

116TH CONGRESS
1ST SESSION

H. R. 4946

To amend title XVIII of the Social Security Act to ensure equal access of Medicare beneficiaries to community pharmacies in underserved areas as network pharmacies under Medicare prescription drug coverage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2019

Mr. WELCH (for himself, Mr. GRIFFITH, Mr. LOEBSACK, Mr. CARTER of Georgia, Mr. GONZALEZ of Texas, Mr. CRAWFORD, Mr. WESTERMAN, Mr. DAVID P. ROE of Tennessee, Mrs. RODGERS of Washington, Mrs. AXNE, Mr. ALLEN, and Mr. PETERSON) 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 ensure equal access of Medicare beneficiaries to community pharmacies in underserved areas as network pharmacies under Medicare prescription drug coverage, and for other purposes.

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.**

2 This Act may be cited as the “Ensuring Seniors Ac-
3 cess to Local Pharmacies Act of 2019”.

4 **SEC. 2. ALLOWING ANY STATE LICENSED PHARMACY SERV-
5 ING AN UNDERSERVED AREA TO BECOME A
6 NETWORK PHARMACY UNDER MEDICARE
7 PRESCRIPTION DRUG COVERAGE.**

8 (a) IN GENERAL.—Section 1860D–4(b)(1)(B) of the
9 Social Security Act (42 U.S.C. 1395w–104(b)(1)(B)) is
10 amended—

11 (1) by striking “DISCOUNTS ALLOWED FOR
12 NETWORK PHARMACIES.—For” and inserting the
13 following: “DISCOUNTS ALLOWED FOR NETWORK
14 PHARMACIES.—

15 “(i) IN GENERAL.—For”; and

16 (2) by adding at the end the following new
17 clause:

18 “(ii) INCLUSION OF PHARMACIES LO-
19 CATED IN UNDERSERVED AREAS IN NET-
20 WORKS.—For plan years beginning on or
21 after January 1, 2020, in the case of a
22 prescription drug plan that has, in its net-
23 work of pharmacies, one or more phar-
24 macies located in a health professional
25 shortage area (as defined in section
26 332(a)(1)(A) of the Public Health Service

1 Act), in a medically underserved area (ac-
2 cording to a designation under section
3 330(b)(3)(A) of the Public Health Service
4 Act), among a medically underserved popu-
5 lation (as defined in such section
6 330(b)(3)(A) of such Act), or in a rural
7 area (as defined by the Federal Office of
8 Rural Health Policy), and that provides a
9 reduction in coinsurance or copayments de-
10 scribed in clause (i) for covered part D
11 drugs dispensed through such pharmacies,
12 such plan shall extend to any pharmacy lo-
13 cated in such area or among such popu-
14 lation the option to be an in-network phar-
15 macy with respect to such plan under
16 terms and conditions (including the reduc-
17 tions described in clause (i)) comparable to
18 those the plan has agreed upon with other
19 in-network pharmacies located in such area
20 or among such population.”.

21 **SEC. 3. REASONABLE REIMBURSEMENT REQUIREMENTS.**

22 Section 1860D–2(d)(1)(B) of the Social Security Act
23 (42 U.S.C. 1395w–102(d)(1)(B)) is amended—

24 (1) by striking “PRICES.—For purposes” and
25 inserting “PRICES.—

1 “(i) IN GENERAL.—For purposes”;

2 and

3 (2) by adding at the end the following new
4 clauses:

5 “(ii) REASONABLE REIMBURSE-
6 MENT.—For plan years beginning on or
7 after January 1, 2020, a PDP sponsor and
8 a Medicare Advantage organization shall
9 ensure that—

10 “(I) each prescription drug plan
11 or MA–PD plan offered by the spon-
12 sor or organization does not reimburse
13 a pharmacy or pharmacist an amount
14 less than the amount that the phar-
15 macy benefits manager reimburses a
16 pharmacy benefits manager affiliate
17 (as defined in clause (iv)) providing
18 the same pharmacist services; and

19 “(II) in no case may the nego-
20 tiated price for a covered part D drug
21 furnished by a pharmacy under a pre-
22 scription drug plan or MA–PD plan
23 offered by the sponsor or organiza-
24 tion, be less than such pharmacy’s
25 cost of purchasing and dispensing

1 such drug and providing such other
2 services associated with furnishing
3 such drug as may be specified by the
4 Secretary.

5 “(iii) CLAIM REIMBURSEMENT DIS-
6 CLOSURE REQUIREMENTS.—With respect
7 to payment made by a PDP sponsor or a
8 Medicare Advantage organization to a
9 pharmacy for a covered part D drug fur-
10 nished by such pharmacy during a plan
11 year beginning on or after January 1,
12 2020, such sponsor or organization shall
13 promptly furnish all pricing components
14 including the Network Reimbursement ID
15 used to price the claim, any fees, pharmacy
16 price concessions, discounts, subsidies, re-
17 bates, incentives, or any other forms of di-
18 rect or indirect remuneration that affect
19 payment and pricing of the claim as part
20 of the claim adjudication response at the
21 point-of sale. All pricing components de-
22 scribed in the preceding sentence shall
23 each be identified in a predetermined line
24 item in the remittance advice that is stand-
25 ard across the industry. The PDP sponsor

1 or Medicare Advantage organization shall
2 include suitable claim-level detail on the
3 electronic remittance advice that accom-
4 panies each payment. This claim-level de-
5 tail shall include, in an industry standard-
6 ized format, all fields needed to properly
7 identify the claim, including the Claim Au-
8 thorization Number, date of service, date
9 of payment remittance, ingredient cost re-
10 imbursement, dispensing fee reimbursed, pay-
11 ment amounts including the Network ID
12 used to price the claim, the specific dollar
13 amounts and the appropriate qualifier
14 codes for each payment adjustment includ-
15 ing fees, pharmacy price concessions, or in-
16 centives.

17 “(iv) PHARMACY BENEFITS MANAGER
18 AFFILIATE DEFINED.—For purposes of
19 clause (ii), the term ‘pharmacy benefits
20 manager affiliate’ means a pharmacy or
21 pharmacist that directly or indirectly,
22 through one or more intermediaries, owns
23 or controls, is owned or controlled by, or is

1 under common ownership or control with a
2 pharmacy benefits manager.”.

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