

119TH CONGRESS  
1ST SESSION

# S. 3345

To amend titles XVIII and XIX of the Social Security Act to ensure accurate payments to pharmacies under Medicaid and prevent the use of abusive spread pricing in Medicaid, and to assure pharmacy access and choice for Medicare beneficiaries and modernize and ensure PBM accountability under Medicare.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2025

Mr. CRAPO (for himself, Mr. WYDEN, Mr. GRASSLEY, Mr. BENNET, Mr. CORNYN, Mr. WARNER, Mr. THUNE, Mr. WHITEHOUSE, Mr. CASSIDY, Ms. HASSAN, Mr. LANKFORD, Ms. CORTEZ MASTO, Mr. DAINES, Ms. SMITH, Mr. BARRASSO, Mr. LUJÁN, Mr. TILLIS, Mr. WARNOCK, Mrs. BLACKBURN, Mr. WELCH, and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to ensure accurate payments to pharmacies under Medicaid and prevent the use of abusive spread pricing in Medicaid, and to assure pharmacy access and choice for Medicare beneficiaries and modernize and ensure PBM accountability under Medicare.

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 “PBM Price Trans-  
3 parency and Accountability Act”.

4 **SEC. 2. ENSURING ACCURATE PAYMENTS TO PHARMACIES**  
5 **UNDER MEDICAID AND PREVENTING THE**  
6 **USE OF ABUSIVE SPREAD PRICING IN MED-**  
7 **ICAID.**

8 (a) ENSURING ACCURATE PAYMENTS TO PHAR-  
9 MACIES UNDER MEDICAID.—

10 (1) IN GENERAL.—Section 1927(f) of the Social  
11 Security Act (42 U.S.C. 1396r–8(f)) is amended—

12 (A) in paragraph (1)(A)—

13 (i) by redesignating clause (ii) as  
14 clause (iii); and

15 (ii) by striking “and” after the semi-  
16 colon at the end of clause (i) and all that  
17 precedes it through “(1)” and inserting the  
18 following:

19 “(1) DETERMINING PHARMACY ACTUAL ACQUI-  
20 SITION COSTS.—The Secretary shall conduct a sur-  
21 vey of retail community pharmacy drug prices and  
22 applicable non-retail pharmacy drug prices to deter-  
23 mine national average drug acquisition cost bench-  
24 marks (as such term is defined by the Secretary) as  
25 follows:

1           “(A) USE OF VENDOR.—The Secretary  
2           may contract services for—

3                   “(i) with respect to retail community  
4                   pharmacies, the determination of retail  
5                   survey prices of the national average drug  
6                   acquisition cost for covered outpatient  
7                   drugs that represent a nationwide average  
8                   of consumer purchase prices for such  
9                   drugs, net of all discounts, rebates, and  
10                  other price concessions (to the extent any  
11                  information with respect to such discounts,  
12                  rebates, and other price concessions is  
13                  available) based on a monthly survey of  
14                  such pharmacies;

15                  “(ii) with respect to applicable non-re-  
16                  tail pharmacies—

17                          “(I) the determination of survey  
18                          prices, separate from the survey prices  
19                          described in clause (i), of the non-re-  
20                          tail national average drug acquisition  
21                          cost for covered outpatient drugs that  
22                          represent a nationwide average of con-  
23                          sumer purchase prices for such drugs,  
24                          net of all discounts, rebates, and other  
25                          price concessions (to the extent any

1 information with respect to such dis-  
2 counts, rebates, and other price con-  
3 cessions is available) based on a  
4 monthly survey of such pharmacies;  
5 and

6 “(II) at the discretion of the Sec-  
7 retary, for each type of applicable  
8 non-retail pharmacy, the determina-  
9 tion of survey prices, separate from  
10 the survey prices described in clause  
11 (i) or subclause (I) of this clause, of  
12 the national average drug acquisition  
13 cost for such type of pharmacy for  
14 covered outpatient drugs that rep-  
15 resent a nationwide average of con-  
16 sumer purchase prices for such drugs,  
17 net of all discounts, rebates, and other  
18 price concessions (to the extent any  
19 information with respect to such dis-  
20 counts, rebates, and other price con-  
21 cessions is available) based on a  
22 monthly survey of such pharmacies;  
23 and”;

1 (B) in subparagraph (B) of paragraph (1),  
2 by striking “subparagraph (A)(ii)” and insert-  
3 ing “subparagraph (A)(iii)”;

4 (C) in subparagraph (D) of paragraph (1),  
5 by striking clauses (ii) and (iii) and inserting  
6 the following:

7 “(ii) The vendor must update the Sec-  
8 retary no less often than monthly on the  
9 survey prices for covered outpatient drugs.

10 “(iii) The vendor must differentiate,  
11 in collecting and reporting survey data, for  
12 all cost information collected, whether a  
13 pharmacy is a retail community pharmacy  
14 or an applicable non-retail pharmacy, in-  
15 cluding whether such pharmacy is an affil-  
16 iate (as defined in subsection (k)(13)),  
17 and, in the case of an applicable non-retail  
18 pharmacy, which type of applicable non-re-  
19 tail pharmacy it is using the relevant phar-  
20 macy type indicators included in the guid-  
21 ance required by subsection (a)(4)(A) of  
22 section 2 of the PBM Price Transparency  
23 and Accountability Act.”;

24 (D) by adding at the end of paragraph (1)  
25 the following:

1           “(F) SURVEY REPORTING.—In order to  
2 meet the requirement of section 1902(a)(54), a  
3 State shall require that any retail community  
4 pharmacy or applicable non-retail pharmacy in  
5 the State that receives any payment, reimburse-  
6 ment, administrative fee, discount, rebate, or  
7 other price concession related to the dispensing  
8 of covered outpatient drugs to individuals re-  
9 ceiving benefits under this title, regardless of  
10 whether such payment, reimbursement, admin-  
11 istrative fee, discount, rebate, or other price  
12 concession is received from the State or a man-  
13 aged care entity or other specified entity (as  
14 such terms are defined in section  
15 1903(m)(9)(D)) directly or from a pharmacy  
16 benefit manager or another entity that has a  
17 contract with the State or a managed care enti-  
18 ty or other specified entity (as so defined), shall  
19 respond to surveys conducted under this para-  
20 graph.

21           “(G) SURVEY INFORMATION.—Information  
22 on national drug acquisition prices obtained  
23 under this paragraph shall be made publicly  
24 available in a form and manner to be deter-

1           mined by the Secretary and shall include at  
2           least the following:

3                   “(i) The monthly response rate to the  
4                   survey including a list of pharmacies not in  
5                   compliance with subparagraph (F).

6                   “(ii) The sampling methodology and  
7                   number of pharmacies sampled monthly.

8                   “(iii) Information on price concessions  
9                   to pharmacies, including discounts, re-  
10                  bates, and other price concessions, to the  
11                  extent that such information may be pub-  
12                  licly released and has been collected by the  
13                  Secretary as part of the survey.

14                  “(H) PENALTIES.—

15                   “(i) IN GENERAL.—Subject to clauses  
16                   (ii), (iii), and (iv), the Secretary shall en-  
17                   force the provisions of this paragraph with  
18                   respect to a pharmacy through the estab-  
19                   lishment of civil money penalties applicable  
20                   to a retail community pharmacy or an ap-  
21                   plicable non-retail pharmacy.

22                   “(ii) BASIS FOR PENALTIES.—The  
23                   Secretary shall impose a civil money pen-  
24                   alty established under this subparagraph

1 on a retail community pharmacy or appli-  
2 cable non-retail pharmacy if—

3 “(I) the retail pharmacy or appli-  
4 cable non-retail pharmacy refuses or  
5 otherwise fails to respond to a request  
6 for information about prices in con-  
7 nection with a survey under this sub-  
8 section;

9 “(II) knowingly provides false in-  
10 formation in response to such a sur-  
11 vey; or

12 “(III) otherwise fails to comply  
13 with the requirements established  
14 under this paragraph.

15 “(iii) PARAMETERS FOR PEN-  
16 ALTIES.—

17 “(I) IN GENERAL.—A civil money  
18 penalty established under this sub-  
19 paragraph may be assessed with re-  
20 spect to each violation, and with re-  
21 spect to each non-compliant retail  
22 community pharmacy (including a  
23 pharmacy that is part of a chain) or  
24 non-compliant applicable non-retail  
25 pharmacy (including a pharmacy that

1 is part of a chain), in an amount not  
2 to exceed \$100,000 for each such vio-  
3 lation.

4 “(II) CONSIDERATIONS.—In de-  
5 termining the amount of a civil money  
6 penalty imposed under this subpara-  
7 graph, the Secretary may consider the  
8 size, business structure, and type of  
9 pharmacy involved, as well as the type  
10 of violation and other relevant factors,  
11 as determined appropriate by the Sec-  
12 retary.

13 “(iv) RULE OF APPLICATION.—The  
14 provisions of section 1128A (other than  
15 subsections (a) and (b)) shall apply to a  
16 civil money penalty under this subpara-  
17 graph in the same manner as such provi-  
18 sions apply to a civil money penalty or pro-  
19 ceeding under section 1128A(a).

20 “(I) LIMITATION ON USE OF APPLICABLE  
21 NON-RETAIL PHARMACY PRICING INFORMA-  
22 TION.—No State shall use pricing information  
23 reported by applicable non-retail pharmacies  
24 under subparagraph (A)(ii) to develop or inform

1 payment methodologies for retail community  
2 pharmacies.”;

3 (E) in paragraph (2)—

4 (i) in subparagraph (A), by inserting  
5 “, including payment rates and methodolo-  
6 gies for determining ingredient cost reim-  
7 bursement under managed care entities or  
8 other specified entities (as such terms are  
9 defined in section 1903(m)(9)(D)),” after  
10 “under this title”; and

11 (ii) in subparagraph (B), by inserting  
12 “and the basis for such dispensing fees”  
13 before the semicolon;

14 (F) by redesignating paragraph (4) as  
15 paragraph (5);

16 (G) by inserting after paragraph (3) the  
17 following new paragraph:

18 “(4) OVERSIGHT.—

19 “(A) IN GENERAL.—The Inspector General  
20 of the Department of Health and Human Serv-  
21 ices shall conduct periodic studies of the survey  
22 data reported under this subsection, as appro-  
23 priate, including with respect to substantial  
24 variations in acquisition costs or other applica-  
25 ble costs, as well as with respect to how internal

1 transfer prices and related party transactions  
2 may influence the costs reported by pharmacies  
3 that are affiliates (as defined in subsection  
4 (k)(13)) or are owned by, controlled by, or re-  
5 lated under a common ownership structure with  
6 a wholesaler, distributor, or other entity that  
7 acquires covered outpatient drugs relative to  
8 costs reported by pharmacies not affiliated with  
9 such entities. The Inspector General shall pro-  
10 vide periodic updates to Congress on the results  
11 of such studies, as appropriate, in a manner  
12 that does not disclose trade secrets or other  
13 proprietary information.

