

112TH CONGRESS  
1ST SESSION

# H. R. 3613

To amend title XVIII of the Social Security Act to allow for fair application of the exceptions process for drugs in tiers in formularies in prescription drug plans under Medicare part D.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2011

Mr. JOHNSON of Georgia (for himself, Mr. FARR, Mr. KISSELL, Ms. JACKSON LEE of Texas, Mr. CONYERS, Ms. LEE of California, Mr. HONDA, Mr. GRIJALVA, Mr. MICHAUD, Ms. RICHARDSON, Ms. FUDGE, Mr. RYAN of Ohio, Mrs. CHRISTENSEN, Mr. CARSON of Indiana, Mr. TOWNS, Mr. OLVER, Mr. FRANK of Massachusetts, Mr. CLAY, Ms. ROYBAL-ALLARD, Mr. BOSWELL, Mr. FILNER, Ms. SLAUGHTER, Ms. SCHAKOWSKY, Ms. NORTON, Mr. DEUTCH, Mr. HINCHEY, Ms. MOORE, Mr. JACKSON of Illinois, Ms. WOOLSEY, Mr. DAVIS of Illinois, Mr. ELLISON, Mr. LEWIS of Georgia, Mr. KILDEE, and Mr. JONES) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to allow for fair application of the exceptions process for drugs in tiers in formularies in prescription drug plans under Medicare part D.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Part D Beneficiary  
3 Appeals Fairness Act”.

4 **SEC. 2. FAIR EXCEPTIONS PROCESS FOR DRUG IN TIERS**  
5 **UNDER MEDICARE PART D.**

6 Section 1860D–4(g)(2) of the Social Security Act (42  
7 U.S.C. 1395w–103(g)(2)) is amended—

8 (1) in the first sentence—

9 (A) by striking “for tiered cost-sharing for  
10 drugs included within a formulary and” and in-  
11 sserting “for any tiered cost-sharing structure  
12 within a formulary (including a structure that”;  
13 and

14 (B) by inserting “, or provides for different  
15 co-payment or coinsurance amounts for drugs  
16 in different tiers included within the for-  
17 mulary)” before “, a part D eligible individual”;

18 (2) in the second sentence, by inserting “in any  
19 plan formulary” before “could be covered”; and

20 (3) by inserting the following before the last  
21 sentence: “In no case may the Secretary allow a  
22 PDP sponsor to make any element of the tiered  
23 cost-sharing structure (including a tier used for very  
24 high cost or unique items) ineligible for lower-cost

1 sharing through an exception under this para-  
2 graph.”.

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