

114TH CONGRESS  
1ST SESSION

# S. 1364

To amend title XIX of the Social Security Act to require the payment of an additional rebate to the State Medicaid plan in the case of increase in the price of a generic drug at a rate that is greater than the rate of inflation.

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## IN THE SENATE OF THE UNITED STATES

MAY 18, 2015

Mr. SANDERS (for himself, Mr. BROWN, Ms. HIRONO, Mr. BLUMENTHAL, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to require the payment of an additional rebate to the State Medicaid plan in the case of increase in the price of a generic drug at a rate that is greater than the rate of inflation.

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 “Medicaid Generic Drug  
5 Price Fairness Act of 2015”.

1 **SEC. 2. APPLYING THE MEDICAID ADDITIONAL REBATE RE-**  
 2 **QUIREMENT TO GENERIC DRUGS.**

3 (a) IN GENERAL.—Section 1927(c)(3) of the Social  
 4 Security Act (42 U.S.C. 1396r–8(e)(3)) is amended—

5 (1) in subparagraph (A), by striking “The  
 6 amount” and inserting “Except as provided in sub-  
 7 paragraph (C), the amount”; and

8 (2) by adding at the end the following new sub-  
 9 paragraph:

10 “(C) ADDITIONAL REBATE.—

11 “(i) IN GENERAL.—The amount of  
 12 the rebate specified in this paragraph for  
 13 a rebate period, with respect to each dos-  
 14 age form and strength of a covered out-  
 15 patient drug other than a single source  
 16 drug or an innovator multiple source drug,  
 17 shall be increased in the manner that the  
 18 rebate for a dosage form and strength of  
 19 a single source drug or an innovator mul-  
 20 tiple source drug is increased under sub-  
 21 paragraphs (A) and (D) of paragraph (2),  
 22 except as provided in clause (ii).

23 “(ii) SPECIAL RULES FOR APPLICA-  
 24 TION OF PROVISION.—In applying sub-  
 25 paragraphs (A) and (D) of paragraph (2)  
 26 under clause (i)—

1           “(I) the reference in subpara-  
2 graph (A)(i) of such paragraph to  
3 ‘1990’ shall be deemed a reference to  
4 ‘2014’;

5           “(II) subject to clause (iii), the  
6 reference in subparagraph (A)(ii) of  
7 such paragraph to ‘calendar quarter  
8 beginning July 1, 1990’ shall be  
9 deemed a reference to the ‘calendar  
10 quarter in which the average manu-  
11 facturer price for the drug is the low-  
12 est during the 12-calendar quarter pe-  
13 riod ending on September 30, 2014’;  
14 and

15           “(III) subject to clause (iii), the  
16 reference in subparagraph (A)(ii) of  
17 such paragraph to ‘September 1990’  
18 shall be deemed a reference to ‘the  
19 last month of such calendar quarter’;

20           “(IV) the references in subpara-  
21 graph (D) of such paragraph to ‘para-  
22 graph (1)(A)(ii)’, ‘this paragraph’,  
23 and ‘December 31, 2009’ shall be  
24 deemed references to ‘subparagraph

1 (A)', 'this subparagraph', and 'De-  
2 cember 31, 2014', respectively; and

3 “(V) any reference in such para-  
4 graph to a ‘single source drug or an  
5 innovator multiple source drug’ shall  
6 be deemed to be a reference to a drug  
7 to which clause (i) applies.

8 “(iii) SPECIAL RULE FOR CERTAIN  
9 NONINNOVATOR MULTIPLE SOURCE  
10 DRUGS.—In applying paragraph  
11 (2)(A)(ii)(II) under clause (i) with respect  
12 to a covered outpatient drug that is first  
13 sold as a drug other than a single source  
14 drug or an innovator multiple source drug  
15 after the date that is 3 years before the  
16 date of the enactment of this subpara-  
17 graph, such paragraph shall be applied—

18 “(I) by substituting ‘the applica-  
19 ble quarter’ for ‘the calendar quarter  
20 beginning July 1, 1990’; and

21 “(II) by substituting ‘the last  
22 month in such applicable quarter’ for  
23 ‘September 1990’.

24 “(iv) APPLICABLE QUARTER DE-  
25 FINED.—In this subsection, the term ‘ap-

1 plicable quarter' means, with respect to a  
2 drug described in clause (iii), the fifth full  
3 calendar quarter in which the drug is sold  
4 as a drug other than a single source drug  
5 or an innovator multiple source drug.”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 subsection (a) shall apply to rebate periods beginning after  
8 December 31, 2014.

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