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117TH CONGRESS
1ST SESSION

# H. R. 4813

To limit the price of insulin drugs accessible for participants, beneficiaries, and enrollees enrolled in group or individual health insurance coverage and group health plans and for uninsured individuals who have diabetes, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2021

Mr. FORTENBERRY (for himself and Ms. CRAIG) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, 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 limit the price of insulin drugs accessible for participants, beneficiaries, and enrollees enrolled in group or individual health insurance coverage and group health plans and for uninsured individuals who have diabetes, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Matt's Act''.

**SEC. 2. INSULIN NET PRICE PROTECTION.**

(a) PUBLISHING OF NET PRICE BY MANUFACTURERS.—

(1) IN GENERAL.—A manufacturer of an insulin drug shall, on a quarterly basis, publish on the internet website of such manufacturer the average net price of each such insulin drug for the preceding calendar quarter.

(2) ENFORCEMENT.—In the case that a manufacturer of an insulin drug fails to comply with paragraph (1), a Federal agency or program may not make payment for such insulin drug of such until such manufacturer complies with such paragraph.

(b) NET PRICE FOR INSULIN DRUGS FOR CERTAIN INDIVIDUALS.—

(1) APPLICATION TO PHSA PLANS.—Subpart 1 of part A of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new section:

**"SEC. 2730. NET PRICE FOR INSULIN DRUGS.**

''(a) AVAILABILITY OF NET PRICE.—With respect to plan years beginning on and after January 1, 2022, a health insurance issuer offering group or individual health insurance coverage shall provide a participant, beneficiary, or enrollee who has diabetes access to an insulin drug at—

''(1) the lesser of—

"(A) the 10 percent of the average net price for such drug published pursuant to section 2(a) of Matt's Act, plus the average charges for distribution and dispensing described in subsection (c) for such drug;

"(B) the coinsurance amount for an insulin drug under the health insurance coverage under which such an individual is a participant, beneficiary, or enrollee would otherwise be responsible notwithstanding this section; or

"(C) $20; or

"(2) $0, in the case such a participant, beneficiary, or enrollee is enrolled in a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986).

"(b) WAIVER OF DEDUCTIBLE.—In applying subsection (a), such a participant, beneficiary, or enrollee shall have access to an insulin drug without regard to a deductible.

"(c) CHARGES FOR DISTRIBUTING AND DISPENSING.—

"(1) IN GENERAL.—For purposes of subsection (a), charges for distribution and dispensing described in this subsection—

"(A) are charges associated with the transactions, with respect to an insulin drug, between wholesalers, distributors, retailers, and pharmacies; and

"(B) may not exceed 10 percent of the average net price of such an insulin drug.

"(2) REPORTING REQUIREMENT FOR PLANS.—In the case that a health insurance issuer offering group or individual health insurance coverage charges a participant, beneficiary, or enrollee for average charges for distribution and dispensing pursuant to subsection (a)(1), the health insurance issuer shall submit to the Inspector General of the Department of Health and Human Services information with respect to such charges and the amount of the charges.

"(3) REPORT TO CONGRESS BY INSPECTOR GENERAL.—Beginning January 1, 2023, and annually thereafter, the Inspector General shall review the charges described in paragraph (2) and submit to Congress a report on such on review.

"(d) DEFINITIONS.—In this section:

"(1) INSULIN.—

"(A) IN GENERAL.—The term 'insulin' means a prescription drug containing insulin

that is approved by the Food and Drug Administration to improve glycemic control in patients with diabetes mellitus (and may include any medical supplies included with such drug or associated with the injection of such drug).

''(B) EXCLUSION.—Such term does not include any medical supplies that provides for the monitoring of insulin levels.

''(2) LIST PRICE.—The term 'list price' has the meaning given the term wholesale acquisition cost in section 1847A(c)(6)(B) of the Social Security Act.

''(3) NET PRICE.—The term 'net price' means, with respect to prescription drug coverage under group or individual health insurance coverage offered by a health insurance issuer, the list price of the drug net all rebates, discounts, concessions, and other adjustments applied to the cost paid by the health insurance issuer, or by any other entity that provides pharmacy benefit management services under a contract with any such health insurance issuer, regardless of whether such adjustments are prospective or retrospective.

''(4) PRESCRIPTION DRUG.—The term 'prescription drug' mean a drug, as defined in section 201(g) of the Federal Food, Drug, and Cosmetic

Act, that is subject to section 503(b)(1) of such Act.''.