14 “(B) APPROPRIATION.—There is appro-  
15 priated to the Inspector General of the Depart-  
16 ment of Health and Human Services, out of  
17 any money in the Treasury not otherwise ap-  
18 propriated, \$5,000,000 for fiscal year 2026, to  
19 remain available until expended, to carry out  
20 this paragraph.”; and

21 (H) in paragraph (5), as so redesignated—

22 (i) by inserting “, and \$9,000,000 for  
23 fiscal year 2026 and each fiscal year there-  
24 after,” after “2010”; and

1 (ii) by inserting “Funds appropriated  
2 under this paragraph for fiscal year 2026  
3 and any subsequent fiscal year shall re-  
4 main available until expended.” after the  
5 period.

6 (2) DEFINITIONS.—Section 1927(k) of the So-  
7 cial Security Act (42 U.S.C. 1396r–8(k)) is amend-  
8 ed—

9 (A) in the matter preceding paragraph (1),  
10 by striking “In the section” and inserting “In  
11 this section”; and

12 (B) by adding at the end the following new  
13 paragraphs:

14 “(12) APPLICABLE NON-RETAIL PHARMACY.—  
15 The term ‘applicable non-retail pharmacy’ means a  
16 pharmacy that is licensed as a pharmacy by the  
17 State and that is not a retail community pharmacy,  
18 including a pharmacy that dispenses prescription  
19 medications to patients primarily through mail and  
20 specialty pharmacies. Such term does not include  
21 nursing home pharmacies, long-term care facility  
22 pharmacies, hospital pharmacies, clinics, charitable  
23 or not-for-profit pharmacies, government phar-  
24 macies, or low dispensing pharmacies (as defined by  
25 the Secretary).

1           “(13) AFFILIATE.—The term ‘affiliate’ means  
2 any entity that is owned by, controlled by, or related  
3 under a common ownership structure with a phar-  
4 macy benefit manager or a managed care entity or  
5 other specified entity (as such terms are defined in  
6 section 1903(m)(9)(D)).”.

7           (3) EFFECTIVE DATE.—

8           (A) IN GENERAL.—Subject to subpara-  
9 graph (B), the amendments made by this sub-  
10 section shall take effect on the first day of the  
11 first quarter that begins on or after the date  
12 that is 6 months after the date of enactment of  
13 this Act.

14           (B) DELAYED APPLICATION TO APPLICA-  
15 BLE NON-RETAIL PHARMACIES.—The pharmacy  
16 survey requirements established by the amend-  
17 ments to section 1927(f) of the Social Security  
18 Act (42 U.S.C. 1396r–8(f)) made by this sub-  
19 section shall apply to retail community phar-  
20 macies beginning on the effective date described  
21 in subparagraph (A), but shall not apply to ap-  
22 plicable non-retail pharmacies until the first  
23 day of the first quarter that begins on or after  
24 the date that is 18 months after the date of en-  
25 actment of this Act.

1 (4) IDENTIFICATION OF APPLICABLE NON-RE-  
2 TAIL PHARMACIES.—

3 (A) IN GENERAL.—Not later than January  
4 1, 2027, the Secretary of Health and Human  
5 Services shall, in consultation with stakeholders  
6 as appropriate, publish guidance specifying  
7 pharmacies that meet the definition of applica-  
8 ble non-retail pharmacies (as such term is de-  
9 fined in subsection (k)(12) of section 1927 of  
10 the Social Security Act (42 U.S.C. 1396r–8), as  
11 added by paragraph (2)), and that will be sub-  
12 ject to the survey requirements under sub-  
13 section (f)(1) of such section, as amended by  
14 paragraph (1).

15 (B) INCLUSION OF PHARMACY TYPE INDI-  
16 CATORS.—The guidance published under sub-  
17 paragraph (A) shall include pharmacy type indi-  
18 cators to distinguish between different types of  
19 applicable non-retail pharmacies, such as phar-  
20 macies that dispense prescriptions primarily  
21 through the mail and pharmacies that dispense  
22 prescriptions that require special handling or  
23 distribution. An applicable non-retail pharmacy  
24 may be identified through multiple pharmacy  
25 type indicators.

1 (5) IMPLEMENTATION.—

2 (A) IN GENERAL.—Notwithstanding any  
3 other provision of law, the Secretary of Health  
4 and Human Services may implement the  
5 amendments made by this subsection by pro-  
6 gram instruction or otherwise.

7 (B) NONAPPLICATION OF ADMINISTRATIVE  
8 PROCEDURE ACT.—Implementation of the  
9 amendments made by this subsection shall be  
10 exempt from the requirements of section 553 of  
11 title 5, United States Code.

12 (6) NONAPPLICATION OF PAPERWORK REDUC-  
13 TION ACT.—Chapter 35 of title 44, United States  
14 Code, shall not apply to any data collection under-  
15 taken by the Secretary of Health and Human Serv-  
16 ices under section 1927(f) of the Social Security Act  
17 (42 U.S.C. 1396r–8(f)), as amended by this sub-  
18 section.

19 (b) PREVENTING THE USE OF ABUSIVE SPREAD  
20 PRICING IN MEDICAID.—

21 (1) IN GENERAL.—Section 1927 of the Social  
22 Security Act (42 U.S.C. 1396r–8) is amended—

23 (A) in subsection (e), by adding at the end  
24 the following new paragraph:

1           “(6) TRANSPARENT PRESCRIPTION DRUG PASS-  
2 THROUGH PRICING REQUIRED.—

3           “(A) IN GENERAL.—A contract between  
4 the State and a pharmacy benefit manager (re-  
5 ferred to in this paragraph as a ‘PBM’), or a  
6 contract between the State and a managed care  
7 entity or other specified entity (as such terms  
8 are defined in section 1903(m)(9)(D) and col-  
9 lectively referred to in this paragraph as the  
10 ‘entity’) that includes provisions making the en-  
11 tity responsible for coverage of covered out-  
12 patient drugs dispensed to individuals enrolled  
13 with the entity, shall require that payment for  
14 such drugs and related administrative services  
15 (as applicable), including payments made by a  
16 PBM on behalf of the State or entity, is based  
17 on a transparent prescription drug pass-  
18 through pricing model under which—

19                   “(i) any payment made by the entity  
20 or the PBM (as applicable) for such a  
21 drug—

22                           “(I) is limited to—

23                                   “(aa) ingredient cost; and

24                                   “(bb) a professional dis-  
25 pensing fee that is not less than

1 the professional dispensing fee  
2 that the State would pay if the  
3 State were making the payment  
4 directly in accordance with the  
5 State plan;

6 “(II) is passed through in its en-  
7 tirety (except as reduced under Fed-  
8 eral or State laws and regulations in  
9 response to instances of waste, fraud,  
10 or abuse) by the entity or PBM to the  
11 pharmacy or provider that dispenses  
12 the drug; and

13 “(III) is made in a manner that  
14 is consistent with sections 447.502,  
15 447.512, 447.514, and 447.518 of  
16 title 42, Code of Federal Regulations  
17 (or any successor regulation) as if  
18 such requirements applied directly to  
19 the entity or the PBM, except that  
20 any payment by the entity or the  
21 PBM for the ingredient cost of such  
22 drug purchased by a covered entity  
23 (as defined in subsection (a)(5)(B))  
24 may exceed the actual acquisition cost  
25 (as defined in 447.502 of title 42,

1 Code of Federal Regulations, or any  
2 successor regulation) for such drug  
3 if—

4 “(aa) such drug was subject  
5 to an agreement under section  
6 340B of the Public Health Serv-  
7 ice Act;

8 “(bb) such payment for the  
9 ingredient cost of such drug does  
10 not exceed the maximum pay-  
11 ment that would have been made  
12 by the entity or the PBM for the  
13 ingredient cost of such drug if  
14 such drug had not been pur-  
15 chased by such covered entity;  
16 and

17 “(cc) such covered entity re-  
18 ports to the Secretary (in a form  
19 and manner specified by the Sec-  
20 retary), on an annual basis and  
21 with respect to payments for the  
22 ingredient costs of such drugs so  
23 purchased by such covered entity  
24 that are in excess of the actual  
25 acquisition costs for such drugs,

1 the aggregate amount of such ex-  
2 cess;

3 “(ii) payment to the entity or the  
4 PBM (as applicable) for administrative  
5 services performed by the entity or PBM is  
6 limited to an administrative fee that re-  
7 flects the fair market value (as defined by  
8 the Secretary) of such services;

9 “(iii) the entity or the PBM (as appli-  
10 cable) makes available to the State, and  
11 the Secretary upon request in a form and  
12 manner specified by the Secretary, all costs  
13 and payments related to covered outpatient  
14 drugs and accompanying administrative  
15 services (as described in clause (ii)) in-  
16 curred, received, or made by the entity or  
17 the PBM, broken down (as specified by the  
18 Secretary), to the extent such costs and  
19 payments are attributable to an individual  
20 covered outpatient drug, by each such  
21 drug, including any ingredient costs, pro-  
22 fessional dispensing fees, administrative  
23 fees (as described in clause (ii)), post-sale  
24 and post-invoice fees, discounts, or related  
25 adjustments such as direct and indirect re-

1           muneration fees, and any and all other re-  
2           muneration, as defined by the Secretary;  
3           and

4           “(iv) any form of spread pricing  
5           whereby any amount charged or claimed by  
6           the entity or the PBM (as applicable) that  
7           exceeds the amount paid to the pharmacies  
8           or providers on behalf of the State or enti-  
9           ty, including any post-sale or post-invoice  
10          fees, discounts, or related adjustments  
11          such as direct and indirect remuneration  
12          fees or assessments, as defined by the Sec-  
13          retary (after allowing for an administrative  
14          fee as described in clause (ii)) is not allow-  
15          able for purposes of claiming Federal  
16          matching payments under this title.

