

111TH CONGRESS  
1ST SESSION

# S. 1201

To amend title XVIII of the Social Security Act to include costs incurred by the Indian Health Service, a federally qualified health center, an AIDS drug assistance program, certain hospitals, or a pharmaceutical manufacturer patient assistance program in providing prescription drugs toward the annual out-of-pocket threshold under part D of the Medicare program.

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IN THE SENATE OF THE UNITED STATES

JUNE 8, 2009

Mr. BINGAMAN (for himself, Mr. BEGICH, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to include costs incurred by the Indian Health Service, a federally qualified health center, an AIDS drug assistance program, certain hospitals, or a pharmaceutical manufacturer patient assistance program in providing prescription drugs toward the annual out-of-pocket threshold under part D of the Medicare program.

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 “Helping Fill the Medi-  
3 care Rx Gap Act of 2009”.

4 **SEC. 2. INCLUDING COSTS INCURRED BY THE INDIAN**  
5 **HEALTH SERVICE, A FEDERALLY QUALIFIED**  
6 **HEALTH CENTER, AN AIDS DRUG ASSISTANCE**  
7 **PROGRAM, CERTAIN HOSPITALS, OR A PHAR-**  
8 **MACEUTICAL MANUFACTURER PATIENT AS-**  
9 **SISTANCE PROGRAM IN PROVIDING PRE-**  
10 **SCRIPTION DRUGS TOWARD THE ANNUAL**  
11 **OUT-OF-POCKET THRESHOLD UNDER PART D.**

12 (a) IN GENERAL.—Section 1860D–2(b)(4)(C) of the  
13 Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)) is  
14 amended—

15 (1) in clause (i), by striking “and” at the end;

16 (2) in clause (ii)—

17 (A) by striking “such costs shall be treated  
18 as incurred only if” and inserting “subject to  
19 clause (iii), such costs shall be treated as in-  
20 curred if”;

21 (B) by striking “, under section 1860D–  
22 14, or under a State Pharmaceutical Assistance  
23 Program”;

24 (C) by striking “(other than under such  
25 section or such a Program)”; and

1 (D) by striking the period at the end and  
2 inserting “; and”; and

3 (3) by inserting after clause (ii) the following  
4 new clause:

5 “(iii) such costs shall be treated as in-  
6 curred and shall not be considered to be  
7 reimbursed under clause (ii) if such costs  
8 are borne or paid—

9 “(I) under section 1860D–14;

10 “(II) under a State Pharma-  
11 ceutical Assistance Program;

12 “(III) by the Indian Health Serv-  
13 ice, an Indian tribe or tribal organiza-  
14 tion, or an urban Indian organization  
15 (as defined in section 4 of the Indian  
16 Health Care Improvement Act);

17 “(IV) by a federally qualified  
18 health center (as defined in section  
19 1861(aa)(4));

20 “(V) under an AIDS Drug As-  
21 sistance Program under part B of  
22 title XXVI of the Public Health Serv-  
23 ice Act;

24 “(VI) by a subsection (d) hos-  
25 pital (as defined in section

1 1886(d)(1)(B)) that meets the re-  
2 quirements of clauses (i) and (ii) of  
3 section 340B(a)(4)(L) of the Public  
4 Health Service Act; or

5 “(VII) by a pharmaceutical man-  
6 ufacturer patient assistance program,  
7 either directly or through the distribu-  
8 tion or donation of covered part D  
9 drugs, which shall be valued at the  
10 negotiated price of such covered part  
11 D drug under the enrollee’s prescrip-  
12 tion drug plan or MA–PD plan as of  
13 the date that the drug was distributed  
14 or donated.”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 subsection (a) shall apply to costs incurred on or after  
17 January 1, 2010.

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