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118TH CONGRESS
2D SESSION

H. R. 7142

To amend title XVIII of the Social Security Act to ensure appropriate access to non-opioid pain management drugs under part D of the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2024

Mrs. MILLER-MEEKS (for herself and Mr. CÁRDENAS) 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 ensure appropriate access to non-opioid pain management drugs under part D of the Medicare program.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Alternatives to Prevent Addiction In the Nation Act'' or the ''Alternatives to PAIN Act''.

(b) FINDINGS.—Congress finds the following:

(1) In 2019, approximately 10 million people misused prescription opioids.

(2) 3 million U.S. citizens and 16 million individuals worldwide have had or currently suffer from opioid use disorder (OUD).

(3) In 2021, the number of overdose deaths involving opioids was 10 times the number in 1999, and overdoses involving opioids killed more than 80,000 people in 2021 alone.

(4) Most Medicare beneficiaries are prescribed opioids to manage post-surgical pain.

(5) Data from 2017 indicates that, of those prescribed an abundance of opioids, 90% did not properly dispose of the extra.

(6) A combination of opioid overreliance, improper storage, and easy access to opioids can worsen the addiction crisis.

(7) 1 study from 2019 found that among young people misusing opioids, over 55% obtained them from friends or relatives.

(8) Some individuals require opioids to manage their condition including for chronic pain and palliative care.

(9) Nothing should interfere with the ability of a health care provider to prescribe or administer a course of treatment that is medically appropriate.

SEC. 2. APPROPRIATE COST-SHARING FOR QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS UNDER MEDICARE PART D.

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

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking ''paragraphs (8) and (9)'' and inserting ''paragraphs (8), (9), and (10)'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''paragraphs (8) and (9)'' and inserting ''paragraphs (8), (9), and (10)'';

(ii) in subparagraph (C)(i), in the matter preceding subclause (I), by striking ''and (9)'' and inserting '', (9), and (10)''; and

(iii) in subparagraph (D)(i), in the matter preceding subclause (I), by striking ''and (9)'' and inserting '', (9), and (10)'';

(C) in paragraph (3)(A), in the matter preceding clause (i), by striking ''and (9)'' and inserting ''(9), and (10)'';

(D) in paragraph (4)(A)(i), by striking ''paragraphs (8) and (9),'' and inserting ''paragraphs (8), (9), and (10),''; and

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

''(10) TREATMENT OF COST-SHARING FOR QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS.—

''(A) IN GENERAL.—For plan years beginning on or after January 1, 2025, with respect to a covered part D drug that is a qualifying non-opioid pain management drug (as defined in subparagraph (B))—

''(i) the deductible under paragraph (1) shall not apply; and

''(ii) such drug shall be placed on the lowest cost-sharing tier, if any, for purposes of determining the maximum co-insurance or other cost-sharing for such drug.

''(B) QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS.—In this paragraph, the term

‘qualifying non-opioid pain management drug’ means a drug or biological product—

“(i) that has a label indication approved by the Food and Drug Administration to reduce postoperative pain or any other form of acute pain;

“(ii) that does not act upon the body’s opioid receptors;

“(iii) that is not a schedule I, II, or III controlled substance;

“(iv) for which there is no other drug or product that is—

“(I) rated as therapeutically equivalent (under the Food and Drug Administration’s most recent publication of ‘Approved Drug Products with Therapeutic Equivalence Evaluations’); and

“(II) which is sold or marketed in the United States; and

“(v) for which the wholesale acquisition cost (as defined in section 1847A(c)(6)(B)), for a monthly supply does not exceed the monthly specialty-tier

cost threshold as determined by the Secretary from time to time.''; and

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

''(7) TREATMENT OF COST-SHARING FOR QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS.—The coverage is provided in accordance with subsection (b)(10).''.

(b) CONFORMING AMENDMENTS TO COST-SHARING FOR LOW-INCOME INDIVIDUALS.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(1) in paragraph (1)(D), in each of the clauses (ii) and (iii), by striking ''Subject to paragraph (6)'' and inserting ''Subject to paragraphs (6) and (7)'';

(2) in paragraph (2)—

(A) in subparagraph (B), by striking ''Subject to paragraphs (8) and (9)'' and inserting ''Subject to paragraphs (8), (9), and (10)'';

(B) in subparagraph (D), by striking ''Subject to paragraph (6)'' and inserting ''Subject to paragraphs (6) and (7)''; and

(C) in subparagraph (E), by striking ''Subject to paragraph (6)'' and inserting ''Subject to paragraphs (6) and (7)''; and

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

''(7) NO APPLICATION OF COST-SHARING OR DEDUCTIBLE FOR QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS.—For plan years beginning on or after January 1, 2025, with respect to a covered part D drug that is a qualifying non-opioid pain management drug (as defined in section 1860D–2(b)(10)(B))—

''(A) the deductible under section 1860D-2(b)(1) shall not apply; and

''(B) such drug shall be placed on the lowest cost-sharing tier, if any, for purposes of determining the maximum co-insurance or other cost-sharing for such drug.''.

SEC. 3. PROHIBITION ON THE USE OF STEP THERAPY AND PRIOR AUTHORIZATION FOR QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS UNDER MEDICARE PART D.

Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended in subsection (c) by adding at the end the following paragraph:

''(7) PROHIBITION ON USE OF STEP THERAPY AND PRIOR AUTHORIZATION FOR QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS.—

''(A) IN GENERAL.—A prescription drug plan may not, with respect to a qualifying non-opioid pain management drug for which coverage is provided under such plan, impose any—

''(i) step therapy requirement under which an individual enrolled under such plan is required to use an opioid prior to receiving such drug; or

''(ii) prior authorization requirement.

''(B) STEP THERAPY.—In this paragraph, the term 'step therapy' means a drug therapy utilization management protocol or program that requires use of an alternative, preferred prescription drug or drugs before the plan approves coverage for the non-preferred drug therapy prescribed.

''(C) PRIOR AUTHORIZATION.—In this paragraph, the term 'prior authorization' means any requirement to obtain approval from a prescription drug plan prior to the furnishing of a drug.

''(D) QUALIFYING NON-OPIOID PAIN MANAGEMENT DRUGS.—In this paragraph, the term 'qualifying non-opioid pain management drug'

has the meaning given that term in section 1860D–2(b)(10)(B).''.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act may be construed to limit or interfere with the authority of a health care provider to prescribe or administer any legally marketed drug to a patient for any condition or disease within a legitimate health care practitioner-patient relationship.

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