

106TH CONGRESS
1ST SESSION

S. 841

To amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under the medicare program.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 1999

Mr. KENNEDY (for himself, Mr. ROCKEFELLER, and Mr. WELLSTONE) 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 provide for coverage of outpatient prescription drugs under 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Access to Rx Medications in Medicare Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Medicare coverage of outpatient prescription drugs.
- Sec. 3. Selection of entities to provide outpatient drug benefit.
- Sec. 4. Optional coverage for certain beneficiaries.

Sec. 5. Medigap revisions.

Sec. 6. Improved medicaid assistance for low-income individuals.

Sec. 7. Waiver of additional portion of part B premium for certain medicare beneficiaries having actuarially equivalent coverage.

Sec. 8. Elimination of time limitation on medicare benefits for immunosuppressive drugs.

Sec. 9. Expansion of membership of MEDPAC to 19.

Sec. 10. GAO study and report to Congress.

Sec. 11. Effective date.

1 **SEC. 2. MEDICARE COVERAGE OF OUTPATIENT PRESCRIP-**
 2 **TION DRUGS.**

3 (a) COVERAGE.—Section 1861(s)(2) of the Social Se-
 4 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

5 (1) by striking “and” at the end of subpara-
 6 graph (S);

7 (2) by striking the period at the end of sub-
 8 paragraph (T) and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(U) covered outpatient drugs (as defined in
 11 subsection (i)(1) of section 1849) pursuant to the
 12 procedures established under such section;”.

13 (b) PAYMENT.—Section 1833(a)(1) of the Social Se-
 14 curity Act (42 U.S.C. 1395l(a)(1)) is amended—

15 (1) by striking “and (S)” and inserting “(S)”;
 16 and

17 (2) by striking the semicolon at the end and in-
 18 serting the following: “, and (T) with respect to cov-
 19 ered outpatient drugs (as defined in subsection (i)(1)
 20 of section 1849), the amounts paid shall be the

1 amounts established by the Secretary pursuant to
2 such section;”.

3 **SEC. 3. SELECTION OF ENTITIES TO PROVIDE OUTPATIENT**
4 **DRUG BENEFIT.**

5 Part B of title XVIII of the Social Security Act (42
6 U.S.C. 1395j et seq.) is amended by adding at the end
7 the following:

8 **“SEC. 1849. SELECTION OF ENTITIES TO PROVIDE OUT-**
9 **PATIENT DRUG BENEFIT.**

10 **“(a) ESTABLISHMENT OF BIDDING PROCESS.—**

11 **“(1) IN GENERAL.—**The Secretary shall estab-
12 lish procedures under which the Secretary accepts
13 bids from eligible entities and awards contracts to
14 such entities in order to provide covered outpatient
15 drugs to eligible beneficiaries in an area. Such con-
16 tracts may be awarded based on shared risk, capita-
17 tion, or performance.

18 **“(2) AREA.—**

19 **“(A) REGIONAL BASIS.—**The contract en-
20 tered into between the Secretary and an eligible
21 entity shall require the eligible entity to provide
22 covered outpatient drugs on a regional basis.

23 **“(B) DETERMINATION.—**In determining
24 coverage areas under this section, the Secretary
25 shall take into account the number of eligible

1 beneficiaries in an area in order to encourage
2 participation by eligible entities.

3 “(3) SUBMISSION OF BIDS.—Each eligible enti-
4 ty desiring to provide covered outpatient drugs
5 under this section shall submit a bid to the Sec-
6 retary at such time, in such manner, and accom-
7 panied by such information as the Secretary may
8 reasonably require. Such bids shall include the
9 amount the eligible entity will charge enrollees under
10 subsection (e)(2) for covered outpatient drugs under
11 the contract.

12 “(4) ACCESS.—The Secretary shall ensure
13 that—

14 “(A) an eligible entity complies with the
15 access requirements described in subsection
16 (f)(5);

17 “(B) if an eligible entity employs
18 formularies pursuant to subsection (f)(6)(A),
19 such entity complies with the requirements of
20 subsection (f)(6)(B); and

21 “(C) an eligible entity makes available to
22 each beneficiary covered under the contract the
23 full scope of benefits required under paragraph
24 (5).

1 “(5) SCOPE OF BENEFITS.—The Secretary shall
2 ensure that all covered outpatient drugs that are
3 reasonable and necessary to prevent or slow the de-
4 terioration of, and improve or maintain, the health
5 of eligible beneficiaries are offered under a contract
6 entered into under this section.

