

118TH CONGRESS  
2D SESSION

# H. R. 7717

To amend title XI of the Social Security Act to enhance pharmacy benefit manager transparency requirements.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2024

Mr. GALLEGO 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 XI of the Social Security Act to enhance pharmacy benefit manager transparency requirements.

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. ENHANCING PBM TRANSPARENCY REQUIRE-**  
4       **MENTS.**

5       (a) IN GENERAL.—Section 1150A of the Social Secu-  
6       rity Act (42 U.S.C. 1320b–23) is amended—

7               (1) by striking subsection (a) and inserting the  
8       following:

9       “(a) PROVISION OF INFORMATION.—

1           “(1) IN GENERAL.—The following entities shall  
2       provide the information described in subsection (b)  
3       to the Secretary and, in the case of an entity de-  
4       scribed in subparagraph (B) or an affiliate of such  
5       entity described in subparagraph (C), to the health  
6       benefits plan with which the entity is under contract,  
7       at such times, and in such form and manner, as the  
8       Secretary shall specify:

9           “(A) A health benefits plan.

10          “(B) Any entity that provides pharmacy  
11       benefits management services on behalf of a  
12       health benefits plan (in this section referred to  
13       as a ‘PBM’) that manages prescription drug  
14       coverage under a contract with—

15               “(i) a PDP sponsor of a prescription  
16       drug plan or an MA organization offering  
17       an MA–PD plan under part D of title  
18       XVIII; or

19               “(ii) a qualified health benefits plan  
20       offered through an exchange established by  
21       a State under section 1311 of the Patient  
22       Protection and Affordable Care Act.

23          “(C) Any affiliate of an entity described in  
24       subparagraph (B) that acts as a price nego-  
25       tiator or group purchaser on behalf of such

1 PBM, PDP sponsor, MA organization, or quali-  
2 fied health benefits plan.

3 “(2) AFFILIATE DEFINED.—In this section, the  
4 term ‘affiliate’ means any entity that is owned by,  
5 controlled by, or related under a common ownership  
6 structure with a PBM (including an entity owned or  
7 controlled by the PDP sponsor of a prescription  
8 drug plan, MA organization offering an MA–PD  
9 plan, or qualified health benefits plan for which such  
10 entity is acting as a price negotiator or group pur-  
11 chaser).”;

12 (2) in subsection (b)—

13 (A) in paragraph (2), by inserting “and  
14 percentage” after “and the aggregate amount”;  
15 and

16 (B) by adding at the end the following new  
17 paragraph:

18 “(4) The amount (in the aggregate and  
19 disaggregated by type) of all fees the PBM or an af-  
20 filiate of the PBM receives from all pharmaceutical  
21 manufacturers in connection with patient utilization  
22 under the plan, and the amount and percentage (in  
23 the aggregate and disaggregated by type) of such  
24 fees that are passed through to the plan sponsor or  
25 issuer.”; and

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

3       “(e) ANNUAL REPORT.—The Secretary shall make  
4 publicly available on the Internet website of the Centers  
5 for Medicare & Medicaid Services an annual report that  
6 summarizes the trends observed with respect to data re-  
7 ported under subsection (b).”.

8       (b) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to plan or contract years beginning  
10 on or after January 1, 2027.

11       (c) IMPLEMENTATION.—Notwithstanding any other  
12 provision of law, the Secretary may implement the amend-  
13 ments made by this section by program instruction or oth-  
14 erwise.

15       (d) NON-APPLICATION OF THE PAPERWORK REDUC-  
16 TION ACT.—Chapter 35 of title 44, United States Code  
17 (commonly referred to as the “Paperwork Reduction Act  
18 of 1995”), shall not apply to the implementation of the  
19 amendments made by this section.

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