(2) APPLICATION TO ERISA PLANS.—Subpart A of part 7 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section (and amending the table of contents accordingly):

**''SEC. 704. NET PRICE FOR INSULIN DRUGS.**

''(a) AVAILABILITY OF NET PRICE.—With respect to plan years beginning on and after January 1, 2022, a group health plan shall provide a participant, beneficiary, or enrollee who has diabetes access to an insulin drug at—

''(1) the lesser of—

''(A) the 10 percent of the average net price for such drug published pursuant to section 2(a) of Matt's Act, plus the average charges for distribution and dispensing described in subsection (c) for such drug;

''(B) the coinsurance amount for an insulin drug under the group health plan which such an individual is a participant, beneficiary, or enrollee would otherwise be responsible notwithstanding this section; or

''(C) $20; or

''(2) $0, in the case such a participant, beneficiary, or enrollee is enrolled in a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986).

''(b) WAIVER OF DEDUCTIBLE.—In applying subsection (a), such a participant, beneficiary, or enrollee shall have access to an insulin drug without regard to a deductible.

''(c) CHARGES FOR DISTRIBUTING AND DISPENSING.—

''(1) IN GENERAL.—For purposes of subsection (a), charges for distribution and dispensing described in this subsection—

''(A) are charges associated with the transactions, with respect to an insulin drug, between wholesalers, distributors, retailers, and pharmacies; and

''(B) may not exceed 10 percent of the average net price of such an insulin drug.

''(2) REPORTING REQUIREMENT FOR PLANS.—In the case that a group health plan charges a participant, beneficiary, or enrollee for average charges for distribution and dispensing pursuant to subsection (a)(1), the group health plan shall submit to the Inspector General of the Department of Health

and Human Services information with respect to such charges and the amount of the charges.

''(3) REPORT TO CONGRESS BY INSPECTOR GENERAL.—Beginning January 1, 2023, and annually thereafter, the Inspector General shall review the charges described in paragraph (2) and submit to Congress a report on such on review.

''(d) DEFINITIONS.—In this section:

''(1) INSULIN.—

''(A) IN GENERAL.—The term 'insulin' means a prescription drug containing insulin that is approved by the Food and Drug Administration to improve glycemic control in patients with diabetes mellitus (and may include any medical supplies included with such drug or associated with the injection of such drug).

''(B) EXCLUSION.—Such term does not include any medical supplies that provides for the monitoring of insulin levels.

''(2) LIST PRICE.—The term 'list price' has the meaning given the term wholesale acquisition cost in section 1847A(c)(6)(B) of the Social Security Act.

''(3) NET PRICE.—The term 'net price' means, with respect to prescription drug coverage under a group health plan , the list price of the drug net all

rebates, discounts, concessions, and other adjustments applied to the cost paid by the group health plan, or by any other entity that provides pharmacy benefit management services under a contract with any such group health plan, regardless of whether such adjustments are prospective or retrospective.

''(4) PRESCRIPTION DRUG.—The term 'prescription drug' mean a drug, as defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act, that is subject to section 503(b)(1) of such Act.''.

(3) UNINSURED INDIVIDUALS.—

(A) IN GENERAL.—Beginning on and after January 1, 2022, a pharmacy shall provide to any individual who has diabetes and is not enrolled in any health plan access to an insulin drug at the average net price for such drug published pursuant to subsection (a), plus the average charges for the distribution and dispensing described in subparagraph (C) for such drug.

(B) REVIEW OF CHARGES.—Beginning January 1, 2023, and annually thereafter, the Inspector General of the Department of Health and Human Services shall review the amount of

charges paid by an individual described in subparagraph (A) and submit to Congress a report on such review.

(C) CHARGES FOR DISTRIBUTING AND DISPENSING.—For purposes of subparagraph (A), charges for distribution and dispensing described in this subsection—

(i) are charges associated with the transactions, with respect to an insulin drug, between wholesalers, distributors, retailers, and pharmacies; and

(ii) may not exceed 10 percent of the average net price of such an insulin drug.

(D) DEFINITIONS.—In this section:

(i) INSULIN.—

(I) IN GENERAL.—The term ''insulin'' means a prescription drug containing insulin that is approved by the Food and Drug Administration to improve glycemic control in patients with diabetes mellitus (and may include any medical supplies included with such drug or associated with the injection of such drug).

(II) EXCLUSION.—Such term does not include any medical supplies that provides for the monitoring of insulin levels.

(ii) LIST PRICE.—The term ''list price'' has the meaning given the term wholesale acquisition cost in section 1847A(c)(6)(B) of the Social Security Act (42 U.S.C. 1395w–3a(c)(6)(B)).

(iii) NET PRICE.—The term ''net price'' means, with respect to prescription drug coverage under a group health plan , the list price of the drug net all rebates, discounts, concessions, and other adjustments applied to the cost paid by the group health plan, or by any other entity that provides pharmacy benefit management services under a contract with any such group health plan, regardless of whether such adjustments are prospective or retrospective.

(iv) PRESCRIPTION DRUG.—The term ''prescription drug'' mean a drug, as defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.

321(g)), that is subject to section 503(b)(1) of such Act (21 U.S.C. 353(b)(1)).

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