

115TH CONGRESS
2D SESSION

H. R. 6733

To amend title XXVII of the Public Health Service Act and title XVIII of the Social Security Act to prohibit group health plans, health insurance issuers, prescription drug plan sponsors, and Medicare Advantage organizations from limiting certain information on drug prices.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2018

Mr. CARTER of Georgia (for himself, Mr. PAULSEN, Mr. DOGGETT, Mr. WELCH, Mrs. McMORRIS RODGERS, Ms. ESHOO, Mr. GRIFFITH, Mrs. DINGELL, Mr. BURGESS, and Mr. GENE GREEN of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XXVII of the Public Health Service Act and title XVIII of the Social Security Act to prohibit group health plans, health insurance issuers, prescription drug plan sponsors, and Medicare Advantage organizations from limiting certain information on drug prices.

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 “Know the Cost Act
3 of 2018”.

4 **SEC. 2. PROHIBITION ON LIMITING CERTAIN INFORMATION**
5 **ON DRUG PRICES.**

6 (a) IN GENERAL.—

7 (1) GROUP HEALTH PLANS AND HEALTH IN-
8 SURANCE ISSUERS.—Subpart II of part A of title
9 XXVII of the Public Health Service Act (42 U.S.C.
10 300gg–11 et seq.) is amended by adding at the end
11 the following:

12 **“SEC. 2729. INFORMATION ON PRESCRIPTION DRUGS.**

13 “(a) IN GENERAL.—A group health plan or a health
14 insurance issuer offering group or individual health insur-
15 ance coverage shall—

16 “(1) not restrict, directly or indirectly, any
17 pharmacy that dispenses a prescription drug to an
18 enrollee in the plan or coverage from informing (or
19 penalize such pharmacy for informing) an enrollee of
20 any differential between the enrollee’s out-of-pocket
21 cost under the plan or coverage with respect to ac-
22 quisition of the drug and the amount an individual
23 would pay for acquisition of the drug without using
24 any health plan or health insurance coverage; and

25 “(2) ensure that any entity that provides phar-
26 macy benefits management services under a contract

1 with any such health plan or health insurance cov-
2 erage does not, with respect to such plan or cov-
3 erage, restrict, directly or indirectly, a pharmacy
4 that dispenses a prescription drug from informing
5 (or penalize such pharmacy for informing) an en-
6 rollee of any differential between the enrollee’s out-
7 of-pocket cost under the plan or coverage with re-
8 spect to acquisition of the drug and the amount an
9 individual would pay for acquisition of the drug
10 without using any health plan or health insurance
11 coverage.

12 “(b) DEFINITION.—For purposes of this section, the
13 term ‘out-of-pocket cost’, with respect to acquisition of a
14 drug, means the amount to be paid by the enrollee under
15 the plan or coverage, including any cost-sharing (including
16 any deductible, copayment, or coinsurance) and, as deter-
17 mined by the Secretary, any other expenditure.”.

18 (2) PRESCRIPTION DRUG PLAN SPONSORS AND
19 MEDICARE ADVANTAGE ORGANIZATIONS.—Section
20 1860D–4 of the Social Security Act (42 U.S.C.
21 1395w–104) is amended by adding at the end the
22 following new subsection:

23 “(m) PROHIBITION ON LIMITING CERTAIN INFORMA-
24 TION ON DRUG PRICES.—A PDP sponsor and a Medicare
25 Advantage organization shall ensure that each prescrip-

1 tion drug plan or MA–PD plan offered by the sponsor or
2 organization does not restrict a pharmacy that dispenses
3 a prescription drug or biological from informing, nor pe-
4 nalize such pharmacy for informing, an enrollee in such
5 plan of any differential between the negotiated price of,
6 or copayment or coinsurance for, the drug or biological
7 to the enrollee under the plan and a lower price the indi-
8 vidual would pay for the drug or biological if the enrollee
9 obtained the drug without using any health insurance cov-
10 erage.”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection shall apply with respect to plan
13 years beginning on or after January 1, 2020.

14 (b) MEDICARE BENEFICIARY NOTICE REQUIRE-
15 MENTS.—

16 (1) ANNUAL NOTICE REQUIREMENT.—Section
17 1804(c) of the Social Security Act (42 U.S.C.
18 1395b–2(c)) is amended—

19 (A) in paragraph (3), by striking “and” at
20 the end;

21 (B) in paragraph (4), by striking the pe-
22 riod at the end and inserting “; and”; and

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

1 “(5) with respect to a notice provided on or
2 after January 1, 2020, and an individual enrolled in
3 a prescription drug plan under part D or an MA-
4 PD plan under part C, information on the potential
5 effects purchasing a drug without using benefits pro-
6 vided under such prescription drug plan or MA-PD
7 plan may have on such individual’s deductible and
8 future cost-sharing obligations under such prescrip-
9 tion drug plan or MA-PD plan.”.

10 (2) MA ORGANIZATION AND PDP SPONSOR DIS-
11 CLOSURES.—

12 (A) IN GENERAL.—Section 1852(c)(1) of
13 the Social Security Act (42 U.S.C. 1395w-
14 22(c)(1)) is amended by adding at the end the
15 following new subparagraph:

16 “(J) DRUG PURCHASING INFORMATION.—
17 With respect to an enrollee in an MA-PD plan,
18 information in a form and manner specified by
19 the Secretary on the potential effects pur-
20 chasing a drug without using benefits provided
21 under such plan may have on such individual’s
22 deductible and future cost-sharing obligations
23 under such plan.”.

24 (B) EFFECTIVE DATE.—The amendment
25 made by this paragraph shall apply with respect

1 to disclosures made on or after January 1,
2 2020.

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