7 “(6) NUMBER OF CONTRACTS.—The Secretary
8 shall, consistent with the requirements of this sec-
9 tion and the goal of containing medicare program
10 costs, award at least 2 contracts in an area, unless
11 only 1 bidding entity meets the minimum standards
12 specified under this section and by the Secretary.

13 “(7) DURATION OF CONTRACTS.—Each con-
14 tract under this section shall be for a term of at
15 least 2 years but not more than 5 years, as deter-
16 mined by the Secretary.

17 “(8) BENCHMARK FOR CONTRACTS.—The Sec-
18 retary shall not enter into a contract with an eligible
19 entity under this section unless the Secretary deter-
20 mines that the average cost (excluding any cost-
21 sharing) for all covered outpatient drugs provided to
22 beneficiaries under the contract is comparable to the
23 average cost charged (exclusive of any cost-sharing)
24 by large private sector purchasers for such drugs.

25 “(b) ENROLLMENT.—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish a process through which an eligible beneficiary
3 shall make an election to enroll with any eligible en-
4 tity that has been awarded a contract under this sec-
5 tion and serves the geographic area in which the
6 beneficiary resides. In establishing such process, the
7 Secretary shall use rules similar to the rules for en-
8 rollment and disenrollment with a Medicare+Choice
9 plan under section 1851.

10 “(2) REQUIREMENT OF ENROLLMENT.—Ex-
11 cluding an eligible beneficiary enrolled in a group
12 health plan described in section 4 of the Access to
13 Rx Medications in Medicare Act of 1999, an eligible
14 beneficiary not enrolled in a Medicare+Choice plan
15 under part C must enroll with an eligible entity
16 under this section in order to be eligible to receive
17 covered outpatient drugs under this title.

18 “(3) ENROLLMENT IN ABSENCE OF ELECTION
19 BY ELIGIBLE BENEFICIARY.—In the case of an eligi-
20 ble beneficiary that fails to make an election pursu-
21 ant to paragraph (1), the Secretary shall provide,
22 pursuant to procedures developed by the Secretary,
23 for the enrollment of such beneficiary with an eligi-
24 ble entity that has a contract under this section that
25 covers the area in which such beneficiary resides.

1 “(4) AREAS NOT COVERED BY CONTRACTS.—
2 The Secretary shall develop procedures for the provi-
3 sion of covered outpatient drugs under this title to
4 eligible beneficiaries that reside in an area that is
5 not covered by any contract under this section.

6 “(5) BENEFICIARIES RESIDING IN DIFFERENT
7 LOCATIONS.—The Secretary shall develop procedures
8 to ensure that an eligible beneficiary that resides in
9 different regions in a year is provided benefits under
10 this section throughout the entire year.

11 “(c) PROVIDING INFORMATION TO BENE-
12 FICIARIES.—The Secretary shall provide for activities
13 under this section to broadly disseminate information to
14 medicare beneficiaries on the coverage provided under this
15 section. Such activities shall be similar to the activities
16 performed by the Secretary under section 1851(d).

17 “(d) PAYMENTS TO ELIGIBLE ENTITIES.—The Sec-
18 retary shall establish procedures for making payments to
19 an eligible entity under a contract.

20 “(e) COST-SHARING.—

21 “(1) DEDUCTIBLE.—Benefits under this section
22 shall not begin until the eligible beneficiary has met
23 a \$200 deductible.

24 “(2) COPAYMENT.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the eligible beneficiary shall be re-
3 sponsible for making payments in an amount
4 not greater than 20 percent of the cost (as stat-
5 ed in the contract) of any covered outpatient
6 drug that is provided to the beneficiary. Pursu-
7 ant to subsection (a)(4)(B), an eligible entity
8 may reduce the payment amount that an eligi-
9 ble beneficiary is responsible for making to the
10 entity.

11 “(B) BASIC BENEFIT.—Subject to sub-
12 paragraph (C), if the aggregate amount of cov-
13 ered outpatient drugs provided to an eligible
14 beneficiary under this section for any calendar
15 year (based on the cost of covered outpatient
16 drugs stated in the contract) exceeds \$1,700—

17 “(i) the beneficiary may continue to
18 purchase covered outpatient drugs under
19 the contract based on the contract price,
20 but

21 “(ii) the copayment under subpara-
22 graph (A) shall be 100 percent.