17          “(B) PUBLICATION OF INFORMATION.—

18          The Secretary shall publish, not less frequently  
19          than on an annual basis and in a manner that  
20          does not disclose the identity of a particular  
21          covered entity or organization, information re-  
22          ceived by the Secretary pursuant to subpara-  
23          graph (A)(iii)(III) that is broken out by State  
24          and by each of the following categories of cov-  
25          ered entity within each such State:

1 “(i) Covered entities described in sub-  
2 paragraph (A) of section 340B(a)(4) of the  
3 Public Health Service Act.

4 “(ii) Covered entities described in sub-  
5 paragraphs (B) through (K) of such sec-  
6 tion.

7 “(iii) Covered entities described in  
8 subparagraph (L) of such section.

9 “(iv) Covered entities described in  
10 subparagraph (M) of such section.

11 “(v) Covered entities described in sub-  
12 paragraph (N) of such section.

13 “(vi) Covered entities described in  
14 subparagraph (O) of such section.”; and

15 (B) in subsection (k), as amended by sub-  
16 section (a)(2), by adding at the end the fol-  
17 lowing new paragraph:

18 “(14) PHARMACY BENEFIT MANAGER.—The  
19 term ‘pharmacy benefit manager’ means any person  
20 or entity that, either directly or through an inter-  
21 mediary, acts as a price negotiator or group pur-  
22 chaser on behalf of a State, managed care entity (as  
23 defined in section 1903(m)(9)(D)), or other specified  
24 entity (as so defined), or manages the prescription  
25 drug benefits provided by a State, managed care en-

1       tity, or other specified entity, including the proc-  
2       essing and payment of claims for prescription drugs,  
3       the performance of drug utilization review, the proc-  
4       essing of drug prior authorization requests, the man-  
5       aging of appeals or grievances related to the pre-  
6       scription drug benefits, contracting with pharmacies,  
7       controlling the cost of covered outpatient drugs, or  
8       the provision of services related thereto. Such term  
9       includes any person or entity that acts as a price ne-  
10      gotiator (with regard to payment amounts to phar-  
11      macies and providers for a covered outpatient drug  
12      or the net cost of the drug) or group purchaser on  
13      behalf of a State, managed care entity, or other  
14      specified entity or that carries out 1 or more of the  
15      other activities described in the preceding sentence,  
16      irrespective of whether such person or entity calls  
17      itself a pharmacy benefit manager.”.

18               (2)    CONFORMING    AMENDMENTS.—Section  
19      1903(m) of such Act (42 U.S.C. 1396b(m)) is  
20      amended—

21                   (A) in paragraph (2)(A)(xiii)—

22                           (i) by striking “and (III)” and insert-  
23                           ing “(III)”;

24                           (ii) by inserting before the period at  
25                           the end the following: “, and (IV) if the

1 contract includes provisions making the en-  
2 tity responsible for coverage of covered  
3 outpatient drugs, the entity shall comply  
4 with the requirements of section  
5 1927(e)(6)”; and

6 (iii) by moving the margin 2 ems to  
7 the left; and

8 (B) by adding at the end the following new  
9 paragraph:

10 “(10) No payment shall be made under this  
11 title to a State with respect to expenditures incurred  
12 by the State for payment for services provided by an  
13 other specified entity (as defined in paragraph  
14 (9)(D)(iii)) unless such services are provided in ac-  
15 cordance with a contract between the State and such  
16 entity which satisfies the requirements of paragraph  
17 (2)(A)(xiii).”.

18 (3) EFFECTIVE DATE.—The amendments made  
19 by this subsection shall apply to contracts between  
20 States and managed care entities, other specified en-  
21 tities, or pharmacy benefit managers that have an  
22 effective date beginning on or after the date that is  
23 18 months after the date of enactment of this Act.

24 (4) IMPLEMENTATION.—

1 (A) IN GENERAL.—Notwithstanding any  
 2 other provision of law, the Secretary of Health  
 3 and Human Services may implement the  
 4 amendments made by this subsection by pro-  
 5 gram instruction or otherwise.

6 (B) NONAPPLICATION OF ADMINISTRATIVE  
 7 PROCEDURE ACT.—Implementation of the  
 8 amendments made by this subsection shall be  
 9 exempt from the requirements of section 553 of  
 10 title 5, United States Code.

11 (5) NONAPPLICATION OF PAPERWORK REDUC-  
 12 TION ACT.—Chapter 35 of title 44, United States  
 13 Code, shall not apply to any data collection under-  
 14 taken by the Secretary of Health and Human Serv-  
 15 ices under section 1927(e) of the Social Security Act  
 16 (42 U.S.C. 1396r–8(e)), as amended by this sub-  
 17 section.

18 **SEC. 3. ASSURING PHARMACY ACCESS AND CHOICE FOR**  
 19 **MEDICARE BENEFICIARIES AND MODERN-**  
 20 **IZING AND ENSURING PBM ACCOUNTABILITY**  
 21 **UNDER MEDICARE.**

22 (a) ASSURING PHARMACY ACCESS AND CHOICE FOR  
 23 MEDICARE BENEFICIARIES.—

24 (1) IN GENERAL.—Section 1860D–4(b)(1) of  
 25 the Social Security Act (42 U.S.C. 1395w–

1 104(b)(1)) is amended by striking subparagraph (A)  
2 and inserting the following:

3 “(A) IN GENERAL.—

4 “(i) PARTICIPATION OF ANY WILLING  
5 PHARMACY.—A PDP sponsor offering a  
6 prescription drug plan shall permit any  
7 pharmacy that meets the standard contract  
8 terms and conditions under such plan to  
9 participate as a network pharmacy of such  
10 plan.

11 “(ii) CONTRACT TERMS AND CONDI-  
12 TIONS.—

13 “(I) IN GENERAL.—Notwith-  
14 standing any other provision of law,  
15 for plan years beginning on or after  
16 January 1, 2028, in accordance with  
17 clause (i), contract terms and condi-  
18 tions offered by such PDP sponsor  
19 shall be reasonable and relevant ac-  
20 cording to standards established by  
21 the Secretary under subclause (II).

22 “(II) STANDARDS.—Not later  
23 than the first Monday in April of  
24 2027, the Secretary shall establish  
25 standards for reasonable and relevant

1 contract terms and conditions for pur-  
2 poses of this clause.

3 “(III) REQUEST FOR INFORMA-  
4 TION.—Not later than April 1, 2026,  
5 for purposes of establishing the stand-  
6 ards under subclause (II), the Sec-  
7 retary shall issue a request for infor-  
8 mation to seek input on trends in pre-  
9 scription drug plan and network phar-  
10 macy contract terms and conditions,  
11 current prescription drug plan and  
12 network pharmacy contracting prac-  
13 tices, whether pharmacy reimburse-  
14 ment and dispensing fees paid by  
15 PDP sponsors to network pharmacies  
16 sufficiently cover the ingredient and  
17 operational costs of such pharmacies,  
18 the use and application of pharmacy  
19 quality measures by PDP sponsors for  
20 network pharmacies, PDP sponsor re-  
21 strictions or limitations on the dis-  
22 pensing of covered part D drugs by  
23 network pharmacies (or any subsets of  
24 such pharmacies), PDP sponsor au-  
25 diting practices for network phar-

1                   macies, areas in current regulations or  
2                   program guidance related to con-  
3                   tracting between prescription drug  
4                   plans and network pharmacies requir-  
5                   ing clarification or additional speci-  
6                   ficity, factors for consideration in de-  
7                   termining the reasonableness and rel-  
8                   evance of contract terms and condi-  
9                   tions between prescription drug plans  
10                  and network pharmacies, and other  
11                  issues as determined appropriate by  
12                  the Secretary.”.

13                  (2) ESSENTIAL RETAIL PHARMACIES.—Section  
14                  1860D–42 of the Social Security Act (42 U.S.C.  
15                  1395w–152) is amended by adding at the end the  
16                  following new subsection:

17                  “(e) ESSENTIAL RETAIL PHARMACIES.—

18                         “(1) IN GENERAL.—With respect to plan years  
19                         beginning on or after January 1, 2028, the Sec-  
20                         retary shall publish reports, at least once every 2  
21                         years until 2034, and periodically thereafter, that  
22                         provide information, to the extent feasible, on—

23                                 “(A) trends in ingredient cost reimburse-  
24                                 ment, dispensing fees, incentive payments and  
25                                 other fees paid by PDP sponsors offering pre-

1            prescription drug plans and MA organizations of-  
2            fering MA–PD plans under this part to essen-  
3            tial retail pharmacies (as defined in paragraph  
4            (2)) with respect to the dispensing of covered  
5            part D drugs, including a comparison of such  
6            trends between essential retail pharmacies and  
7            pharmacies that are not essential retail phar-  
8            macies;

9                  “(B) trends in amounts paid to PDP spon-  
10            sors offering prescription drug plans and MA  
11            organizations offering MA–PD plans under this  
12            part by essential retail pharmacies with respect  
13            to the dispensing of covered part D drugs, in-  
14            cluding a comparison of such trends between  
15            essential retail pharmacies and pharmacies that  
16            are not essential retail pharmacies;

17                  “(C) trends in essential retail pharmacy  
18            participation in pharmacy networks and pre-  
19            ferred pharmacy networks for prescription drug  
20            plans offered by PDP sponsors and MA–PD  
21            plans offered by MA organizations under this  
22            part, including a comparison of such trends be-  
23            tween essential retail pharmacies and phar-  
24            macies that are not essential retail pharmacies;

1           “(D) trends in the number of essential re-  
2 tail pharmacies, including variation in such  
3 trends by geographic region or other factors;

4           “(E) a comparison of cost-sharing for cov-  
5 ered part D drugs dispensed by essential retail  
6 pharmacies that are network pharmacies for  
7 prescription drug plans offered by PDP spon-  
8 sors and MA–PD plans offered by MA organi-  
9 zations under this part and cost-sharing for  
10 covered part D drugs dispensed by other net-  
11 work pharmacies for such plans located in simi-  
12 lar geographic areas that are not essential retail  
13 pharmacies;

14           “(F) a comparison of the volume of cov-  
15 ered part D drugs dispensed by essential retail  
16 pharmacies that are network pharmacies for  
17 prescription drug plans offered by PDP spon-  
18 sors and MA–PD plans offered by MA organi-  
19 zations under this part and such volume of dis-  
20 pensing by network pharmacies for such plans  
21 located in similar geographic areas that are not  
22 essential retail pharmacies, including informa-  
23 tion on any patterns or trends in such compari-  
24 son specific to certain types of covered part D  
25 drugs, such as generic drugs or drugs specified

1 as specialty drugs by a PDP sponsor under a  
2 prescription drug plan or an MA organization  
3 under an MA–PD plan; and

4 “(G) a comparison of the information de-  
5 scribed in subparagraphs (A) through (F) be-  
6 tween essential retail pharmacies that are net-  
7 work pharmacies for prescription drug plans of-  
8 fered by PDP sponsors under this part and es-  
9 sential retail pharmacies that are network phar-  
10 macies for MA–PD plans offered by MA organi-  
11 zations under this part.

