

117TH CONGRESS  
1ST SESSION

# H. R. 2608

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2021

Mr. WELCH (for himself, Mr. GRIFFITH, Mr. VICENTE GONZALEZ of Texas, Mr. CRAWFORD, Mr. CARTER of Georgia, Mrs. AXNE, Mr. ALLEN, Mr. RUPPERSBERGER, and Mr. WESTERMAN) 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

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## 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ensuring Seniors Ac-  
5 cess to Local Pharmacies Act of 2021”.

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

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

8 (1) by striking “DISCOUNTS ALLOWED FOR  
9 NETWORK PHARMACIES.—For” and inserting the  
10 following: “DISCOUNTS ALLOWED FOR NETWORK  
11 PHARMACIES.—

12 “(i) IN GENERAL.—For”; and

13 (2) by adding at the end the following new  
14 clause:

15 “(ii) INCLUSION OF PHARMACIES LO-  
16 CATED IN UNDERSERVED AREAS IN NET-  
17 WORKS.—For plan years beginning on or  
18 after January 1, 2022, in the case of a  
19 prescription drug plan that has, in its net-  
20 work of pharmacies, one or more phar-  
21 macies located in a health professional  
22 shortage area (as defined in section  
23 332(a)(1)(A) of the Public Health Service  
24 Act), in a medically underserved area (ac-  
25 cording to a designation under section  
26 330(b)(3)(A) of the Public Health Service

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

18 **SEC. 3. REASONABLE REIMBURSEMENT REQUIREMENTS.**

19 Section 1860D-2(d)(1)(B) of the Social Security Act  
20 (42 U.S.C. 1395w-102(d)(1)(B)) is amended—

21 (1) by striking “PRICES.—For purposes” and  
22 inserting “PRICES.—  
23 “(i) IN GENERAL.—For purposes”;  
24 and

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

3                   “(ii)   REASONABLE    REIMBURSE-  
4                   MENT.—For plan years beginning on or  
5                   after January 1, 2022, a PDP sponsor and  
6                   a Medicare Advantage organization shall  
7                   ensure that—

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

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

1           such drug as may be specified by the  
2           Secretary.

3           “(iii) CLAIM REIMBURSEMENT DIS-  
4           CLOSURE REQUIREMENTS.—With respect  
5           to payment made by a PDP sponsor or a  
6           Medicare Advantage organization to a  
7           pharmacy for a covered part D drug fur-  
8           nished by such pharmacy during a plan  
9           year beginning on or after January 1,  
10          2022, such sponsor or organization shall  
11          promptly furnish all pricing components  
12          including the Network Reimbursement ID  
13          used to price the claim, any fees, pharmacy  
14          price concessions, discounts, subsidies, re-  
15          bates, incentives, or any other forms of di-  
16          rect or indirect remuneration that affect  
17          payment and pricing of the claim as part  
18          of the claim adjudication response at the  
19          point-of sale. All pricing components de-  
20          scribed in the preceding sentence shall  
21          each be identified in a predetermined line  
22          item in the remittance advice that is stand-  
23          ard across the industry. The PDP sponsor  
24          or Medicare Advantage organization shall  
25          include suitable claim-level detail on the

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

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

1 PDP sponsor or a Medicare Advantage or-  
2 ganization.”.

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