

112TH CONGRESS
1ST SESSION

S. 1356

To amend title XIX of the Social Security Act to encourage States to increase generic drug utilization under Medicaid, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2011

Mr. BROWN of Massachusetts (for himself, Mr. WYDEN, and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to encourage States to increase generic drug utilization under Medicaid, 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 “Affordable Medicines
5 Utilization Act of 2011”.

1 **SEC. 2. SAVINGS REBATE FOR STATES THAT INCREASE GE-**
 2 **NERIC DRUG UTILIZATION UNDER MEDICAID.**

3 (a) IN GENERAL.—Section 1903 of the Social Secu-
 4 rity Act (42 U.S.C. 1396b) is amended by inserting after
 5 subsection (g), the following:

6 “(h)(1) With respect to each of fiscal years 2012,
 7 2013, and 2014, if the generic substitution rate deter-
 8 mined for the State under section 1927(l)(2) for the most
 9 recent preceding fiscal year for which data is available is
 10 greater than the State’s generic substitution rate (as so
 11 determined) for the most recent second preceding fiscal
 12 year for which data is available, the amount determined
 13 under subsection (a) for the State for each quarter of the
 14 fiscal year shall be increased by the amount equal to 50
 15 percent of the generic drug utilization savings amount de-
 16 termined for the State and the quarter under paragraph
 17 (2).

18 “(2) The generic drug utilization savings amount de-
 19 termined under this paragraph with respect to a State and
 20 a quarter is the product of—

21 “(A) the difference between the—

22 “(i) total amount expended by the State
 23 for the corresponding quarter of the preceding
 24 fiscal year for providing medical assistance for
 25 multiple source drugs (as defined in section

1 1927(k)(7)(A)(i)), as determined after the ap-
2 plication of section 1927(b)(1)(B); and

3 “(ii) total amount expended by the State
4 for the quarter involved for providing medical
5 assistance for such drugs (as so determined);
6 and

7 “(B) the State percentage determined for the
8 State under section 1905(b).”.

9 (b) ANNUAL DETERMINATION OF STATE GENERIC
10 SUBSTITUTION RATES AND PERFORMANCE RANKINGS.—
11 Section 1927 of the Social Security Act (42 U.S.C. 1396r-
12 8) is amended by adding at the end the following:

13 “(1) ANNUAL DETERMINATION OF STATE GENERIC
14 SUBSTITUTION RATES AND PERFORMANCE RANKINGS.—

15 “(1) IN GENERAL.—Not later than January 1,
16 2012, and annually thereafter, the Secretary shall
17 determine the generic substitution rate (as defined
18 in paragraph (2)) for each State for the most recent
19 preceding fiscal year and the most recent second
20 preceding fiscal year for which data are available.
21 The Secretary annually shall publish on the Internet
22 Web site of the Centers for Medicare & Medicaid
23 Services the generic substitution rates determined
24 for each State for such preceding fiscal years and
25 the percentage increase or decrease in such rates

1 when compared with each other with respect to a
2 State. On the basis of such comparison, the Sec-
3 retary shall list the States in order of the States
4 with the greatest increase in the generic substitution
5 rate.

6 “(2) GENERIC SUBSTITUTION RATE.—In para-
7 graph (1), the term ‘generic substitution rate’
8 means, with respect to a State, the share of all drug
9 units for which payment is made to the State under
10 this title for the 20 most widely prescribed multiple
11 source drugs under the State program under this
12 title that have a specific National Drug Code and
13 meet the requirements of subsection (k)(7)(A)(i).”.

14 (c) EVALUATION AND REPORT.—

15 (1) IN GENERAL.—Not later than December 31,
16 2014, the Secretary of Health and Human Services
17 shall evaluate and report to Congress on the effec-
18 tiveness of the generic drug utilization savings pay-
19 ments authorized under section 1903(h) of the So-
20 cial Security Act (42 U.S.C. 1396b(h)) (as added by
21 subsection (a)) in encouraging States to increase
22 their Medicaid generic substitution rate. The evalua-
23 tion shall include (but is not limited to) the fol-
24 lowing:

1 (A) An analysis of the amounts each State
2 Medicaid program saves through increased ge-
3 neric drug substitution.

4 (B) An analysis of any indirect savings to
5 State Medicaid programs through increased
6 medication adherence due to increased accessi-
7 bility and affordability of prescriptions.

8 (C) An analysis of future estimated sav-
9 ings to State Medicaid programs and the Fed-
10 eral Government after termination of the ge-
11 neric drug utilization savings payments author-
12 ized under such section.

13 (2) MEDICAID GENERIC SUBSTITUTION RATE.—
14 In paragraph (1), the term “Medicaid generic substi-
15 tution rate” has the meaning given the term “ge-
16 neric substitution rate” with respect to a State
17 under 1927(l)(2) of the Social Security Act (42
18 U.S.C. 1396r–8(l)(2)) (as added by subsection (b)).

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