12 “(2) DEFINITION OF ESSENTIAL RETAIL PHAR-  
13 MACY.—In this subsection, the term ‘essential retail  
14 pharmacy’ means, with respect to a plan year, a re-  
15 tail pharmacy that—

16 “(A) is not a pharmacy that is an affiliate  
17 as defined in paragraph (4); and

18 “(B) is located in—

19 “(i) a rural area in which there is no  
20 other retail pharmacy within 10 miles, as  
21 determined by the Secretary;

22 “(ii) a suburban area in which there  
23 is no other retail pharmacy within 2 miles,  
24 as determined by the Secretary; or

1                   “(iii) an urban area in which there is  
2                   no other retail pharmacy within 1 mile, as  
3                   determined by the Secretary.

4                   “(3) LIST OF ESSENTIAL RETAIL PHAR-  
5                   MACIES.—

6                   “(A) PUBLICATION OF LIST OF ESSENTIAL  
7                   RETAIL PHARMACIES.—For each plan year (be-  
8                   ginning with plan year 2028), the Secretary  
9                   shall publish, on a publicly available internet  
10                  website of the Centers for Medicare & Medicaid  
11                  Services, a list of pharmacies that meet the cri-  
12                  teria described in subparagraphs (A) and (B) of  
13                  paragraph (2) to be considered an essential re-  
14                  tail pharmacy.

15                  “(B) REQUIRED SUBMISSIONS FROM PDP  
16                  SPONSORS.—For each plan year (beginning  
17                  with plan year 2028), each PDP sponsor offer-  
18                  ing a prescription drug plan and each MA orga-  
19                  nization offering an MA–PD plan shall submit  
20                  to the Secretary, for the purposes of deter-  
21                  mining retail pharmacies that meet the criterion  
22                  specified in subparagraph (A) of paragraph (2),  
23                  a list of retail pharmacies that are affiliates of  
24                  such sponsor or organization, or are affiliates of  
25                  a pharmacy benefit manager acting on behalf of

1 such sponsor or organization, at a time, and in  
2 a form and manner, specified by the Secretary.

3 “(C) REPORTING BY PDP SPONSORS AND  
4 MA ORGANIZATIONS.—For each plan year be-  
5 ginning with plan year 2027, each PDP sponsor  
6 offering a prescription drug plan and each MA  
7 organization offering an MA–PD plan under  
8 this part shall submit to the Secretary informa-  
9 tion on incentive payments and other fees paid  
10 by such sponsor or organization to pharmacies,  
11 insofar as any such payments or fees are not  
12 otherwise reported, at a time, and in a form  
13 and manner, specified by the Secretary.

14 “(D) IMPLEMENTATION.—Notwithstanding  
15 any other provision of law, the Secretary may  
16 implement this paragraph by program instruc-  
17 tion or otherwise.

18 “(E) NONAPPLICATION OF PAPERWORK  
19 REDUCTION ACT.—Chapter 35 of title 44,  
20 United States Code, shall not apply to the im-  
21 plementation of this paragraph.

22 “(4) DEFINITION OF AFFILIATE; PHARMACY  
23 BENEFIT MANAGER.—In this subsection, the terms  
24 ‘affiliate’ and ‘pharmacy benefit manager’ have the

1 meaning given those terms in section 1860D–  
2 12(h)(7).”.

3 (3) ENFORCEMENT.—

4 (A) IN GENERAL.—Section 1860D–4(b)(1)  
5 of the Social Security Act (42 U.S.C. 1395w–  
6 104(b)(1)) is amended by adding at the end the  
7 following new subparagraph:

8 “(F) ENFORCEMENT OF STANDARDS FOR  
9 REASONABLE AND RELEVANT CONTRACT TERMS  
10 AND CONDITIONS.—

11 “(i) ALLEGATION SUBMISSION PROC-  
12 ESS.—

13 “(I) IN GENERAL.—Not later  
14 than January 1, 2028, the Secretary  
15 shall establish a process through  
16 which a pharmacy may submit to the  
17 Secretary an allegation of a violation  
18 by a PDP sponsor offering a prescrip-  
19 tion drug plan of the standards for  
20 reasonable and relevant contract  
21 terms and conditions under subpara-  
22 graph (A)(ii), or of subclause (VIII)  
23 of this clause.

24 “(II) FREQUENCY OF SUBMIS-  
25 SION.—

1                   “(aa) IN GENERAL.—Except  
2 as provided in item (bb), the alle-  
3 gation submission process under  
4 this clause shall allow pharmacies  
5 to submit any allegations of vio-  
6 lations described in subclause (I)  
7 not more frequently than once  
8 per plan year per contract be-  
9 tween a pharmacy and a PDP  
10 sponsor.

11                   “(bb) ALLEGATIONS RELAT-  
12 ING TO CONTRACT MODIFICA-  
13 TIONS.—In the case where a con-  
14 tract between a pharmacy and a  
15 PDP sponsor is modified fol-  
16 lowing the submission of allega-  
17 tions by a pharmacy with respect  
18 to such contract and plan year,  
19 the allegation submission process  
20 under this clause shall allow such  
21 pharmacy to submit an additional  
22 allegation related to those modi-  
23 fications with respect to such  
24 contract and plan year.

1                   “(III) ACCESS TO RELEVANT  
2 DOCUMENTS AND MATERIALS.—A  
3 PDP sponsor subject to an allegation  
4 under this clause—

5                   “(aa) shall provide docu-  
6 ments or materials, as specified  
7 by the Secretary, including con-  
8 tract offers made by such spon-  
9 sor to such pharmacy or cor-  
10 respondence related to such of-  
11 fers, to the Secretary at a time,  
12 and in a form and manner, speci-  
13 fied by the Secretary; and

14                   “(bb) shall not prohibit or  
15 otherwise limit the ability of a  
16 pharmacy to submit such docu-  
17 ments or materials to the Sec-  
18 retary for the purpose of submit-  
19 ting an allegation or providing  
20 evidence for such an allegation  
21 under this clause.

22                   “(IV) STANDARDIZED TEM-  
23 PLATE.—The Secretary shall establish  
24 a standardized template for phar-  
25 macies to use for the submission of al-

1           legations described in subclause (I).  
2           Such template shall require that the  
3           submission include a certification by  
4           the pharmacy that the information in-  
5           cluded is accurate, complete, and true  
6           to the best of the knowledge, informa-  
7           tion, and belief of such pharmacy.

8           “(V) PREVENTING FRIVOLOUS  
9           ALLEGATIONS.—In the case where the  
10          Secretary determines that a pharmacy  
11          has submitted frivolous allegations  
12          under this clause on a routine basis,  
13          the Secretary may temporarily pro-  
14          hibit such pharmacy from using the  
15          allegation submission process under  
16          this clause, as determined appropriate  
17          by the Secretary.

18          “(VI) EXEMPTION FROM FREE-  
19          DOM OF INFORMATION ACT.—Allega-  
20          tions submitted under this clause shall  
21          be exempt from disclosure under sec-  
22          tion 552 of title 5, United States  
23          Code.

24          “(VII) RULE OF CONSTRUC-  
25          TION.—Nothing in this clause shall be

1 construed as limiting the ability of a  
2 pharmacy to pursue other legal ac-  
3 tions or remedies, consistent with ap-  
4 plicable Federal or State law, with re-  
5 spect to a potential violation of a re-  
6 quirement described in this subpara-  
7 graph.

8 “(VIII) ANTI-RETALIATION AND  
9 ANTI-COERCION.—Consistent with ap-  
10 plicable Federal or State law, a PDP  
11 sponsor shall not—

12 “(aa) retaliate against a  
13 pharmacy for submitting any al-  
14 legations under this clause; or

15 “(bb) coerce, intimidate,  
16 threaten, or interfere with the  
17 ability of a pharmacy to submit  
18 any such allegations.

19 “(ii) INVESTIGATION.—The Secretary  
20 shall investigate, as determined appro-  
21 priate by the Secretary, allegations sub-  
22 mitted pursuant to clause (i).

23 “(iii) ENFORCEMENT.—

24 “(I) IN GENERAL.—In the case  
25 where the Secretary determines that a

1 PDP sponsor offering a prescription  
2 drug plan has violated the standards  
3 for reasonable and relevant contract  
4 terms and conditions under subpara-  
5 graph (A)(ii), the Secretary may use  
6 authorities under sections 1857(g)  
7 and 1860D–12(b)(3)(E) to impose  
8 civil monetary penalties or other inter-  
9 mediate sanctions.

10 “(II) APPLICATION OF CIVIL  
11 MONETARY PENALTIES.—The provi-  
12 sions of section 1128A (other than  
13 subsections (a) and (b)) shall apply to  
14 a civil monetary penalty under this  
15 clause in the same manner as such  
16 provisions apply to a penalty or pro-  
17 ceeding under section 1128A(a).”.

