118TH CONGRESS
1ST SESSION

S. 2474

To amend title XVIII of the Social Security Act to ensure appropriate cost-sharing for chronic care drugs under Medicare part D.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2023

Mr. CORNYN (for himself, Mr. CARPER, Mr. TILLIS, and Mr. BROWN) 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 ensure appropriate cost-sharing for chronic care drugs under Medicare part D.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Share the Savings with Seniors Act''.

SEC. 2. APPROPRIATE COST-SHARING FOR CHRONIC CARE DRUGS UNDER MEDICARE PART D.

(a) IN GENERAL.—Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), in the matter preceding clause (i), by striking ''and (9)'' and inserting '', (9), and (10)'';

(B) in paragraph (2)(A), in the matter preceding clause (i), by striking ''and (9)'' and inserting '', (9), and (10)''; and

(C) by adding at the end the following new paragraph:

''(10) COST-SHARING FOR CHRONIC CARE DRUGS.—

''(A) IN GENERAL.—For plan years beginning on or after January 1, 2025, in the case of a chronic care drug, the following shall apply:

''(i) For costs below the annual deductible specified in paragraph (1), cost-sharing for such drug shall not exceed the net price of such drug.

''(ii) Subject to subparagraph (B), for costs above the annual deductible specified in paragraph (1) and below the out-of-pocket threshold specified in paragraph (4), any coinsurance amount for such drug

shall be based on a percentage of the net price of such drug.

''(B) EXCEPTION.—The requirement under subparagraph (A)(ii) shall not apply to a chronic care drug under a prescription drug plan if the cost-sharing amount for such drug under such plan is based on a copayment that is not tied to a percentage of a drug price (such as the negotiated price, list price, or wholesale acquisition cost), a drug benchmark price (such as the average wholesale price), or a drug cost.

''(C) DEFINITIONS.—In this paragraph:

''(i) CHRONIC CARE DRUG.—The term 'chronic care drug' means a covered part D drug that is included under any of the following United States Pharmacopeia Convention (USP) categories and classes of drugs, as included in the most recent version of the USP Medicare Model Guidelines:

''(I) Blood glucose regulators, other than insulins.

''(II) Anti-inflammatories, inhaled corticosteroids.

''(III) Bronchodilators, anticholinergic.

''(IV) Bronchodilators, sympathomimetic.

''(V) Respiratory tract agents, other.

''(VI) Anticoagulants.

''(VII) Cardiovascular agents, other.

''(VIII) Any category or class identified by the Secretary or USP as a successor to the categories and classes described in subclauses (I) through (VII) based on the most recent USP Medicare Model Guidelines at the time of such identification.

''(ii) NET PRICE.—The term 'net price' means the negotiated price of the drug net of all price concessions originating from manufacturers that are received or expected to be received by the plan or pharmacy benefit manager on behalf of the plan for such product and that are not already reflected in the negotiated price.''; and

(2) in subsection (c), by adding at the end the following new paragraph:

''(7) COST-SHARING FOR COVERED CHRONIC CARE DRUGS.—The coverage is provided in accordance with subsection (b)(10).''.

(b) CONFORMING AMENDMENTS TO COST-SHARING FOR LOW-INCOME INDIVIDUALS.—Section 1860D–14(a)(1)(D)(iii) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)(iii)) is amended by adding at the end the following new sentence: ''For plan year 2025 and subsequent plan years, the copayment amount applicable under the first sentence of this subclause for a chronic drug (as defined in section 1860D–2(b)(10)(B)) furnished to the individual may not exceed the applicable cost-sharing for such drug under the prescription drug plan or MA–PD plan in which the individual is enrolled.''.

(c) REGULATIONS.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall initially implement the amendments made by this section through interim final regulations.

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