

“Medicare Prescription Drug Anti-Fraud Act of 2015”

[Discussion Draft]

114TH CONGRESS

1ST SESSION

H.R. _____

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 HOUSE OF REPRESENTATIVES

_____ 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.