18 (B) CONFORMING AMENDMENT.—Section  
19 1857(g)(1) of the Social Security Act (42  
20 U.S.C. 1395w–27(g)(1)) is amended—

- 21 (i) in subparagraph (J), by striking  
22 “or” after the semicolon;  
23 (ii) by redesignating subparagraph  
24 (K) as subparagraph (L);

1 (iii) by inserting after subparagraph  
2 (J), the following new subparagraph:

3 “(K) fails to comply with the standards for  
4 reasonable and relevant contract terms and con-  
5 ditions under subparagraph (A)(ii) of section  
6 1860D–4(b)(1); or”;

7 (iv) in subparagraph (L), as redesign-  
8 nated by clause (ii), by striking “through  
9 (J)” and inserting “through (K)”; and

10 (v) in the flush matter following sub-  
11 paragraph (L), as so redesignated, by  
12 striking “subparagraphs (A) through (K)”  
13 and inserting “subparagraphs (A) through  
14 (L)”.

15 (4) ACCOUNTABILITY OF PHARMACY BENEFIT  
16 MANAGERS FOR VIOLATIONS OF REASONABLE AND  
17 RELEVANT CONTRACT TERMS AND CONDITIONS.—

18 (A) IN GENERAL.—Section 1860D–12(b)  
19 of the Social Security Act (42 U.S.C. 1395w–  
20 112) is amended by adding at the end the fol-  
21 lowing new paragraph:

22 “(9) ACCOUNTABILITY OF PHARMACY BENEFIT  
23 MANAGERS FOR VIOLATIONS OF REASONABLE AND  
24 RELEVANT CONTRACT TERMS AND CONDITIONS.—

25 For plan years beginning on or after January 1,

1 2028, each contract entered into with a PDP spon-  
2 sor under this part with respect to a prescription  
3 drug plan offered by such sponsor shall provide that  
4 any pharmacy benefit manager acting on behalf of  
5 such sponsor has a written agreement with the PDP  
6 sponsor under which the pharmacy benefit manager  
7 agrees to reimburse the PDP sponsor for any  
8 amounts paid by such sponsor under section 1860D–  
9 4(b)(1)(F)(iii)(I) to the Secretary as a result of a  
10 violation described in such section if such violation  
11 is related to a responsibility delegated to the phar-  
12 macy benefit manager by such PDP sponsor.”.

13 (B) MA–PD PLANS.—Section 1857(f)(3)  
14 of the Social Security Act (42 U.S.C. 1395w–  
15 27(f)(3)) is amended by adding at the end the  
16 following new subparagraph:

17 “(F) ACCOUNTABILITY OF PHARMACY  
18 BENEFIT MANAGERS FOR VIOLATIONS OF REA-  
19 SONABLE AND RELEVANT CONTRACT TERMS.—  
20 For plan years beginning on or after January  
21 1, 2028, section 1860D–12(b)(9).”.

22 (5) BIENNIAL REPORT ON ENFORCEMENT AND  
23 OVERSIGHT OF PHARMACY ACCESS REQUIRE-  
24 MENTS.—Section 1860D–42 of the Social Security  
25 Act (42 U.S.C. 1395w–152), as amended by para-

1 graph (2), is amended by adding at the end the fol-  
2 lowing new subsection:

3 “(f) BIENNIAL REPORT ON ENFORCEMENT AND  
4 OVERSIGHT OF PHARMACY ACCESS REQUIREMENTS.—

5 “(1) IN GENERAL.—Not later than 2 years  
6 after the date of enactment of this subsection, and  
7 at least once every 2 years thereafter, the Secretary  
8 shall publish a report on enforcement and oversight  
9 actions and activities undertaken by the Secretary  
10 with respect to the requirements under section  
11 1860D–4(b)(1).

12 “(2) LIMITATION.—A report under paragraph  
13 (1) shall not disclose—

14 “(A) identifiable information about individ-  
15 uals or entities unless such information is oth-  
16 erwise publicly available; or

17 “(B) trade secrets with respect to any enti-  
18 ties.”.

19 (6) FUNDING.—In addition to amounts other-  
20 wise available, there is appropriated to the Centers  
21 for Medicare & Medicaid Services Program Manage-  
22 ment Account, out of any money in the Treasury not  
23 otherwise appropriated, \$188,000,000 for fiscal year  
24 2026, to remain available until expended, to carry  
25 out this subsection.

1 (b) MODERNIZING AND ENSURING PBM ACCOUNT-  
2 ABILITY.—

3 (1) IN GENERAL.—

4 (A) PRESCRIPTION DRUG PLANS.—Section  
5 1860D–12 of the Social Security Act (42  
6 U.S.C. 1395w–112) is amended by adding at  
7 the end the following new subsection:

8 “(h) REQUIREMENTS RELATING TO PHARMACY BEN-  
9 EFIT MANAGERS.—For plan years beginning on or after  
10 January 1, 2028:

11 “(1) AGREEMENTS WITH PHARMACY BENEFIT  
12 MANAGERS.—Each contract entered into with a  
13 PDP sponsor under this part with respect to a pre-  
14 scription drug plan offered by such sponsor shall  
15 provide that any pharmacy benefit manager acting  
16 on behalf of such sponsor has a written agreement  
17 with the PDP sponsor under which the pharmacy  
18 benefit manager, and any affiliates of such phar-  
19 macy benefit manager, as applicable, agree to meet  
20 the following requirements:

21 “(A) NO INCOME OTHER THAN BONA FIDE  
22 SERVICE FEES.—

23 “(i) IN GENERAL.—The pharmacy  
24 benefit manager and any affiliate of such  
25 pharmacy benefit manager shall not derive

1 any remuneration with respect to any serv-  
2 ices provided on behalf of any entity or in-  
3 dividual, in connection with the utilization  
4 of covered part D drugs, from any such en-  
5 tity or individual other than bona fide serv-  
6 ice fees, subject to clauses (ii) and (iii).

7 “(ii) INCENTIVE PAYMENTS.—For the  
8 purposes of this subsection, an incentive  
9 payment (as determined by the Secretary)  
10 paid by a PDP sponsor to a pharmacy  
11 benefit manager that is performing serv-  
12 ices on behalf of such sponsor shall be  
13 deemed a ‘bona fide service fee’ (even if  
14 such payment does not otherwise meet the  
15 definition of such term under paragraph  
16 (7)(B)) if such payment is a flat dollar  
17 amount, is consistent with fair market  
18 value (as specified by the Secretary), is re-  
19 lated to services actually performed by the  
20 pharmacy benefit manager or affiliate of  
21 such pharmacy benefit manager, on behalf  
22 of the PDP sponsor making such payment,  
23 in connection with the utilization of cov-  
24 ered part D drugs, and meets additional

1 requirements, if any, as determined appro-  
2 priate by the Secretary.

3 “(iii) CLARIFICATION ON REBATES  
4 AND DISCOUNTS USED TO LOWER COSTS  
5 FOR COVERED PART D DRUGS.—Rebates,  
6 discounts, and other price concessions re-  
7 ceived by a pharmacy benefit manager or  
8 an affiliate of a pharmacy benefit manager  
9 from manufacturers, even if such price  
10 concessions are calculated as a percentage  
11 of a drug’s price, shall not be considered a  
12 violation of the requirements of clause (i)  
13 if they are fully passed through to a PDP  
14 sponsor and are compliant with all regu-  
15 latory and subregulatory requirements re-  
16 lated to direct and indirect remuneration  
17 for manufacturer rebates under this part,  
18 including in cases where a PDP sponsor is  
19 acting as a pharmacy benefit manager on  
20 behalf of a prescription drug plan offered  
21 by such PDP sponsor.

22 “(iv) EVALUATION OF REMUNERATION  
23 ARRANGEMENTS.—Components of subsets  
24 of remuneration arrangements (such as  
25 fees or other forms of compensation paid

1 to or retained by the pharmacy benefit  
2 manager or affiliate of such pharmacy ben-  
3 efit manager), as determined appropriate  
4 by the Secretary, between pharmacy ben-  
5 efit managers or affiliates of such phar-  
6 macy benefit managers, as applicable, and  
7 other entities involved in the dispensing or  
8 utilization of covered part D drugs (includ-  
9 ing PDP sponsors, manufacturers, phar-  
10 macies, and other entities as determined  
11 appropriate by the Secretary) shall be sub-  
12 ject to review by the Secretary, in con-  
13 sultation with the Office of the Inspector  
14 General of the Department of Health and  
15 Human Services, as determined appro-  
16 priate by the Secretary. The Secretary, in  
17 consultation with the Office of the Inspec-  
18 tor General, shall review whether remu-  
19 neration under such arrangements is con-  
20 sistent with fair market value (as specified  
21 by the Secretary) through reviews and as-  
22 sessments of such remuneration, as deter-  
23 mined appropriate.

24 “(v) DISGORGEMENT.—The pharmacy  
25 benefit manager shall disgorge any remu-

1           neration paid to such pharmacy benefit  
2           manager or an affiliate of such pharmacy  
3           benefit manager in violation of this sub-  
4           paragraph to the PDP sponsor.

5           “(vi) ADDITIONAL REQUIREMENTS.—

6           The pharmacy benefit manager shall—

7                   “(I) enter into a written agree-  
8                   ment with any affiliate of such phar-  
9                   macy benefit manager, under which  
10                   the affiliate shall identify and disgorge  
11                   any remuneration described in clause  
12                   (v) to the pharmacy benefit manager;  
13                   and

14                   “(II) attest, subject to any re-  
15                   quirements determined appropriate by  
16                   the Secretary, that the pharmacy ben-  
17                   efit manager has entered into a writ-  
18                   ten agreement described in subclause  
19                   (I) with any relevant affiliate of the  
20                   pharmacy benefit manager.

21           “(B) TRANSPARENCY REGARDING GUARAN-  
22           TEES AND COST PERFORMANCE EVALUA-  
23           TIONS.—The pharmacy benefit manager shall—

24                   “(i) define, interpret, and apply, in a  
25                   fully transparent and consistent manner

1 for purposes of calculating or otherwise  
2 evaluating pharmacy benefit manager per-  
3 formance against pricing guarantees or  
4 similar cost performance measurements re-  
5 lated to rebates, discounts, price conces-  
6 sions, or net costs, terms such as—

7 “(I) ‘generic drug’, in a manner  
8 consistent with the definition of the  
9 term under section 423.4 of title 42,  
10 Code of Federal Regulations, or a suc-  
11 cessor regulation;

12 “(II) ‘brand name drug’, in a  
13 manner consistent with the definition  
14 of the term under section 423.4 of  
15 title 42, Code of Federal Regulations,  
16 or a successor regulation;

17 “(III) ‘specialty drug’;

18 “(IV) ‘rebate’; and

19 “(V) ‘discount’;

20 “(ii) identify any drugs, claims, or  
21 price concessions excluded from any pric-  
22 ing guarantee or other cost performance  
23 measure in a clear and consistent manner;  
24 and

1 “(iii) where a pricing guarantee or  
2 other cost performance measure is based  
3 on a pricing benchmark other than the  
4 wholesale acquisition cost (as defined in  
5 section 1847A(e)(6)(B)) of a drug, cal-  
6 culate and provide a wholesale acquisition  
7 cost-based equivalent to the pricing guar-  
8 antee or other cost performance measure.