23 “(C) STOP-LOSS PROTECTION.—The co-
24 payment amount under subparagraph (A) shall
25 be 0 percent once an eligible beneficiary’s out-

1 of-pocket expenses for covered outpatient drugs
2 under this section reach \$3,000.

3 “(D) INFLATION ADJUSTMENT.—

4 “(i) IN GENERAL.—In the case of any
5 calendar year beginning after 2000, each
6 of the dollar amounts in subparagraphs
7 (B) and (C) shall be increased by an
8 amount equal to—

9 “(I) such dollar amount, multi-
10 plied by

11 “(II) an adjustment, as deter-
12 mined by the Secretary, for changes
13 in the per capita cost of prescription
14 drugs for beneficiaries under this title.

15 “(ii) ROUNDING.—If any dollar
16 amount after being increased under clause
17 (i) is not a multiple of \$10, such dollar
18 amount shall be rounded to the nearest
19 multiple of \$10.

20 “(f) CONDITIONS FOR AWARDING CONTRACT.—The
21 Secretary shall not award a contract to an eligible entity
22 under subsection (a) unless the Secretary finds that the
23 eligible entity is in compliance with such terms and condi-
24 tions as the Secretary shall specify, including the fol-
25 lowing:

1 “(1) QUALITY AND FINANCIAL STANDARDS.—
2 The eligible entity meets quality and financial stand-
3 ards specified by the Secretary.

4 “(2) INFORMATION.—The eligible entity pro-
5 vides the Secretary with information that the Sec-
6 retary determines is necessary in order to carry out
7 the bidding process under this section, including
8 data needed to implement subsection (a)(8) and data
9 regarding utilization, expenditures, and costs.

10 “(3) EDUCATION.—The eligible entity estab-
11 lishes educational programs that meet the criteria
12 established by the Secretary pursuant to subsection
13 (g)(1).

14 “(4) PROCEDURES TO ENSURE PROPER UTILI-
15 ZATION AND TO AVOID ADVERSE DRUG REAC-
16 TIONS.—The eligible entity has in place procedures
17 to ensure the—

18 “(A) appropriate utilization by eligible
19 beneficiaries of the benefits to be provided
20 under the contract; and

21 “(B) avoidance of adverse drug reactions
22 among eligible beneficiaries enrolled with the
23 entity.

24 “(5) ACCESS.—The eligible entity ensures that
25 the covered outpatient drugs are accessible and con-

1 venient to eligible beneficiaries covered under the
2 contract, including by offering the services in the fol-
3 lowing manner:

4 “(A) SERVICES DURING EMERGENCIES.—

5 The offering of services 24 hours a day and 7
6 days a week for emergencies.

7 “(B) CONTRACTS WITH RETAIL PHAR-
8 MACIES.—The offering of services—

9 “(i) at a sufficient (as determined by
10 the Secretary) number of retail phar-
11 macies; and

12 “(ii) to the extent feasible, at retail
13 pharmacies located throughout the eligible
14 entity’s service area.

15 “(6) RULES RELATING TO PROVISION OF BENE-
16 FITS.—

17 “(A) PROVISION OF BENEFITS.—In pro-
18 viding benefits under a contract under this sec-
19 tion, an eligible entity may—

20 “(i) employ mechanisms to provide
21 benefits economically, including the use
22 of—

23 “(I) formularies (pursuant to
24 subparagraph (B));

1 “(II) alternative methods of dis-
2 tribution; and

3 “(III) generic drug substitution;
4 and

5 “(ii) use incentives to encourage eligi-
6 ble beneficiaries to select cost-effective
7 drugs or less costly means of receiving
8 drugs.

9 “(B) FORMULARIES.—If an eligible entity
10 uses a formulary to contain costs under this
11 Act—

12 “(i) the eligible entity shall—

13 “(I) ensure participation of prac-
14 ticing physicians and pharmacists in
15 the development of the formulary;

16 “(II) include in the formulary at
17 least 1 drug from each therapeutic
18 class;

19 “(III) provide for coverage of
20 otherwise covered non-formulary
21 drugs when recommended by pre-
22 scribing providers; and

23 “(IV) disclose to current and
24 prospective beneficiaries and to pro-
25 viders in the service area the nature

1 of the formulary restrictions, includ-
2 ing information regarding the drugs
3 included in the formulary, copayment
4 amounts, and any difference in the
5 cost-sharing for different types of
6 drugs; but

