

115TH CONGRESS  
2D SESSION

# H. R. 7001

To amend title XVIII of the Social Security Act to provide for a combined Medicare part B and D drug out-of-pocket costs limitation.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2018

Mr. O'HALLERAN introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for a combined Medicare part B and D drug out-of-pocket costs limitation.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Capped Allowable Pay-  
5 ments from Seniors for Prescriptions Act” or the “CAPS  
6 for Prescriptions Act”.

1 **SEC. 2. LIMITING MEDICARE PART B AND D DRUG OUT-OF-**  
2 **POCKET COSTS.**

3 (a) MEDICARE COMBINED PART B AND D DRUG  
4 OOP CATASTROPHIC LIMIT AND PART D SUBSIDIES.—  
5 Part D of title XVIII of the Social Security Act is amend-  
6 ed by inserting after section 1860D–14A (42 U.S.C.  
7 1395w–114a) the following new section:

8 **“SEC. 1860D–14B. MEDICARE DRUG OUT-OF-POCKET LIMIT**  
9 **SUBSIDIES.**

10 “(a) IN GENERAL.—For plan year 2021 and each  
11 subsequent plan year, in the case of a part D eligible indi-  
12 vidual enrolled in a prescription drug plan under this part  
13 for such year—

14 “(1) if during such year such individual be-  
15 comes a catastrophic limit subsidy eligible individual,  
16 such individual is entitled to the elimination of any  
17 beneficiary coinsurance described in section 1860D–  
18 2(b)(2) for covered part D drugs furnished to such  
19 individual during the remainder of such year; and

20 “(2) the Secretary shall provide for payment to  
21 the PDP sponsor that offers such prescription drug  
22 plan of a catastrophic limit coverage subsidy (cal-  
23 culated under subsection (b)) in accordance with this  
24 section for such individual and remainder of such  
25 year.

1       “(b) CATASTROPHIC LIMIT COVERAGE SUBSIDY  
2 AMOUNT.—For purposes of this section, a catastrophic  
3 limit coverage subsidy, with respect to a catastrophic limit  
4 subsidy eligible individual enrolled for coverage under this  
5 part in a prescription drug plan for a plan year, shall be  
6 calculated as an amount (or amounts) equal to any cost-  
7 sharing amount that—

8               “(1) would otherwise apply without application  
9       of subsection (a)(1) to such individual under such  
10       coverage for covered part D drugs furnished to such  
11       individuals during such year; but

12               “(2) does not apply to such individual with ap-  
13       plication of subsection (a)(1).

14 Such subsidy may be paid in such manner and at such  
15 times as specified by the Secretary.

16       “(c) CATASTROPHIC LIMIT SUBSIDY ELIGIBLE INDI-  
17 VIDUAL.—For purposes of this section, the term ‘cata-  
18 strophic limit subsidy eligible individual’ means, with re-  
19 spect to a prescription drug plan under this part and plan  
20 year, a part D eligible individual enrolled in such plan for  
21 such year who has incurred out-of-pocket costs described  
22 in subsection (e) for eligible Medicare drugs furnished to  
23 such individual during such year above the OOP drug cat-  
24 astrophic limit specified in subsection (d) for such year.

1       “(d) OOP DRUG CATASTROPHIC LIMIT.—For pur-  
2 poses of this part, the OOP drug catastrophic limit speci-  
3 fied in this subsection is—

4               “(1) for plan year 2021, \$2,600; and

5               “(2) for a subsequent plan year, the dollar  
6 amount applied under this subsection for the pre-  
7 vious plan year, increased by the annual percentage  
8 increase in average per capita aggregate expendi-  
9 tures for covered part D drugs in the United States  
10 for part D eligible individuals, as determined by the  
11 Secretary for the 12-month period ending in July of  
12 the previous year using such methods as the Sec-  
13 retary shall specify.

14       “(e) OUT-OF-POCKET COSTS DESCRIBED.—

15               “(1) IN GENERAL.—For purposes of this sec-  
16 tion—

17                       “(A) incurred out-of-pocket costs shall only  
18 include—

19                               “(i) costs incurred with respect to cov-  
20 ered part D drugs for the annual deduct-  
21 ible described in paragraph (1), for cost-  
22 sharing described in paragraph (2), and  
23 for amounts for which benefits are not pro-  
24 vided because of the application of the ini-  
25 tial coverage limit described in paragraph

1 (3), but does not include any costs in-  
2 curred for covered part D drugs which are  
3 not included (or treated as being included)  
4 in the plan’s formulary; and

5 “(ii) costs, determined based on sub-  
6 mitted claims and without regard to any  
7 deductible under part B, incurred for cost-  
8 sharing under such part for part B drugs  
9 described in subsection (g)(1)(B);

10 “(B) subject to subparagraph (C), such  
11 costs shall be treated as incurred only if they  
12 are paid by the part D eligible individual (or by  
13 another person, such as a family member, on  
14 behalf of the individual) and the part D eligible  
15 individual (or other person) is not reimbursed  
16 through insurance or otherwise, a group health  
17 plan, or other third-party payment arrangement  
18 (other than under such section or such a Pro-  
19 gram) for such costs; and

20 “(C) such costs shall be treated as in-  
21 curred and shall not be considered to be reim-  
22 bursed under subparagraph (B) if such costs  
23 are borne or paid—

24 “(i) under section 1860D–14;

1                   “(ii) under a State Pharmaceutical  
2                   Assistance Program;

3                   “(iii) by the Indian Health Service, an  
4                   Indian tribe or tribal organization, or an  
5                   urban Indian organization (as defined in  
6                   section 4 of the Indian Health Care Im-  
7                   provement Act); or

8                   “(iv) under an AIDS Drug Assistance  
9                   Program under part B of title XXVI of the  
10                  Public Health Service Act.