9 “(C) PROVISION OF INFORMATION.—

10 “(i) IN GENERAL.—Not later than  
11 July 1 of each year, beginning in 2028, the  
12 pharmacy benefit manager shall submit to  
13 the PDP sponsor, and to the Secretary, a  
14 report, in accordance with this subpara-  
15 graph, and shall make such report avail-  
16 able to such sponsor at no cost to such  
17 sponsor in a format specified by the Sec-  
18 retary under paragraph (5). Each such re-  
19 port shall include, with respect to such  
20 PDP sponsor and each plan offered by  
21 such sponsor, the following information  
22 with respect to the previous plan year:

23 “(I) A list of all drugs covered by  
24 the plan that were dispensed includ-  
25 ing, with respect to each such drug—

1           “(aa) the brand name, ge-  
2           neric or non-proprietary name,  
3           and National Drug Code;

4           “(bb) the number of plan  
5           enrollees for whom the drug was  
6           dispensed, the total number of  
7           prescription claims for the drug  
8           (including original prescriptions  
9           and refills, counted as separate  
10          claims), and the total number of  
11          dosage units of the drug dis-  
12          pensed;

13          “(cc) the number of pre-  
14          scription claims described in item  
15          (bb) by each type of dispensing  
16          channel through which the drug  
17          was dispensed, including retail,  
18          mail order, specialty pharmacy,  
19          long term care pharmacy, home  
20          infusion pharmacy, or other types  
21          of pharmacies or providers;

22          “(dd) the average wholesale  
23          acquisition cost, listed as cost per  
24          day’s supply, cost per dosage

1 unit, and cost per typical course  
2 of treatment (as applicable);

3 “(ee) the average wholesale  
4 price for the drug, listed as price  
5 per day’s supply, price per dos-  
6 age unit, and price per typical  
7 course of treatment (as applica-  
8 ble);

9 “(ff) the total out-of-pocket  
10 spending by plan enrollees on  
11 such drug after application of  
12 any benefits under the plan, in-  
13 cluding plan enrollee spending  
14 through copayments, coinsurance,  
15 and deductibles;

16 “(gg) total rebates paid by  
17 the manufacturer on the drug as  
18 reported under the Detailed DIR  
19 Report (or any successor report)  
20 submitted by such sponsor to the  
21 Centers for Medicare & Medicaid  
22 Services;

23 “(hh) all other direct or in-  
24 direct remuneration on the drug  
25 as reported under the Detailed

1 DIR Report (or any successor re-  
2 port) submitted by such sponsor  
3 to the Centers for Medicare &  
4 Medicaid Services;

5 “(ii) the average pharmacy  
6 reimbursement amount paid by  
7 the plan for the drug in the ag-  
8 gregate and disaggregated by dis-  
9 pensing channel identified in item  
10 (cc);

11 “(jj) the average National  
12 Average Drug Acquisition Cost  
13 (NADAC); and

14 “(kk) total manufacturer-de-  
15 rived revenue, inclusive of bona  
16 fide service fees, attributable to  
17 the drug and retained by the  
18 pharmacy benefit manager and  
19 any affiliate of such pharmacy  
20 benefit manager.

21 “(II) In the case of a pharmacy  
22 benefit manager that has an affiliate  
23 that is a retail, mail order, or spe-  
24 cialty pharmacy, with respect to drugs

1 covered by such plan that were dis-  
2 pensed, the following information:

3 “(aa) The percentage of  
4 total prescriptions that were dis-  
5 pensed by pharmacies that are an  
6 affiliate of the pharmacy benefit  
7 manager for each drug.

8 “(bb) The interquartile  
9 range of the total combined costs  
10 paid by the plan and plan enroll-  
11 ees, per dosage unit, per course  
12 of treatment, per 30-day supply,  
13 and per 90-day supply for each  
14 drug dispensed by pharmacies  
15 that are not an affiliate of the  
16 pharmacy benefit manager and  
17 that are included in the phar-  
18 macy network of such plan.

19 “(cc) The interquartile  
20 range of the total combined costs  
21 paid by the plan and plan enroll-  
22 ees, per dosage unit, per course  
23 of treatment, per 30-day supply,  
24 and per 90-day supply for each  
25 drug dispensed by pharmacies

1 that are an affiliate of the phar-  
2 macy benefit manager and that  
3 are included in the pharmacy  
4 network of such plan.

5 “(dd) The lowest total com-  
6 bined cost paid by the plan and  
7 plan enrollees, per dosage unit,  
8 per course of treatment, per 30-  
9 day supply, and per 90-day sup-  
10 ply, for each drug that is avail-  
11 able from any pharmacy included  
12 in the pharmacy network of such  
13 plan.

14 “(ee) The difference between  
15 the average acquisition cost of  
16 the affiliate, such as a pharmacy  
17 or other entity that acquires pre-  
18 scription drugs, that initially ac-  
19 quires the drug and the amount  
20 reported under subclause (I)(jj)  
21 for each drug.

22 “(ff) A list inclusive of the  
23 brand name, generic or non-pro-  
24 prietary name, and National  
25 Drug Code of covered part D

1 drugs subject to an agreement  
2 with a covered entity under sec-  
3 tion 340B of the Public Health  
4 Service Act for which the phar-  
5 macy benefit manager or an affil-  
6 iate of the pharmacy benefit  
7 manager had a contract or other  
8 arrangement with such a covered  
9 entity in the service area of such  
10 plan.

11 “(III) Where a drug approved  
12 under section 505(c) of the Federal  
13 Food, Drug, and Cosmetic Act (re-  
14 ferred to in this subclause as the ‘list-  
15 ed drug’) is covered by the plan, the  
16 following information:

17 “(aa) A list of currently  
18 marketed generic drugs approved  
19 under section 505(j) of the Fed-  
20 eral Food, Drug, and Cosmetic  
21 Act pursuant to an application  
22 that references such listed drug  
23 that are not covered by the plan,  
24 are covered on the same for-  
25 mulary tier or a formulary tier

1 typically associated with higher  
2 cost-sharing than the listed drug,  
3 or are subject to utilization man-  
4 agement that the listed drug is  
5 not subject to.

6 “(bb) The estimated average  
7 beneficiary cost-sharing under  
8 the plan for a 30-day supply of  
9 the listed drug.

10 “(cc) Where a generic drug  
11 listed under item (aa) is on a for-  
12 mulary tier typically associated  
13 with higher cost-sharing than the  
14 listed drug, the estimated aver-  
15 age cost-sharing that a bene-  
16 ficiary would have paid for a 30-  
17 day supply of each of the generic  
18 drugs described in item (aa), had  
19 the plan provided coverage for  
20 such drugs on the same for-  
21 mulary tier as the listed drug.

22 “(dd) A written justification  
23 for providing more favorable cov-  
24 erage of the listed drug than the

1 generic drugs described in item  
2 (aa).

3 “(ee) The number of cur-  
4 rently marketed generic drugs  
5 approved under section 505(j) of  
6 the Federal Food, Drug, and  
7 Cosmetic Act pursuant to an ap-  
8 plication that references such  
9 listed drug.

10 “(IV) Where a reference product  
11 (as defined in section 351(i) of the  
12 Public Health Service Act) is covered  
13 by the plan, the following information:

14 “(aa) A list of currently  
15 marketed biosimilar biological  
16 products licensed under section  
17 351(k) of the Public Health  
18 Service Act pursuant to an appli-  
19 cation that refers to such ref-  
20 erence product that are not cov-  
21 ered by the plan, are covered on  
22 the same formulary tier or a for-  
23 mulary tier typically associated  
24 with higher cost-sharing than the  
25 reference product, or are subject

1 to utilization management that  
2 the reference product is not sub-  
3 ject to.

4 “(bb) The estimated average  
5 beneficiary cost-sharing under  
6 the plan for a 30-day supply of  
7 the reference product.

8 “(cc) Where a biosimilar bi-  
9 ological product listed under item  
10 (aa) is on a formulary tier typi-  
11 cally associated with higher cost-  
12 sharing than the reference prod-  
13 uct, the estimated average cost-  
14 sharing that a beneficiary would  
15 have paid for a 30-day supply of  
16 each of the biosimilar biological  
17 products described in item (aa),  
18 had the plan provided coverage  
19 for such products on the same  
20 formulary tier as the reference  
21 product.

22 “(dd) A written justification  
23 for providing more favorable cov-  
24 erage of the reference product

1 than the biosimilar biological  
2 product described in item (aa).

3 “(ee) The number of cur-  
4 rently marketed biosimilar bio-  
5 logical products licensed under  
6 section 351(k) of the Public  
7 Health Service Act, pursuant to  
8 an application that refers to such  
9 reference product.

10 “(V) Total gross spending on  
11 covered part D drugs by the plan, not  
12 net of rebates, fees, discounts, or  
13 other direct or indirect remuneration.

14 “(VI) The total amount retained  
15 by the pharmacy benefit manager or  
16 an affiliate of such pharmacy benefit  
17 manager in revenue related to utiliza-  
18 tion of covered part D drugs under  
19 that plan, inclusive of bona fide serv-  
20 ice fees.

21 “(VII) The total spending on cov-  
22 ered part D drugs net of rebates, fees,  
23 discounts, or other direct and indirect  
24 remuneration by the plan.

1           “(VIII) An explanation of any  
2 benefit design parameters under such  
3 plan that encourage plan enrollees to  
4 fill prescriptions at pharmacies that  
5 are an affiliate of such pharmacy ben-  
6 efit manager, such as mail and spe-  
7 cialty home delivery programs, and re-  
8 tail and mail auto-refill programs.