7 “(ii) nothing shall preclude an entity
8 from—

9 “(I) requiring higher cost-sharing
10 for drugs provided under clause
11 (i)(III), subject to limits established
12 in subsection (e)(2)(A), except that an
13 entity shall provide for coverage of a
14 nonformulary drug on the same basis
15 as a drug within the formulary if such
16 nonformulary drug is determined by
17 the prescribing provider to be medi-
18 cally indicated;

19 “(II) educating prescribing pro-
20 viders, pharmacists, and beneficiaries
21 about medical and cost benefits of for-
22 mulary products; and

23 “(III) requesting prescribing pro-
24 viders to consider a formulary product
25 prior to dispensing of a nonformulary

1 drug, as long as such request does not
2 unduly delay the provision of the
3 drug.

4 “(7) PROCEDURES TO COMPENSATE PHAR-
5 MACISTS FOR COUNSELING.—The eligible entity shall
6 compensate pharmacists for providing the counseling
7 described in subsection (g)(2)(B).

8 “(8) CLINICAL OUTCOMES.—

9 “(A) REQUIREMENT.—The eligible entity
10 shall comply with clinical quality standards as
11 determined by the Secretary.

12 “(B) DEVELOPMENT OF STANDARDS.—
13 The Secretary, in consultation with appropriate
14 medical specialty societies, shall develop clinical
15 quality standards that are applicable to eligible
16 entities. Such standards shall be based on cur-
17 rent standards of care.

18 “(9) PROCEDURES REGARDING DENIALS OF
19 CARE.—The eligible entity has in place procedures to
20 ensure—

21 “(A) the timely review and resolution of
22 denials of care and complaints (including those
23 regarding the use of formularies under para-
24 graph (6)) by enrollees, or providers, phar-
25 macists, and other individuals acting on behalf

1 of such individual (with the individual's con-
2 sent) in accordance with requirements (as es-
3 tablished by the Secretary) that are comparable
4 to such requirements for Medicare+Choice or-
5 ganizations under part C; and

6 “(B) that beneficiaries are provided with
7 information regarding the appeals procedures
8 under this section at the time of enrollment.

9 “(g) EDUCATIONAL REQUIREMENTS TO ENSURE AP-
10 PROPRIATE UTILIZATION.—

11 “(1) ESTABLISHMENT OF PROGRAM CRI-
12 TERIA.—The Secretary shall establish a model for
13 comprehensive educational programs in order to as-
14 sure the appropriate—

15 “(A) prescribing and dispensing of covered
16 outpatient drugs under this section; and

17 “(B) use of such drugs by eligible bene-
18 ficiaries.

19 “(2) ELEMENTS OF MODEL.—The model estab-
20 lished under paragraph (1) shall include the fol-
21 lowing elements:

22 “(A) On-line prospective review available
23 24 hours a day and 7 days a week in order to
24 evaluate each prescription for drug therapy

1 problems due to duplication, interaction, or in-
2 correct dosage or duration of therapy.

3 “(B) Consistent with State law, guidelines
4 for counseling eligible beneficiaries enrolled
5 under a contract under this section regarding—

6 “(i) the proper use of prescribed cov-
7 ered outpatient drugs; and

8 “(ii) interactions and contra-indica-
9 tions.

10 “(C) Methods to identify and educate pro-
11 viders, pharmacists, and eligible beneficiaries
12 regarding—

13 “(i) instances or patterns concerning
14 the unnecessary or inappropriate pre-
15 scribing or dispensing of covered out-
16 patient drugs;

17 “(ii) instances or patterns of sub-
18 standard care;

19 “(iii) potential adverse reactions to
20 covered outpatient drugs;

21 “(iv) inappropriate use of antibiotics;

22 “(v) appropriate use of generic prod-
23 ucts; and

1 “(vi) the importance of using covered
2 outpatient drugs in accordance with the in-
3 struction of prescribing providers.

4 “(h) PROTECTION OF PATIENT CONFIDENTIALITY.—
5 Insofar as an eligible organization maintains individually
6 identifiable medical records or other health information re-
7 garding enrollees under a contract entered into under this
8 section, the organization shall—

9 “(1) safeguard the privacy of any individually
10 identifiable enrollee information;

11 “(2) maintain such records and information in
12 a manner that is accurate and timely; and

13 “(3) assure timely access of such enrollees to
14 such records and information.

