

112TH CONGRESS
1ST SESSION

S. 44

To amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate covered part D drug prices on behalf of Medicare beneficiaries.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Ms. KLOBUCHAR (for herself and Mr. BEGICH) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate covered part D drug prices on behalf of Medicare beneficiaries.

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 Price Negotiation Act of 2011”.

1 **SEC. 2. NEGOTIATION OF LOWER COVERED PART D DRUG**
2 **PRICES ON BEHALF OF MEDICARE BENE-**
3 **FICIARIES.**

4 (a) **NEGOTIATION BY SECRETARY.**—Section 1860D–
5 11 of the Social Security Act (42 U.S.C. 1395w–111) is
6 amended by striking subsection (i) (relating to noninter-
7 ference) and inserting the following:

8 “(i) **NEGOTIATION OF LOWER DRUG PRICES.**—

9 “(1) **IN GENERAL.**—Notwithstanding any other
10 provision of law, the Secretary shall negotiate with
11 pharmaceutical manufacturers the prices (including
12 discounts, rebates, and other price concessions) that
13 may be charged to PDP sponsors and MA organiza-
14 tions for covered part D drugs for part D eligible in-
15 dividuals who are enrolled under a prescription drug
16 plan or under an MA–PD plan.

17 “(2) **NO CHANGE IN RULES FOR**
18 **FORMULARIES.**—

19 “(A) **IN GENERAL.**—Nothing in paragraph
20 (1) shall be construed to authorize the Sec-
21 retary to establish or require a particular for-
22 mulary.

23 “(B) **CONSTRUCTION.**—Subparagraph (A)
24 shall not be construed as affecting the Sec-
25 retary’s authority to ensure appropriate and
26 adequate access to covered part D drugs under

1 prescription drug plans and under MA–PD
2 plans, including compliance of such plans with
3 formulary requirements under section 1860D–
4 4(b)(3).

5 “(3) CONSTRUCTION.—Nothing in this sub-
6 section shall be construed as preventing the sponsor
7 of a prescription drug plan, or an organization offer-
8 ing an MA–PD plan, from obtaining a discount or
9 reduction of the price for a covered part D drug
10 below the price negotiated under paragraph (1).

11 “(4) SEMI-ANNUAL REPORTS TO CONGRESS.—
12 Not later than June 1, 2012, and every 6 months
13 thereafter, the Secretary shall submit to the Com-
14 mittees on Ways and Means, Energy and Commerce,
15 and Oversight and Government Reform of the House
16 of Representatives and the Committee on Finance of
17 the Senate a report on negotiations conducted by the
18 Secretary to achieve lower prices for Medicare bene-
19 ficiaries, and the prices and price discounts achieved
20 by the Secretary as a result of such negotiations.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect on the date of the enact-
23 ment of this Act and shall first apply to negotiations and
24 prices for plan years beginning on January 1, 2012.