9           “(IX) The following information:

10           “(aa) A list of all brokers,  
11 consultants, advisors, and audi-  
12 tors that receive compensation  
13 from the pharmacy benefit man-  
14 ager or an affiliate of such phar-  
15 macy benefit manager for refer-  
16 rals, consulting, auditing, or  
17 other services offered to PDP  
18 sponsors related to pharmacy  
19 benefit management services.

20           “(bb) The amount of com-  
21 pensation provided by such phar-  
22 macy benefit manager or affiliate  
23 to each such broker, consultant,  
24 advisor, and auditor.

1                   “(cc) The methodology for  
2                   calculating the amount of com-  
3                   pensation provided by such phar-  
4                   macy benefit manager or affil-  
5                   iate, for each such broker, con-  
6                   sultant, advisor, and auditor.

7                   “(X) A list of all affiliates of the  
8                   pharmacy benefit manager.

9                   “(XI) A summary document sub-  
10                  mitted in a standardized template de-  
11                  veloped by the Secretary that includes  
12                  such information described in sub-  
13                  clauses (I) through (X).

14                  “(ii) WRITTEN EXPLANATION OF CON-  
15                  TRACTS OR AGREEMENTS WITH DRUG  
16                  MANUFACTURERS.—

17                  “(I) IN GENERAL.—The phar-  
18                  macy benefit manager shall, not later  
19                  than 30 days after the finalization of  
20                  any contract or agreement between  
21                  such pharmacy benefit manager or an  
22                  affiliate of such pharmacy benefit  
23                  manager and a drug manufacturer (or  
24                  subsidiary, agent, or entity affiliated  
25                  with such drug manufacturer) that

1 makes rebates, discounts, payments,  
2 or other financial incentives related to  
3 one or more covered part D drugs or  
4 other prescription drugs, as applica-  
5 ble, of the manufacturer directly or  
6 indirectly contingent upon coverage,  
7 formulary placement, or utilization  
8 management conditions on any other  
9 covered part D drugs or other pre-  
10 scription drugs, as applicable, submit  
11 to the PDP sponsor a written expla-  
12 nation of such contract or agreement.

13 “(II) REQUIREMENTS.—A writ-  
14 ten explanation under subclause (I)  
15 shall—

16 “(aa) include the manufac-  
17 turer subject to the contract or  
18 agreement, all covered part D  
19 drugs and other prescription  
20 drugs, as applicable, subject to  
21 the contract or agreement and  
22 the manufacturers of such drugs,  
23 and a high-level description of  
24 the terms of such contract or

1 agreement and how such terms  
2 apply to such drugs; and

3 “(bb) be certified by the  
4 Chief Executive Officer, Chief Fi-  
5 nancial Officer, or General Coun-  
6 sel of such pharmacy benefit  
7 manager, or affiliate of such  
8 pharmacy benefit manager, as  
9 applicable, or an individual dele-  
10 gated with the authority to sign  
11 on behalf of one of these officers,  
12 who reports directly to the offi-  
13 cer.

14 “(III) DEFINITION OF OTHER  
15 PRESCRIPTION DRUGS.—For purposes  
16 of this clause, the term ‘other pre-  
17 scription drugs’ means prescription  
18 drugs covered as supplemental bene-  
19 fits under this part or prescription  
20 drugs paid outside of this part.

21 “(D) AUDIT RIGHTS.—

22 “(i) IN GENERAL.—Not less than once  
23 a year, at the request of the PDP sponsor,  
24 the pharmacy benefit manager shall allow  
25 for an audit of the pharmacy benefit man-

1           ager to ensure compliance with all terms  
2           and conditions under the written agree-  
3           ment described in this paragraph and the  
4           accuracy of information reported under  
5           subparagraph (C).

6           “(ii) AUDITOR.—The PDP sponsor  
7           shall have the right to select an auditor.  
8           The pharmacy benefit manager shall not  
9           impose any limitations on the selection of  
10          such auditor.

11          “(iii) PROVISION OF INFORMATION.—  
12          The pharmacy benefit manager shall make  
13          available to such auditor all records, data,  
14          contracts, and other information necessary  
15          to confirm the accuracy of information  
16          provided under subparagraph (C), subject  
17          to reasonable restrictions on how such in-  
18          formation must be reported to prevent re-  
19          disclosure of such information.

20          “(iv) TIMING.—The pharmacy benefit  
21          manager must provide information under  
22          clause (iii) and other information, data,  
23          and records relevant to the audit to such  
24          auditor within 6 months of the initiation of  
25          the audit and respond to requests for addi-

1 tional information from such auditor with-  
2 in 30 days after the request for additional  
3 information.

4 “(v) INFORMATION FROM AFFILI-  
5 ATES.—The pharmacy benefit manager  
6 shall be responsible for providing to such  
7 auditor information required to be reported  
8 under subparagraph (C) or under clause  
9 (iii) of this subparagraph that is owned or  
10 held by an affiliate of such pharmacy ben-  
11 efit manager.

12 “(2) ENFORCEMENT.—

13 “(A) IN GENERAL.—Each PDP sponsor  
14 shall—

15 “(i) disgorge to the Secretary any  
16 amounts disgorged to the PDP sponsor by  
17 a pharmacy benefit manager under para-  
18 graph (1)(A)(v);

19 “(ii) require, in a written agreement  
20 with any pharmacy benefit manager acting  
21 on behalf of such sponsor or affiliate of  
22 such pharmacy benefit manager, that such  
23 pharmacy benefit manager or affiliate re-  
24 imburse the PDP sponsor for any civil  
25 money penalty imposed on the PDP spon-

1           sor as a result of the failure of the phar-  
2           macy benefit manager or affiliate to meet  
3           the requirements of paragraph (1) that are  
4           applicable to the pharmacy benefit man-  
5           ager or affiliate under the agreement; and

6           “(iii) require, in a written agreement  
7           with any such pharmacy benefit manager  
8           acting on behalf of such sponsor or affil-  
9           iate of such pharmacy benefit manager,  
10          that such pharmacy benefit manager or af-  
11          filiate be subject to punitive remedies for  
12          breach of contract for failure to comply  
13          with the requirements applicable under  
14          paragraph (1).

15          “(B) REPORTING OF ALLEGED VIOLA-  
16          TIONS.—The Secretary shall make available and  
17          maintain a mechanism for manufacturers, PDP  
18          sponsors, pharmacies, and other entities that  
19          have contractual relationships with pharmacy  
20          benefit managers or affiliates of such pharmacy  
21          benefit managers to report, on a confidential  
22          basis, alleged violations of paragraph (1)(A) or  
23          subparagraph (C).

1           “(C) ANTI-RETALIATION AND ANTI-COER-  
2           CION.—Consistent with applicable Federal or  
3           State law, a PDP sponsor shall not—

4                   “(i) retaliate against an individual or  
5                   entity for reporting an alleged violation  
6                   under subparagraph (B); or

7                   “(ii) coerce, intimidate, threaten, or  
8                   interfere with the ability of an individual  
9                   or entity to report any such alleged viola-  
10                  tions.

11           “(3) CERTIFICATION OF COMPLIANCE.—

12                   “(A) IN GENERAL.—Each PDP sponsor  
13                   shall furnish to the Secretary (at a time and in  
14                   a manner specified by the Secretary) an annual  
15                   certification of compliance with this subsection,  
16                   as well as such information as the Secretary de-  
17                   termines necessary to carry out this subsection.

18                   “(B) IMPLEMENTATION.—Notwithstanding  
19                   any other provision of law, the Secretary may  
20                   implement this paragraph by program instruc-  
21                   tion or otherwise.

22           “(4) RULE OF CONSTRUCTION.—Nothing in  
23           this subsection shall be construed as—

24                   “(A) prohibiting flat dispensing fees or re-  
25                   imbursement or payment for ingredient costs

1 (including customary, industry-standard dis-  
2 counts directly related to drug acquisition that  
3 are retained by pharmacies or wholesalers) to  
4 entities that acquire or dispense prescription  
5 drugs; or

6 “(B) modifying regulatory requirements or  
7 sub-regulatory program instruction or guidance  
8 related to pharmacy payment, reimbursement,  
9 or dispensing fees.

10 “(5) STANDARD FORMATS.—

11 “(A) IN GENERAL.—Not later than June  
12 1, 2027, the Secretary shall specify standard,  
13 machine-readable formats for pharmacy benefit  
14 managers to submit annual reports required  
15 under paragraph (1)(C)(i).

16 “(B) IMPLEMENTATION.—Notwithstanding  
17 any other provision of law, the Secretary may  
18 implement this paragraph by program instruc-  
19 tion or otherwise.

20 “(6) CONFIDENTIALITY.—

21 “(A) IN GENERAL.—Information disclosed  
22 by a pharmacy benefit manager, an affiliate of  
23 a pharmacy benefit manager, a PDP sponsor,  
24 or a pharmacy under this subsection that is not  
25 otherwise publicly available or available for pur-

1 chase shall not be disclosed by the Secretary or  
2 a PDP sponsor receiving the information, ex-  
3 cept that the Secretary may disclose the infor-  
4 mation for the following purposes:

5 “(i) As the Secretary determines nec-  
6 essary to carry out this part.

7 “(ii) To permit the Comptroller Gen-  
8 eral to review the information provided.

9 “(iii) To permit the Director of the  
10 Congressional Budget Office to review the  
11 information provided.

12 “(iv) To permit the Executive Direc-  
13 tor of the Medicare Payment Advisory  
14 Commission to review the information pro-  
15 vided.

16 “(v) To the Attorney General for the  
17 purposes of conducting oversight and en-  
18 forcement under this title.

19 “(vi) To the Inspector General of the  
20 Department of Health and Human Serv-  
21 ices in accordance with its authorities  
22 under the Inspector General Act of 1978  
23 (section 406 of title 5, United States  
24 Code), and other applicable statutes.

1           “(B) RESTRICTION ON USE OF INFORMA-  
2           TION.—The Secretary, the Comptroller General,  
3           the Director of the Congressional Budget Of-  
4           fice, and the Executive Director of the Medicare  
5           Payment Advisory Commission shall not report  
6           on or disclose information disclosed pursuant to  
7           subparagraph (A) to the public in a manner  
8           that would identify—

9                   “(i) a specific pharmacy benefit man-  
10                  ager, affiliate, pharmacy, manufacturer,  
11                  wholesaler, PDP sponsor, or plan; or

12                  “(ii) contract prices, rebates, dis-  
13                  counts, or other remuneration for specific  
14                  drugs in a manner that may allow the  
15                  identification of specific contracting parties  
16                  or of such specific drugs.