15 “(i) DEFINITIONS.—In this section:

16 “(1) COVERED OUTPATIENT DRUG.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the term ‘covered outpatient
19 drug’ means any of the following products:

20 “(i) A drug which may be dispensed
21 only upon prescription, and—

22 “(I) which is approved for safety
23 and effectiveness as a prescription
24 drug under section 505 of the Federal
25 Food, Drug, and Cosmetic Act;

1 “(II)(aa) which was commercially
2 used or sold in the United States be-
3 fore the date of enactment of the
4 Drug Amendments of 1962 or which
5 is identical, similar, or related (within
6 the meaning of section 310.6(b)(1) of
7 title 21 of the Code of Federal Regu-
8 lations) to such a drug, and (bb)
9 which has not been the subject of a
10 final determination by the Secretary
11 that it is a ‘new drug’ (within the
12 meaning of section 201(p) of the Fed-
13 eral Food, Drug, and Cosmetic Act)
14 or an action brought by the Secretary
15 under section 301, 302(a), or 304(a)
16 of such Act to enforce section 502(f)
17 or 505(a) of such Act; or

18 “(III)(aa) which is described in
19 section 107(c)(3) of the Drug Amend-
20 ments of 1962 and for which the Sec-
21 retary has determined there is a com-
22 pelling justification for its medical
23 need, or is identical, similar, or re-
24 lated (within the meaning of section
25 310.6(b)(1) of title 21 of the Code of

1 Federal Regulations) to such a drug,
2 and (bb) for which the Secretary has
3 not issued a notice of an opportunity
4 for a hearing under section 505(e) of
5 the Federal Food, Drug, and Cos-
6 metic Act on a proposed order of the
7 Secretary to withdraw approval of an
8 application for such drug under such
9 section because the Secretary has de-
10 termined that the drug is less than ef-
11 fective for all conditions of use pre-
12 scribed, recommended, or suggested in
13 its labeling.

14 “(ii) A biological product which—

15 “(I) may only be dispensed upon
16 prescription;

17 “(II) is licensed under section
18 351 of the Public Health Service Act;
19 and

20 “(III) is produced at an estab-
21 lishment licensed under such section
22 to produce such product.

23 “(iii) Insulin approved under appro-
24 priate Federal law.

1 “(iv) A prescribed drug or biological
2 product that would meet the requirements
3 of clause (i) or (ii) but that is available
4 over-the-counter in addition to being avail-
5 able upon prescription.

6 “(B) EXCLUSION.—The term ‘covered out-
7 patient drug’ does not include any product—

8 “(i) except as provided in subpara-
9 graph (A)(iv), which may be distributed to
10 individuals without a prescription;

11 “(ii) when furnished as part of, or as
12 incident to, a diagnostic service or any
13 other item or service for which payment
14 may be made under this title;

15 “(iii) that was covered under this title
16 on the day before the date of enactment of
17 the Access to Rx Medications in Medicare
18 Act of 1999; or

19 “(iv) that is a therapeutically equiva-
20 lent replacement for a product described in
21 clause (ii) or (iii), as determined by the
22 Secretary.

23 “(2) ELIGIBLE BENEFICIARY.—The term ‘eligi-
24 ble beneficiary’ means an individual that is enrolled
25 under part B of this title.

1 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
2 tity’ means any entity that the Secretary determines
3 to be appropriate, including—

4 “(A) pharmaceutical benefit management
5 companies;

6 “(B) wholesale and retail pharmacist deliv-
7 ery systems;

8 “(C) insurers;

9 “(D) other entities; or

10 “(E) any combination of the entities de-
11 scribed in subparagraphs (A) through (D).”.

12 **SEC. 4. OPTIONAL COVERAGE FOR CERTAIN BENE-**
13 **FICIARIES.**

14 (a) IN GENERAL.—If drug coverage under a group
15 health plan that provides health insurance coverage for re-
16 tirees is equivalent to or greater than the coverage pro-
17 vided under section 1849 of the Social Security Act (as
18 added by section 3), beneficiaries receiving coverage
19 through the group health plan may continue to receive
20 such coverage from the plan and the Secretary may make
21 payments to such plans, subject to the requirements of
22 this section.

