

115TH CONGRESS
1ST SESSION

S. _____

To amend titles XI and XVIII of the Social Security Act to provide greater transparency of discounts provided by drug manufacturers.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend titles XI and XVIII of the Social Security Act to provide greater transparency of discounts provided by drug manufacturers.

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 “Creating Transparency
5 to Have Drug Rebates Unlocked (C-THRU) Act of 2017”.

6 **SEC. 2. PUBLIC DISCLOSURE OF DRUG DISCOUNTS.**

7 (a) IN GENERAL.—Section 1150A of the Social Secu-
8 rity Act (42 U.S.C. 1320b–23) is amended—

1 (1) in subsection (c), in the matter preceding
2 paragraph (1), by striking “this section” and insert-
3 ing “subsection (b)(1)”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(e) PUBLIC AVAILABILITY OF CERTAIN INFORMA-
7 TION.—In order to allow patients and employers to com-
8 pare PBMs’ ability to negotiate rebates, discounts, and
9 price concessions and the amount of such rebates, dis-
10 counts, and price concessions that are passed through to
11 plan sponsors, beginning January 1, 2018, the Secretary
12 shall make available on the Internet website of the Depart-
13 ment of Health and Human Services the information pro-
14 vided to the Secretary under paragraphs (2) and (3) of
15 subsection (b) with respect to each PBM. The Secretary
16 shall ensure that such information is displayed in a man-
17 ner that prevents the disclosure of information on rebates,
18 discounts, and price concessions with respect to an indi-
19 vidual drug or an individual plan.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall take effect on January 1, 2018.

22 **SEC. 3. MINIMUM DRUG DISCOUNTS REQUIRED TO BE**
23 **PASSED THROUGH TO THE PLAN SPONSOR.**

24 Section 1150A of the Social Security Act (42 U.S.C.
25 1320b–23), as amended by section 2(a)(2), is amended—

1 (1) in the heading, by inserting “; **MINIMUM**
2 **DRUG DISCOUNTS REQUIRED TO BE PASSED**
3 **THROUGH TO THE PLAN SPONSOR**” before the
4 period at the end; and

5 (2) by adding at the end the following new sub-
6 section:

7 “(f) **MINIMUM DRUG DISCOUNTS REQUIRED TO BE**
8 **PASSED THROUGH TO THE PLAN SPONSOR.**—

9 “(1) **REQUIREMENT.**—A PBM that manages
10 prescription drug coverage under a contract with a
11 PDP sponsor or MA organization described in sub-
12 section (b)(1) or a qualified health benefits plan de-
13 scribed in subsection (b)(2), shall, with respect to
14 the plan sponsor of a health benefits plan, pass
15 through to the plan sponsor a minimum percent (as
16 established by the Secretary) of the aggregate
17 amount of the rebates, discounts, or price conces-
18 sions that the PBM negotiates that are attributable
19 to patient utilization under the plan.

20 “(2) **ESTABLISHMENT.**—The Secretary shall es-
21 tablish the minimum percent described in paragraph
22 (1) in such a manner as will ensure that patients re-
23 ceive the maximum benefit of rebates, discounts, or
24 price concessions while taking into account the costs

1 of negotiating such rebates, discounts, and price
2 concessions.

3 “(3) ENFORCEMENT.—A PDP sponsor of a
4 prescription drug plan or an MA organization offer-
5 ing a MA–PD plan under part D of title XVIII may
6 not contract with a PBM that is not in compliance
7 with the requirement under paragraph (1).”.

8 **SEC. 4. PART D NEGOTIATED PRICES REQUIRED TO TAKE**
9 **INTO ACCOUNT ALL PRICE CONCESSIONS AT**
10 **THE POINT-OF-SALE.**

11 (a) IN GENERAL.—Section 1860D–2(d)(1)(B) of the
12 Social Security Act (42 U.S.C. 1395w–102(d)(1)(B)) is
13 amended—

14 (1) by striking “PRICES.—For purposes” and
15 inserting “PRICES.—

16 “(i) IN GENERAL.—For purposes”;
17 and

18 (2) by adding at the end the following new
19 clause:

20 “(ii) NEGOTIATED PRICES AT POINT-
21 OF-SALE.—

22 “(I) IN GENERAL.—Negotiated
23 prices for covered part D drugs de-
24 scribed in clause (i), including all
25 price negotiated concessions, shall be

1 provided at the point-of-sale of the
2 covered part D drug. If the negotiated
3 price, including all negotiated price
4 concessions, is not possible to cal-
5 culate at the point-of-sale, an approxi-
6 mate negotiated price (as established
7 by the Secretary) shall be used under
8 the prescription drug plan or MA-PD
9 plan.

10 “(II) APPROXIMATE NEGOTIATED
11 PRICE.—In determining an approxi-
12 mate negotiated price for a covered
13 part D drug under subclause (I), the
14 Secretary shall ensure that—

15 “(aa) such price reflects the
16 estimated negotiated price that is
17 based on the previous year’s ne-
18 gotiated price concessions nego-
19 tiated under the plan for all or
20 similar covered part D drugs or
21 is based on such other factors as
22 the Secretary may determine ap-
23 propriate; and

24 “(bb) the use of such price
25 does not prevent the use of value-

6

1 based contracts between drug
2 manufacturers, PDP sponsors,
3 MA organizations, and phar-
4 macies.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to plan years beginning on or
7 after January 1, 2019.