

112TH CONGRESS
1ST SESSION

H. R. 989

To amend title XIX of the Social Security Act to require, at the option of a State, drug manufacturers to pay rebates to State prescription drug discount programs as a condition of participation in a rebate agreement for outpatient prescription drugs under the Medicaid program.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2011

Mr. VAN HOLLEN (for himself, Ms. PINGREE of Maine, and Mr. SARBANES) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to require, at the option of a State, drug manufacturers to pay rebates to State prescription drug discount programs as a condition of participation in a rebate agreement for outpatient prescription drugs under the Medicaid 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.**

4 This Act may be cited as the “Voluntary State Dis-
5 count Prescription Drug Plan Act of 2011”.

1 **SEC. 2. OPTIONAL STATE PRESCRIPTION DISCOUNT PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—Section 1927(a) of the Social Se-
4 curity Act (42 U.S.C. 1396r–8(a)) is amended by adding
5 at the end the following:

6 “(8) REQUIREMENTS RELATING TO AGREE-
7 MENTS FOR DRUGS PROCURED BY INDIVIDUALS
8 THROUGH OPTIONAL STATE PRESCRIPTION DRUG
9 DISCOUNT PROGRAMS.—

10 “(A) IN GENERAL.—A manufacturer meets
11 the requirements of this paragraph if the manu-
12 facturer enters into an agreement with the
13 State to make rebate payments for drugs cov-
14 ered by a State prescription drug discount pro-
15 gram in the same amounts as are paid by the
16 manufacturer to the State for such drugs under
17 a rebate agreement described in subsection (b).
18 The previous sentence shall only apply to a
19 State that has elected to establish an optional
20 State prescription drug discount program and
21 to apply the provisions of such sentence.

22 “(B) OPTIONAL STATE PRESCRIPTION
23 DRUG DISCOUNT PROGRAM DEFINED.—

24 “(i) IN GENERAL.—In this paragraph,
25 the term ‘optional State prescription drug
26 discount program’ means a State program

1 under which, with respect to a rebate pe-
2 riod, not less than the amount equal to 95
3 percent of all the rebates paid to the State
4 under agreements entered into under sub-
5 paragraph (A) during such period are pro-
6 vided to eligible State residents in the form
7 of discounted prices for the purchase of
8 outpatient prescription drugs.

9 “(ii) ELIGIBLE STATE RESIDENT.—
10 For purposes of clause (i), the term ‘eligi-
11 ble State resident’ means an individual
12 who is a State resident and whose income
13 does not exceed a percentage (specified
14 under the optional State prescription drug
15 discount program, but not to exceed 300
16 percent) of the income official poverty line
17 (as defined by the Office of Management
18 and Budget, and revised annually in ac-
19 cordance with section 673(2) of the Omni-
20 bus Budget Reconciliation Act of 1981)
21 applicable to a family of the size involved.

22 “(iii) ADDITIONAL SUBSIDIES.—Noth-
23 ing in this subparagraph shall be construed
24 as—

1 “(I) requiring a State to expend
2 State funds to carry out a State pre-
3 scription drug discount program; or

4 “(II) prohibiting a State from
5 electing to contribute State funds to a
6 State prescription drug discount pro-
7 gram to provide greater subsidies to
8 eligible State residents for outpatient
9 prescription drugs covered under the
10 program.

11 “(iv) NO SECTION 1115 WAIVER RE-
12 QUIRED TO IMPLEMENT.—Nothing in this
13 subparagraph shall be construed as requir-
14 ing a State to obtain a waiver under sec-
15 tion 1115 or otherwise of any requirement
16 of this title to implement an optional State
17 prescription drug discount program.

18 “(C) NO OFFSET AGAINST MEDICAL AS-
19 SISTANCE.—Amounts received by a State under
20 an agreement entered into under subparagraph
21 (A) in any quarter shall not be considered to be
22 a reduction in the amount expended under the
23 State plan in the quarter for medical assistance
24 for purposes of section 1903(a)(1).”.

1 (b) CONFORMING AMENDMENT.—The first sentence
2 of section 1927(a)(1) of such Act (42 U.S.C. 1396r–
3 8(a)(1)) is amended, by striking “and paragraph (6)” and
4 inserting “, paragraph (6), and paragraph (8)”.

○