23 (b) REQUIREMENTS.—To receive payment under this
24 section, group health plans shall—

1 (1) comply with certain requirements of this
2 Act and other reasonable, necessary, and related re-
3 quirements that are needed to administer this sec-
4 tion, as determined by the Secretary;

5 (2) to the extent that there is a contractual ob-
6 ligation to provide drug coverage to retirees that is
7 equal to or greater than the drug coverage provided
8 under this Act, reimburse or otherwise arrange to
9 compensate beneficiaries during the life of the con-
10 tract for the portion of the part B premium under
11 section 1839 of the Social Security Act that is iden-
12 tified by the Secretary of Health and Human Serv-
13 ices as attributable to the drug coverage provided
14 under section 1849 of that Act (as added by section
15 3); or

16 (3) for group health plans that are in existence
17 prior to enactment of this section and provide drug
18 coverage to retirees that is equal to or greater than
19 the drug coverage provided under section 1849 of
20 the Social Security Act (as added by section 3), re-
21 imburse or otherwise arrange to compensate bene-
22 ficiaries for the portion of the part B premium
23 under section 1839 of the Social Security Act that
24 is identified by the Secretary of Health and Human
25 Services as attributable to the drug coverage pro-

1 vided under section 1849 of that Act (as added by
2 section 3) for at least 1 year from the date that the
3 group health plan begins participation under this
4 section.

5 (c) PAYMENTS.—The Secretary shall establish a
6 process to provide payments to eligible group health plans
7 under this section on behalf of enrolled beneficiaries. Such
8 payments shall not exceed the amount that would other-
9 wise be paid to a private entity serving similar bene-
10 ficiaries in the same service area under section 1849 of
11 the Social Security Act (as added by section 3).

12 **SEC. 5. MEDIGAP REVISIONS.**

13 (a) COVERAGE OF OUTPATIENT DRUGS.—Section
14 1882(p)(2)(B) of the Social Security Act (42 U.S.C.
15 1395ss(p)(2)(B)) is amended by inserting before “and” at
16 the end the following: “including a requirement that an
17 appropriate number of policies provide coverage of drugs
18 which compliments but does not duplicate the drug bene-
19 fits that beneficiaries are otherwise entitled to under this
20 title (with the Secretary and the National Association of
21 Insurance Commissioners determining the appropriate
22 level of drug benefits that each benefit package must pro-
23 vide and ensuring that policies providing such coverage re-
24 main affordable for beneficiaries);”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on July 1, 2000.

3 (c) TRANSITION PROVISIONS.—

4 (1) IN GENERAL.—If the Secretary of Health
5 and Human Services identifies a State as requiring
6 a change to its statutes or regulations to conform its
7 regulatory program to the amendments made by this
8 section, the State regulatory program shall not be
9 considered to be out of compliance with the require-
10 ments of section 1882 of the Social Security Act due
11 solely to failure to make such change until the date
12 specified in paragraph (4).

13 (2) NAIC STANDARDS.—If, within 9 months
14 after the date of enactment of this Act, the National
15 Association of Insurance Commissioners (in this
16 subsection referred to as the “NAIC”) modifies its
17 NAIC Model Regulation relating to section 1882 of
18 the Social Security Act (referred to in such section
19 as the 1991 NAIC Model Regulation, as subse-
20 quently modified) to conform to the amendments
21 made by this section, such revised regulation incor-
22 porating the modifications shall be considered to be
23 the applicable NAIC model regulation (including the
24 revised NAIC model regulation and the 1991 NAIC
25 Model Regulation) for the purposes of such section.

1 (3) SECRETARY STANDARDS.—If the NAIC
2 does not make the modifications described in para-
3 graph (2) within the period specified in such para-
4 graph, the Secretary of Health and Human Services
5 shall make the modifications described in such para-
6 graph and such revised regulation incorporating the
7 modifications shall be considered to be the appro-
8 priate regulation for the purposes of such section.

9 (4) DATE SPECIFIED.—

10 (A) IN GENERAL.—Subject to subpara-
11 graph (B), the date specified in this paragraph
12 for a State is the earlier of—

13 (i) the date the State changes its stat-
14 utes or regulations to conform its regu-
15 latory program to the changes made by
16 this section; or

17 (ii) 1 year after the date the NAIC or
18 the Secretary first makes the modifications
19 under paragraph (2) or (3), respectively.

