

116TH CONGRESS
1ST SESSION

S. 3000

To amend title XVIII of the Social Security Act to allow PDP sponsors of prescription drug plans and Medicare Advantage organizations offering MA–PD plans to share with enrollees a portion of savings from switching to lower cost therapeutic alternative medications.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2019

Mr. CASSIDY (for himself and Ms. HASSAN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to allow PDP sponsors of prescription drug plans and Medicare Advantage organizations offering MA–PD plans to share with enrollees a portion of savings from switching to lower cost therapeutic alternative medications.

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 “Patient Shared Sav-
5 ings Act”.

1 **SEC. 2. ALLOWING PRESCRIPTION DRUG PLANS AND MA-**
 2 **PD PLANS TO SHARE WITH ENROLLEES A**
 3 **PORTION OF SAVINGS FROM SWITCHING TO**
 4 **LOWER COST THERAPEUTIC ALTERNATIVE**
 5 **MEDICATIONS.**

6 (a) IN GENERAL.—Section 1860D–4 of the Social
 7 Security Act (42 U.S.C. 1395w–104) is amended—

8 (1) by redesignating subsection (m) (relating to
 9 program integrity transparency measures), as added
 10 by section 6063(c) of the Substance Use-Disorder
 11 Prevention that Promotes Opioid Recovery and
 12 Treatment for Patients and Communities Act (Pub-
 13 lic Law 115–271), as subsection (n); and

14 (2) by adding at the end the following new sub-
 15 section:

16 “(o) SHARING WITH ENROLLEES A PORTION OF
 17 SAVINGS FROM SWITCHING TO A LOWER COST THERA-
 18 PEUTIC ALTERNATIVE MEDICATION.—

19 “(1) IN GENERAL.—For plan years beginning
 20 on or after January 1, 2021, a PDP sponsor of a
 21 prescription drug plan may have a program under
 22 which the PDP sponsor shares with an enrollee in
 23 the plan a portion of savings to the PDP sponsor as
 24 a result of the enrollee switching from a covered
 25 part D drug the enrollee is taking on an ongoing

1 basis to a lower cost therapeutic alternative covered
2 part D drug.

3 “(2) REQUIREMENTS.—If a PDP sponsor im-
4 plements a program described in paragraph (1), the
5 following requirements shall apply with respect to
6 the program:

7 “(A) REQUIREMENTS WITH RESPECT TO
8 ENROLLEES.—The enrollee—

9 “(i) must have been taking the cov-
10 ered part D drug on an ongoing basis for
11 at least 2 months as confirmed by claims
12 analysis by the PDP sponsor prior to
13 switching to the lower cost therapeutic al-
14 ternative covered part D drug; and

15 “(ii) must have agreed to make such
16 switch after consulting with their physi-
17 cian.

18 “(B) REQUIREMENTS WITH RESPECT TO
19 PDP SPONSORS.—The PDP sponsor must—

20 “(i) make available a shared savings
21 report with therapeutic alternatives to eli-
22 gible enrollees through Evidence of Bene-
23 fits or other information sent to enrollees,
24 or provide contracted providers with access
25 to tools that include therapeutic alter-

1 natives and shared savings at the point of
2 care;

3 “(ii) ensure that the total amount of
4 savings shared with an enrollee with re-
5 spect to the switch to a particular lower
6 cost therapeutic alternative covered part D
7 drug does not exceed an amount equal to
8 10 percent of the annualized net savings to
9 the PDP sponsor as a result of the enrollee
10 making such switch;

11 “(iii) only share such savings after the
12 PDP sponsor confirms, based on claims
13 analysis, that—

14 “(I) the enrollee has switched to
15 the lower cost therapeutic alternative
16 covered part D drug; and

17 “(II) the switch does not result
18 in an increased cost to the program
19 under this part;

20 “(iv) provide a tangible reward or in-
21 centive for the amount of such shared sav-
22 ings, which—

23 “(I) shall directly benefit the en-
24 rollee;

25 “(II) such sponsor may not—

1 “(aa) use to reduce plan
2 premiums for the enrollee; or

3 “(bb) direct an enrollee to
4 use to pay such premiums; and

5 “(III) may be in the form of a
6 monetary rebate, gift card, discount
7 coupon, or other item consistent with
8 the President’s Executive Order on
9 Protecting and Improving Medicare
10 for Our Nation’s Seniors, issued on
11 October 3, 2019; and

12 “(v) provide an annual report to the
13 Secretary, with respect to the preceding
14 plan year, on the number of enrollees who
15 receive shared savings under this sub-
16 section as a result of switching to a lower
17 cost therapeutic alternative covered part D
18 drug, the total amount of such savings
19 shared with the enrollee and in what form,
20 and the total savings to the PDP sponsor
21 as a result of enrollees making such
22 switch.

23 “(3) AUTHORITY TO PROVIDE WITH RESPECT
24 TO CERTAIN SUB-POPULATIONS OR GEOGRAPHIC
25 AREAS.—A PDP sponsor may provide shared sav-

1 ings pursuant to this subsection for only a certain
 2 sub-population of enrollees or a geographically lim-
 3 ited population of enrollees if the Secretary deter-
 4 mines, based on a showing by the PDP sponsor, that
 5 the PDP sponsor is not discriminating based on the
 6 health status of enrollees.”.

7 (b) EXCLUSION FROM ANTI-KICKBACK PROHIBI-
 8 TION.—Section 1128B(b)(3) of the Social Security Act
 9 (42 U.S.C. 1320a–7b(b)(3)) is amended—

10 (1) in subparagraph (J)—

11 (A) by moving such subparagraph 2 ems to
 12 the left; and

13 (B) by striking “and” at the end;

14 (2) in subparagraph (K)—

15 (A) by moving such subparagraph 2 ems to
 16 the left; and

17 (B) by striking the period at the end and
 18 inserting “; and”; and

19 (3) by adding at the end the following new sub-
 20 paragraph:

21 “(L) any shared savings provided under section
 22 1860D–4(o).”.

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