

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2313

To amend title XVIII of the Social Security Act to permit medicare beneficiaries enrolled in prescription drug plans and MA–PD plans that change their formularies or increase drug prices to enroll in other plans.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2006

Mr. DURBIN (for himself and Mr. DAYTON) 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 permit medicare beneficiaries enrolled in prescription drug plans and MA–PD plans that change their formularies or increase drug prices to enroll in other plans.

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 “Medicare Drug Honest  
5       Pricing Act of 2006”.

1 **SEC. 2. PERMITTING MEDICARE BENEFICIARIES EN-**  
2 **ROLLED IN PRESCRIPTION DRUG PLANS AND**  
3 **MA-PD PLANS THAT CHANGE THEIR**  
4 **FORMULARIES OR INCREASE DRUG PRICES**  
5 **TO ENROLL IN OTHER PLANS.**

6 (a) SPECIAL ENROLLMENT PERIOD.—

7 (1) IN GENERAL.—Section 1860D–1(b)(3) of  
8 the Social Security Act (42 U.S.C. 1395w–  
9 101(b)(3)) is amended by adding at the end the fol-  
10 lowing new subparagraphs:

11 “(F) ENROLLMENT UNDER PLANS THAT  
12 CHANGE THEIR FORMULARIES.—In the case of a  
13 part D eligible individual who is enrolled in a pre-  
14 scription drug plan that uses a formulary, if the  
15 plan removes a covered part D drug from its for-  
16 mulary or changes the preferred or tiered cost-shar-  
17 ing status of such a drug and the individual is ad-  
18 versely affected by such change, there shall be a 60-  
19 day special enrollment period for the individual be-  
20 ginning on the date on which the individual receives  
21 a notice of such removal or change.

22 “(G) ENROLLMENT UNDER PLANS THAT IN-  
23 CREASE NEGOTIATED PRICES.—In the case of a part  
24 D eligible individual who is enrolled in a prescription  
25 drug plan in which the negotiated price used for  
26 payment for any covered part D drug increases by

1 10 percent or more from the negotiated price used  
2 for payment for the drug as of January 1 of the  
3 year (as disclosed to the Secretary pursuant to sec-  
4 tion 1860D–2(d)(4)(A)).”.

5 (2) INFORMING BENEFICIARIES OF NEGO-  
6 TIATED PRICES.—Section 1860D–2(d) of the Social  
7 Security Act (42 U.S.C. 1395w–102(d)) is amended  
8 by adding at the end the following new paragraph:

9 “(4) INFORMING BENEFICIARIES OF NEGO-  
10 TIATED PRICES.—

11 “(A) REQUIRING PLANS TO DISCLOSE NE-  
12 GOTIATED PRICES TO THE SECRETARY.—Not  
13 later than November 8 of each year (beginning  
14 with 2006), each sponsor of a prescription drug  
15 plan shall disclose to the Secretary (in a man-  
16 ner specified by the Secretary) the negotiated  
17 price used for payment for each covered part D  
18 drug covered under the plan that will apply  
19 under the plan on January 1 of the subsequent  
20 year.

21 “(B) SECRETARY TO MAKE NEGOTIATED  
22 PRICES AVAILABLE ON THE CMS WEBSITE.—  
23 Not later than November 15 of each year (be-  
24 ginning with 2006), the Secretary shall make  
25 information disclosed under subparagraph (A)

1 available to the public through the Internet  
2 website of the Centers for Medicare & Medicaid  
3 Services.

4 “(C) REQUIRING PLANS TO INFORM BENE-  
5 FICIARIES OF JANUARY 1 NEGOTIATED  
6 PRICE.—Not later than January 10 of each  
7 year (beginning with 2007), each sponsor of a  
8 prescription drug plan shall appropriately in-  
9 form (as determined by the Secretary) part D  
10 eligible individuals enrolled in the plan for the  
11 year of the negotiated price used for payment  
12 for each covered part D drug that is covered  
13 under the plan that was disclosed to the Sec-  
14 retary under subparagraph (A).”.

15 (b) REGULATIONS.—The Secretary of Health and  
16 Human Services shall promulgate regulations to carry out  
17 the amendments made by this section.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 subsection (a) shall take effect on January 1, 2007.

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