20 (B) ADDITIONAL LEGISLATIVE ACTION RE-
21 QUIRED.—In the case of a State which the Sec-
22 retary identifies as—

23 (i) requiring State legislation (other
24 than legislation appropriating funds) to

1 conform its regulatory program to the
2 changes made in this section; but

3 (ii) having a legislature which is not
4 scheduled to meet in 2000 in a legislative
5 session in which such legislation may be
6 considered;

7 the date specified in this paragraph is the first
8 day of the first calendar quarter beginning after
9 the close of the first legislative session of the
10 State legislature that begins on or after July 1,
11 2000. For purposes of the previous sentence, in
12 the case of a State that has a 2-year legislative
13 session, each year of such session shall be
14 deemed to be a separate regular session of the
15 State legislature.

16 **SEC. 6. IMPROVED MEDICAID ASSISTANCE FOR LOW-IN-**
17 **COME INDIVIDUALS.**

18 (a) INCREASE IN SLMB ELIGIBILITY TO 135 PER-
19 CENT OF POVERTY LEVEL.—

20 (1) IN GENERAL.—Section 1902(a)(10)(E) of
21 the Social Security Act (42 U.S.C. 1396a(a)(10)(E))
22 is amended—

23 (A) in clause (iii), by striking “and 120
24 percent in 1995 and years thereafter” and in-
25 serting “, 120 percent in 1995 and through

1 July 1, 2000, and 135 percent for subsequent
2 periods”; and

3 (B) in clause (iv)—

4 (i) by striking the dash and all that
5 follows through “(II)”, and

6 (ii) by striking “who would be de-
7 scribed in subclause (I) if ‘135 percent’
8 and ‘175 percent’ were substituted for
9 ‘120 percent’ and ‘135 percent’ respec-
10 tively” and inserting “who would be de-
11 scribed in clause (iii) but for the fact that
12 their income exceeds 135 percent, but is
13 less than 175 percent, of the official pov-
14 erty line (referred to in such clause) for a
15 family of the size involved”.

16 (2) CONFORMING AMENDMENT.—Section
17 1933(c)(2)(A) of such Act (42 U.S.C.
18 1396v(c)(2)(A)) is amended by striking “the sum”
19 and all that follows and inserting “the total number
20 of individuals described in section
21 1902(a)(10)(E)(iv) in the State; to”.

22 (b) PROVISION OF MEDICAID PRESCRIPTION DRUG
23 BENEFITS FOR QMBs AND SLMBs AS WRAP-AROUND
24 BENEFIT.—

1 (1) IN GENERAL.—Section 1902(a)(10) of such
2 Act (42 U.S.C. 1396a(a)(10)) is amended—

3 (A) in subparagraph (E)(i), by inserting
4 “and for prescribed drugs (in the same amount,
5 duration, and scope as for individuals described
6 in subparagraph (A)(i))” after “1905(p)(3)”;

7 (B) in subparagraph (E)(iii), by inserting
8 “and for prescribed drugs (in the same amount,
9 duration, and scope as for individuals described
10 in subparagraph (A)(i))” after “section
11 1905(p)(3)(A)(ii)”; and

12 (C) in the clause (VIII) following subpara-
13 graph (F), by inserting “and to medical assist-
14 ance for prescribed drugs described in subpara-
15 graph (E)(i)” after “1905(p)(3)”.

16 (2) CONFORMING AMENDMENT.—Section
17 1916(a) of such Act (42 U.S.C. 1396o(a)) is amend-
18 ed, in the matter before paragraph (1), by striking
19 “(E)(i)” and inserting “(E)”.

20 (c) EFFECTIVE DATES.—

21 (1) The amendments made by subsections
22 (a)(1) and (b) take effect on July 1, 2000, and
23 apply to prescribed drugs furnished on or after such
24 date.

1 (2) The amendment made by subsection (a)(2)
 2 applies to the allocation for the portion of fiscal year
 3 2000 that occurs on or after July 1, 2000, and to
 4 the allocation for subsequent fiscal years.

5 (3) The amendments made by this section apply
 6 without regard to whether or not regulations to im-
 7 plement such amendments are promulgated by July
 8 1, 2000.