11                 “(2) INFORMATION EXCHANGE.—The provi-  
12                 sions of section 1860D–2(b)(4)(D) shall apply for  
13                 purposes of this subsection in the same manner as  
14                 such provisions apply for purposes of section  
15                 1860D–2(b)(4).

16                 “(f) COORDINATION.—The Secretary shall provide  
17                 for such procedures as is necessary, including by requiring  
18                 submission of information from PDP sponsors, to imple-  
19                 ment the provisions of this section and apply the OOP  
20                 drug catastrophic limit applicable to costs incurred for eli-  
21                 gible Medicare drugs for purposes of coverage of such  
22                 drugs under part B and this part.

23                 “(g) ELIGIBLE MEDICARE DRUGS.—

1           “(1) IN GENERAL.—For purposes of this sec-  
2           tion, the term ‘eligible Medicare drug’ means any of  
3           the following:

4                   “(A) A covered part D drug.

5                   “(B) Subject to paragraph (2), a drug or  
6           biological paid for under section 1833(t), 1847,  
7           1847A, or 1847B.

8           “(2) EXCEPTION.—A drug or biological de-  
9           scribed in paragraph (1)(B) does not include a drug  
10          or biological furnished as part of a grouping of items  
11          and services and paid for as such a grouping in an  
12          ambulatory payment classification under section  
13          1833(t) (instead of separately payable under such  
14          section).”.

15          (b) APPLICATION OF OOP DRUG CATASTROPHIC  
16          LIMIT UNDER PART B.—Section 1833 of the Social Secu-  
17          rity Act—

18                   (1) in subsection (a)(1)(S), by inserting “sub-  
19          ject to subsection (bb),” before “the amounts paid”;

20                   (2) by redesignating the subsection (z), relating  
21          to medical review of spinal subluxation services, as  
22          subsection (aa); and

23                   (3) by adding at the end the following new sub-  
24          section:

1       “(bb) APPLICATION OF OOP DRUG CATASTROPHIC  
2 LIMIT.—If an individual covered under this part incurs  
3 out-of-pocket costs described in subsection (e) of section  
4 1860D–14B for eligible Medicare drugs (as defined in  
5 subsection (g) of such section) furnished to such individual  
6 during a year that equals the OOP drug catastrophic limit  
7 specified in subsection (d) of such section for such year,  
8 subsection (a)(1)(S) shall be applied with respect to ex-  
9 penses incurred for eligible Medicare drugs described in  
10 subsection (g)(1)(B) of such section furnished to such in-  
11 dividual during the remainder of the year as if the ref-  
12 erence in such subsection (a)(1)(S) to ‘80 percent’ were  
13 a reference to ‘100 percent’.”.

14       (c) PREMIUM HOLD HARMLESS.—

15           (1) IN GENERAL.—Section 1839(a)(1) of the  
16 Social Security Act (42 U.S.C. 1395r(a)(1)) is  
17 amended by inserting “, payments under section  
18 1860D–14B, additional payments by reason of appli-  
19 cation of section 1833(bb),” after “section  
20 1853(l)(3)”.

21           (2) PAYMENT.—Section 1844(a) of the Social  
22 Security Act (42 U.S.C. 1395w(a)) is amended—

23                   (A) in paragraph (3), by striking the pe-  
24 riod at the end and inserting “; plus”; and



1 (B) by inserting after paragraph (3) the  
2 following new paragraph:

3 “(4) a Government contribution equal to the  
4 amount of catastrophic limit coverage subsidies pay-  
5 able under section 1860D–14B and additional pay-  
6 ments by reason of application of section  
7 1833(bb).”.

8 (d) CONFORMING AMENDMENTS.—Section 1860D–  
9 2(b) of the Social Security Act—

10 (1) in paragraph (2)(A), by inserting “and sec-  
11 tion 1860D–14B” after “subparagraphs (C) and  
12 (D)”;

13 (2) in paragraph (2)(C)(i), by inserting “and  
14 subject to section 1860D–14B” after “para-  
15 graph(4)”;

16 (3) in paragraph (2)(D)(i), by inserting “and  
17 subject to section 1860D–14B” after “para-  
18 graph(4)”;

19 (4) in paragraph (3)(A), by striking “and (4)”  
20 and inserting “and (4) and subject to section  
21 1860D–14B”; and

22 (5) in paragraph (4)(A)(i), by inserting “sub-  
23 ject to section 1860D–14B,” after “subparagraph  
24 (B),”.

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