

“Medicare Prescription Drug Anti-Fraud Act of 2015”

[Discussion Draft]

114TH CONGRESS

1ST SESSION

S. \_\_\_\_\_

To amend title XVIII of the Social Security Act to permit prescription drug plan sponsors to withhold payments to pharmacies based on credible allegations of fraud, and for other purposes.

---

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 title XVIII of the Social Security Act to permit prescription drug plan sponsors to withhold payments to pharmacies based on credible allegations of fraud, and for other purposes.

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 Prescription  
5 Drug Anti-Fraud Act of 2015”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1                   (1) The Secretary of Health and  
2                   Human Services may suspend payments to  
3                   any Medicare fee-for-service provider  
4                   pending an investigation of a credible  
5                   allegation of fraud under section 1862(o) of  
6                   the Social Security Act.

7                   (2) States may suspend payments to  
8                   any Medicaid provider pending an  
9                   investigation of a credible allegation of fraud  
10                  under section 1903(i)(2)(C) of the Social  
11                  Security Act.

12                  (3) Medicare prescription drug plan  
13                  sponsors may not suspend payments to any  
14                  pharmacy pending a credible allegation of  
15                  fraud because of prompt payment and any  
16                  willing pharmacy contracting requirements.

17                  (4) Medicare prescription drug plan  
18                  sponsors can and should play an important  
19                  role in fighting fraud, waste and abuse under  
20                  the Medicare prescription drug program  
21                  under part D of title XVIII of the Social  
22                  Security Act.

23                  (5) Greater involvement of  
24                  prescription drug plan sponsors will reduce  
25                  the incidence of fraud under the Medicare  
26                  program and result in savings for Medicare  
27                  beneficiaries and taxpayers.

28                  (b) PURPOSES.—The purpose of this Act is to  
29                  reduce payments for fraudulent claims submitted

1 under part D of the Medicare program under title  
2 XVIII of the Social Security Act by establishing  
3 procedures under which prescription drug plan  
4 sponsors may withhold payments to pharmacies  
5 based on credible allegations of fraud.

6 **SEC. 3. AUTHORIZATION OF MEDICARE PRESCRIPTION DRUG**  
7 **PLANS TO SUSPEND PAYMENTS BASED ON CREDIBLE**  
8 **ALLEGATIONS OF FRAUD.**

9 (a) IN GENERAL.—Section 1860D–12(b)(4) of the  
10 Social Security Act (42 U.S.C. 1395w–112(b)(4)) is  
11 amended by adding at the end the following new  
12 subsection:

13 “(H) AUTHORIZATION OF PDP SPONSORS  
14 TO SUSPEND PAYMENTS BASED ON CREDIBLE  
15 ALLEGATIONS OF FRAUD.—

16 “(i) IN GENERAL.—The Secretary  
17 shall establish procedures under  
18 which a PDP sponsor may report to  
19 the Secretary a credible allegation of  
20 fraud relating to a pharmacy or other  
21 supplier furnishing items and services  
22 under the PDP.

23 “(ii) CONSULTATION.—The  
24 procedures under clause (i) shall  
25 provide that the Secretary shall  
26 consult with the Inspector General of  
27 the Department of Health and Human  
28 Services in determining whether there  
29 is a credible allegation of fraud

1 against a pharmacy or other supplier.

2 “(iii) AUTHORIZATION TO  
3 SUSPEND PAYMENTS.—If the Secretary  
4 determines there is a credible  
5 allegation of fraud, the Secretary may  
6 authorize the PDP sponsor to suspend  
7 payments to the pharmacy or other  
8 supplier pending an investigation of  
9 such allegation, unless the Secretary  
10 determines there is good cause not to  
11 suspend such payments.

12 “(iv) RELATION TO OTHER  
13 PAYMENT SUSPENSION AUTHORITIES.—  
14 In establishing procedures under this  
15 section, the Secretary shall consider  
16 the procedures established under  
17 sections 1862(o) and 1903(i)(2)(C).

18 “(v) RULE OF CONSTRUCTION.—  
19 Nothing in this paragraph shall be  
20 construed as limiting the authority of  
21 a PDP sponsor to conduct post-claim  
22 payment review”.

23 **(b) CONFORMING AMENDMENTS.—**

24 (1) PROMPT PAYMENT REQUIREMENTS.—  
25 Section 1860D–12(b)(4)(A)(i) of the Social Security  
26 Act (42 U.S.C. 1395w–112(b)(4)(A)(i)) is amended  
27 by striking “Each contract” and inserting “Subject  
28 to subparagraph (H), each contract”.

1                   (2) ANY WILLING PHARMACY REQUIREMENTS.—  
2                   Section 1860D–4(b)(1)(A) of the Social Security Act  
3                   (42 U.S.C. 1395w–104(b)(1)(A)) is amended by  
4                   striking “A prescription drug plan” and inserting  
5                   “Subject to section 1860D–12(b)(4)(H), a  
6                   prescription drug plan”.  
7                   (c) **EFFECTIVE DATE.**—The amendments made by  
8                   this section shall apply to plan years beginning on or after  
9                   January 1, 2017.