17           “(7) DEFINITIONS.—For purposes of this sub-  
18           section:

19                  “(A) AFFILIATE.—The term ‘affiliate’  
20                  means, with respect to any pharmacy benefit  
21                  manager or PDP sponsor, any entity that, di-  
22                  rectly or indirectly—

23                   “(i) owns or is owned by, controls or  
24                   is controlled by, or is otherwise related in

1 any ownership structure to such pharmacy  
2 benefit manager or PDP sponsor; or

3 “(ii) acts as a contractor, principal, or  
4 agent to such pharmacy benefit manager  
5 or PDP sponsor, insofar as such con-  
6 tractor, principal, or agent performs any of  
7 the functions described under subpara-  
8 graph (C).

9 “(B) BONA FIDE SERVICE FEE.—The term  
10 ‘bona fide service fee’ means a fee that is reflec-  
11 tive of the fair market value (as specified by the  
12 Secretary, through notice and comment rule-  
13 making) for a bona fide, itemized service actu-  
14 ally performed on behalf of an entity, that the  
15 entity would otherwise perform (or contract for)  
16 in the absence of the service arrangement and  
17 that is not passed on in whole or in part to a  
18 client or customer, whether or not the entity  
19 takes title to the drug. Such fee must be a flat  
20 dollar amount and shall not be directly or indi-  
21 rectly based on, or contingent upon—

22 “(i) drug price, such as wholesale ac-  
23 quisition cost or drug benchmark price  
24 (such as average wholesale price);

1           “(ii) the amount of discounts, rebates,  
2           fees, or other direct or indirect remunera-  
3           tion with respect to covered part D drugs  
4           dispensed to enrollees in a prescription  
5           drug plan, except as permitted pursuant to  
6           paragraph (1)(A)(ii);

7           “(iii) coverage or formulary placement  
8           decisions or the volume or value of any re-  
9           ferrals or business generated between the  
10          parties to the arrangement; or

11          “(iv) any other amounts or meth-  
12          odologies prohibited by the Secretary.

13          “(C) PHARMACY BENEFIT MANAGER.—The  
14          term ‘pharmacy benefit manager’ means any  
15          person or entity that, either directly or through  
16          an intermediary, acts as a price negotiator or  
17          group purchaser on behalf of a PDP sponsor or  
18          prescription drug plan, or manages the pre-  
19          scription drug benefits provided by such spon-  
20          sor or plan, including the processing and pay-  
21          ment of claims for prescription drugs, the per-  
22          formance of drug utilization review, the proc-  
23          essing of drug prior authorization requests, the  
24          adjudication of appeals or grievances related to  
25          the prescription drug benefit, contracting with

1 network pharmacies, controlling the cost of cov-  
2 ered part D drugs, or the provision of related  
3 services. Such term includes any person or enti-  
4 ty that carries out one or more of the activities  
5 described in the preceding sentence, irrespective  
6 of whether such person or entity calls itself a  
7 ‘pharmacy benefit manager.’.”

8 (B) MA–PD PLANS.—Section 1857(f)(3)  
9 of the Social Security Act (42 U.S.C. 1395w–  
10 27(f)(3)), as amended by subsection (a)(4)(B),  
11 is amended by adding at the end the following  
12 new subparagraph:

13 “(G) REQUIREMENTS RELATING TO PHAR-  
14 MACY BENEFIT MANAGERS.—For plan years be-  
15 ginning on or after January 1, 2028, section  
16 1860D–12(h).”.

17 (C) NONAPPLICATION OF PAPERWORK RE-  
18 Duction ACT.—Chapter 35 of title 44, United  
19 States Code, shall not apply to the implementa-  
20 tion of this paragraph.

21 (D) FUNDING.—

22 (i) SECRETARY.—In addition to  
23 amounts otherwise available, there is ap-  
24 propriated to the Centers for Medicare &  
25 Medicaid Services Program Management

1 Account, out of any money in the Treasury  
2 not otherwise appropriated, \$113,000,000  
3 for fiscal year 2026, to remain available  
4 until expended, to carry out this para-  
5 graph.

6 (ii) OIG.—In addition to amounts  
7 otherwise available, there is appropriated  
8 to the Inspector General of the Depart-  
9 ment of Health and Human Services, out  
10 of any money in the Treasury not other-  
11 wise appropriated, \$20,000,000 for fiscal  
12 year 2026, to remain available until ex-  
13 pended, to carry out this paragraph.

14 (2) GAO STUDY AND REPORT ON PRICE-RE-  
15 LATED COMPENSATION ACROSS THE SUPPLY  
16 CHAIN.—

17 (A) STUDY.—The Comptroller General of  
18 the United States (in this paragraph referred to  
19 as the “Comptroller General”) shall conduct a  
20 study describing the use of compensation and  
21 payment structures related to a prescription  
22 drug’s price within the retail prescription drug  
23 supply chain in part D of title XVIII of the So-  
24 cial Security Act (42 U.S.C. 1395w–101 et  
25 seq.). Such study shall summarize information

1 from Federal agencies and industry experts, to  
2 the extent available, with respect to the fol-  
3 lowing:

4 (i) The type, magnitude, other fea-  
5 tures (such as the pricing benchmarks  
6 used), and prevalence of compensation and  
7 payment structures related to a prescrip-  
8 tion drug's price, such as calculating fee  
9 amounts as a percentage of a prescription  
10 drug's price, between intermediaries in the  
11 prescription drug supply chain, including—

12 (I) pharmacy benefit managers;

13 (II) PDP sponsors offering pre-  
14 scription drug plans and Medicare Ad-  
15 vantage organizations offering MA-  
16 PD plans;

17 (III) drug wholesalers;

18 (IV) pharmacies;

19 (V) manufacturers;

20 (VI) pharmacy services adminis-  
21 trative organizations;

22 (VII) brokers, auditors, consult-  
23 ants, and other entities that—

24 (aa) advise PDP sponsors  
25 offering prescription drug plans

1 and Medicare Advantage organi-  
2 zations offering MA–PD plans  
3 regarding pharmacy benefits; or

4 (bb) review PDP sponsor  
5 and Medicare Advantage organi-  
6 zation contracts with pharmacy  
7 benefit managers; and

8 (VIII) other service providers  
9 that contract with any of the entities  
10 described in subclauses (I) through  
11 (VII) that may use price-related com-  
12 pensation and payment structures,  
13 such as rebate aggregators (or other  
14 entities that negotiate or process price  
15 concessions on behalf of pharmacy  
16 benefit managers, plan sponsors, or  
17 pharmacies).

18 (ii) The primary business models and  
19 compensation structures for each category  
20 of intermediary described in clause (i).

21 (iii) Variation in price-related com-  
22 pensation structures between affiliated en-  
23 tities (such as entities with common owner-  
24 ship, either full or partial, and subsidiary  
25 relationships) and unaffiliated entities.

1 (iv) Potential conflicts of interest  
2 among contracting entities related to the  
3 use of prescription drug price-related com-  
4 pensation structures, such as the potential  
5 for fees or other payments set as a per-  
6 centage of a prescription drug's price to  
7 advantage formulary selection, distribution,  
8 or purchasing of prescription drugs with  
9 higher prices.

10 (v) Notable differences, if any, in the  
11 use and level of price-based compensation  
12 structures over time and between different  
13 market segments, such as under part D of  
14 title XVIII of the Social Security Act (42  
15 U.S.C. 1395w-101 et seq.) and the Med-  
16 icaid program under title XIX of such Act  
17 (42 U.S.C. 1396 et seq.).

18 (vi) The effects of drug price-related  
19 compensation structures and alternative  
20 compensation structures on Federal health  
21 care programs and program beneficiaries,  
22 including with respect to cost-sharing, pre-  
23 miums, Federal outlays, biosimilar and ge-  
24 neric drug adoption and utilization, drug  
25 shortage risks, and the potential for fees

1 set as a percentage of a drug's price to ad-  
2 vantage the formulary selection, distribu-  
3 tion, or purchasing of drugs with higher  
4 prices.

5 (vii) Other issues determined to be  
6 relevant and appropriate by the Comp-  
7 troller General.

8 (B) REPORT.—Not later than 2 years after  
9 the date of enactment of this paragraph, the  
10 Comptroller General shall submit to Congress a  
11 report containing the results of the study con-  
12 ducted under subparagraph (A), together with  
13 recommendations for such legislation and ad-  
14 ministrative action as the Comptroller General  
15 determines appropriate.

16 (3) MEDPAC REPORTS ON AGREEMENTS WITH  
17 PHARMACY BENEFIT MANAGERS WITH RESPECT TO  
18 PRESCRIPTION DRUG PLANS AND MA-PD PLANS.—

19 (A) IN GENERAL.—The Medicare Payment  
20 Advisory Commission shall submit to Congress  
21 the following reports:

22 (i) INITIAL REPORT.—Not later than  
23 the first March 15 occurring after the date  
24 that is 2 years after the date on which the  
25 Secretary makes the data available to the

1 Commission, a report regarding agree-  
2 ments with pharmacy benefit managers  
3 with respect to prescription drug plans and  
4 MA–PD plans. Such report shall include,  
5 to the extent practicable—

6 (I) a description of trends and  
7 patterns, including relevant averages,  
8 totals, and other figures for the types  
9 of information submitted;

10 (II) an analysis of any dif-  
11 ferences in agreements and their ef-  
12 fects on plan enrollee out-of-pocket  
13 spending and average pharmacy reim-  
14 bursement, and other impacts; and

15 (III) any recommendations the  
16 Commission determines appropriate.

17 (ii) FINAL REPORT.—Not later than 2  
18 years after the date on which the Commis-  
19 sion submits the initial report under clause  
20 (i), a report describing any changes with  
21 respect to the information described in  
22 clause (i) over time, together with any rec-  
23 ommendations the Commission determines  
24 appropriate.

1           (B) FUNDING.—In addition to amounts  
2 otherwise available, there is appropriated to the  
3 Medicare Payment Advisory Commission, out of  
4 any money in the Treasury not otherwise ap-  
5 propriated, \$1,000,000 for fiscal year 2026, to  
6 remain available until expended, to carry out  
7 this paragraph.

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