9 **SEC. 7. WAIVER OF ADDITIONAL PORTION OF PART B PRE-**
 10 **MIUM FOR CERTAIN MEDICARE BENE-**
 11 **FICIARIES HAVING ACTUARIALLY EQUIVA-**
 12 **LENT COVERAGE.**

13 (a) IN GENERAL.—The Secretary of Health and
 14 Human Services shall establish a method under which the
 15 portion of the part B premium under section 1839 of the
 16 Social Security Act that is identified by the Secretary of
 17 Health and Human Services as attributable to the drug
 18 coverage provided under section 1849 of that Act (as
 19 added by section 3) is waived (and not collected) for any
 20 individual enrolled under part B of title XVIII of the So-
 21 cial Security Act who demonstrates that the individual has
 22 drug coverage that is actuarially equivalent to the cov-
 23 erage provided under that part.

24 (b) LIMITATION.—Subsection (a) shall not apply to
 25 an individual with coverage through a group health plan

1 if the group health plan receives payments for such indi-
 2 vidual pursuant to section 4.

3 **SEC. 8. ELIMINATION OF TIME LIMITATION ON MEDICARE**
 4 **BENEFITS FOR IMMUNOSUPPRESSIVE**
 5 **DRUGS.**

6 (a) REVISION.—

7 (1) IN GENERAL.—Section 1861(s)(2)(J) of the
 8 Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is
 9 amended by striking “, but only” and all that fol-
 10 lows up to the semicolon at the end.

11 (2) EFFECTIVE DATE.—The amendment made
 12 by paragraph (1) shall apply to drugs furnished on
 13 or after the date of enactment of this Act.

14 (b) EXTENSION OF CERTAIN SECONDARY PAYER RE-
 15 QUIREMENTS.—Section 1862(b)(1)(C) of the Social Secu-
 16 rity Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding
 17 at the end the following: “With regard to immuno-
 18 suppressive drugs furnished on or after the date of enact-
 19 ment of the Access to Rx Medications in Medicare Act
 20 of 1999, this subparagraph shall be applied without regard
 21 to any time limitation.”.

22 **SEC. 9. EXPANSION OF MEMBERSHIP OF MEDPAC TO 19.**

23 (a) IN GENERAL.—Section 1805(c) of the Social Se-
 24 curity Act (42 U.S.C. 1395b–6(c)), as amended by section
 25 5202 of the Tax and Trade Relief Extension Act of 1998

1 (contained in division J of Public Law 105–277), is
2 amended—

3 (1) in paragraph (1), by striking “17” and in-
4 serting “19”; and

5 (2) in paragraph (2)(B), by inserting “experts
6 in the area of pharmacology and prescription drug
7 benefit programs,” after “other health profes-
8 sionals,”.

9 (b) INITIAL TERMS OF ADDITIONAL MEMBERS.—

10 (1) IN GENERAL.—For purposes of staggering
11 the initial terms of members of the Medicare Pay-
12 ment Advisory Commission under section 1805(c)(3)
13 of the Social Security Act (42 U.S.C. 1395b-
14 6(c)(3)), the initial terms of the 2 additional mem-
15 bers of the Commission provided for by the amend-
16 ment under subsection (a)(1) are as follows:

17 (A) One member shall be appointed for 1
18 year.

19 (B) One member shall be appointed for 2
20 years.

21 (2) COMMENCEMENT OF TERMS.—Such terms
22 shall begin on January 1, 2000.

23 **SEC. 10. GAO STUDY AND REPORT TO CONGRESS.**

24 (a) STUDY.—The Comptroller General of the United
25 States shall conduct a study and analysis of the implemen-

1 tation of the competitive bidding process for covered out-
2 patient drugs under section 1849 of the Social Security
3 Act (as added by section 3), including an analysis of—

4 (1) the reduction of hospital visits (or lengths
5 of such visits) by beneficiaries as a result of pro-
6 viding coverage of covered outpatient drugs under
7 such section;

8 (2) prices paid by the medicare program rel-
9 ative to comparable private and public sector pro-
10 grams; and

11 (3) any other savings to the medicare program
12 as a result of—

13 (A) such coverage; and

14 (B) the education and counseling provi-
15 sions of section 1849(g).

16 (b) REPORT.—Not later than January 1, 2001, and
17 annually thereafter, the Comptroller General of the United
18 States shall submit a report to Congress on the study and
19 analysis conducted pursuant to subsection (a), and shall
20 include in the report such recommendations regarding the
21 coverage of covered outpatient drugs under the medicare
22 program as the Comptroller General determines to be ap-
23 propriate.

1 **SEC. 11. EFFECTIVE DATE.**

2 Except as otherwise provided, the amendments made
3 by this Act apply to items and services furnished on or
4 after July 1, 2000.

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