure confiden-
tiality of proprietary information or other inform-

mation that is prevented to be disclosed under

subparagraph (A).’’.

SEC. 3. REQUIRING PRESCRIPTION DRUG PLAN SPONSORS

TO INCLUDE REAL-TIME BENEFIT INFORMATION AS PART OF SUCH SPONSOR’S ELECTRONIC PRESCRIPTION PROGRAM UNDER

THE MEDICARE PROGRAM.

Section 1860D–4(e)(2) of the Social Security Act (42

U.S.C. 1395w–104(e)(2)) is amended—

(1) in subparagraph (D), by striking ‘‘To the

extent’’ and inserting ‘‘Except as provided in sub-

paragraph (F), to the extent’’; and

(2) by adding at the end the following new sub-

paragraph:

‘‘(F) REAL-TIME BENEFIT INFORMA-

TION.—

‘‘(i) IN GENERAL.—Not later than

January 1, 2021, the program shall imple-

ment real-time benefit tools that are capa-

ble of integrating with a prescribing health

care professional’s electronic prescribing or

electronic health record system for the

transmission of formulary and benefit in-

formation in real time to prescribing health
care professionals. With respect to a covered part D drug, such tools shall be capable of transmitting such information specific to an individual enrolled in a prescription drug plan. Such information shall include the following:

“(I) A list of any clinically-appropriate alternatives to such drug included in the formulary of such plan.

“(II) Cost-sharing information for such drug and such alternatives, including a description of any variance in cost sharing based on the pharmacy dispensing such drug or such alternatives.

“(III) Information relating to whether such drug is included in the formulary of such plan and any prior authorization or other utilization management requirements applicable to such drug and such alternatives so included.

“(ii) Electronic Transmission.—The provisions of subclauses (I) and (II) of clause (ii) of subparagraph (E) shall apply
to an electronic transmission described in clause (i) in the same manner as such provisions apply with respect to an electronic transmission described in clause (i) of such subparagraph.

“(iii) Special rule for 2021.—The program shall be deemed to be in compliance with clause (i) for 2021 if the program complies with the provisions of section 423.160(b)(7) of title 42, Code of Federal Regulations (or a successor regulation), for such year.

“(iv) Rule of construction.—Nothing in this subparagraph shall be construed as to allow a real-time benefits tool to steer an individual, without the consent of the individual, to a particular pharmacy or pharmacy setting over their preferred pharmacy setting nor prohibit the designation of a preferred pharmacy under such tool.”.

SEC. 4. SENSE OF CONGRESS REGARDING THE NEED TO EXPAND COMMERCIALITY AVAILABLE DRUG PRICING COMPARISON PLATFORMS.

It is the sense of Congress that—
(1) commercially available drug pricing comparison platforms can, at no cost, help patients find the lowest price for their medications at their local pharmacy;

(2) such platforms should be integrated, to the maximum extent possible, in the health care delivery ecosystem; and

(3) pharmacy benefit managers should work to disclose generic and brand name drug prices to such platforms to ensure that—

(A) patients can benefit from the lowest possible price available to them; and

(B) overall drug prices can be reduced as more educated purchasing decisions are made based on price transparency.


Attest:

Clerk.
AN ACT

To amend titles XI and XVIII of the Social Security Act to provide greater transparency for the prescription drug plans under the Medicare program, and for other purposes.