II

117TH CONGRESS
1ST SESSION

S. 1123

To preserve non-interference under the Medicare part D Prescription Drug Benefit program.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2021

Mrs. BLACKBURN introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To preserve non-interference under the Medicare part D Prescription Drug Benefit program.

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 ''Preserving Innovation for the Next Generation Act'' or the ''PING Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since implementation, the Medicare Prescription Drug Benefit program under part D of title XVIII of the Social Security Act (42 U.S.C.

1395w–101 et seq.) (referred to in this section as ''Medicare part D'') has succeeded beyond expectations in providing affordable prescription drug coverage for more than 45,000,000 seniors and disabled individuals.

(2) The competitive market has kept total Medicare part D costs below original estimates, while still offering beneficiaries steady premiums and a variety of alternative formularies and benefit design.

(3) This competitive pricing structure works, in large part, due to the ''non-interference clause'' under Medicare part D which provides for robust private market negotiation without undue government interference.

(4) The Congressional Budget Office repeatedly has said that government negotiation would have a negligible impact on Medicare part D spending unless the government also restricted access to medications.

(5) To achieve any significant savings, the government would need to impose access or coverage restrictions on medications. In fact, limiting options will likely result in costs shifting to higher spending for other Medicare services and negatively impact

the health of seniors without helping to reduce government spending.

(6) Having a broad range of treatment options is fundamental to providing good care to all patients, but particularly so for the Medicare population, who are more likely to be affected by multiple chronic conditions. With the advent of personalized medicines and targeted therapies—where the underlying molecular drivers of disease help identify and direct precise, targeted treatment choices—limiting access reduces the vast potential of breakthrough science to revolutionize care. Therefore, it is imperative to ensure beneficiaries have access to a broader range of medicines to best meet their health needs.

(7) Medicare beneficiaries would not be better off if Medicare part D drug coverage were administered by the Federal Government in the same way as the Veterans Administration. Many veterans rely on other sources to supplement their Veterans Administration drug coverage due to restrictions that limit their access to needed medications. More than half of all veterans supplement their Veterans Administration benefits with other sources of drug coverage, including Medicare part D. A recent Veterans Administration survey shows that approximately

80.4 percent of veterans had both Veterans Administration and non-Veterans Administration health coverage and, among those in Medicare, 33.2 percent have Medicare part D for prescription drug coverage.

(8) Imposing a restrictive Veterans Administration-type formulary on Medicare part D is unlikely to work for the diverse group of more than 45,000,000 beneficiaries enrolled in Medicare part D. Evidence show that seniors would have limited choices and fewer medicines available to them. A recent analysis by Xcenda found that of the top 200 part D brand name drugs, 74 percent or more were covered across stand-alone prescription drug plans and Medicare Advantage prescription drug plans, compared with 52 percent that could be covered by the Veterans Administration formulary.

(9) A national formulary would restrict access to affordable and vital prescriptions many Medicare beneficiaries rely on. Robust patient access to a full range of medicines has been a cornerstone of Medicare part D. Restricting access to medicines can significantly reduce adherence. Poorer medication adherence, in turn, can lead to worse health outcomes and higher overall spending.

(10) Price controls or large penalties to force companies to comply with so-called ''negotiations'' have resulted in restricted access abroad and threaten similar restrictions on access in the United States. Research demonstrates that government price setting reduces access for patients and results in fewer or delayed treatment options—nearly 90 percent of new medicines launched globally in the past decade are currently available to patients in the United States, only about half are available to patients in other countries like France and Canada.

(11) Limiting patient access to medicines contradicts the foundational principles of Medicare part D and the value beneficiaries derive from the program—a recent survey shows that more than 90 percent of Medicare beneficiaries are satisfied with their drug coverage and more than 80 percent said it is important to them to have a variety of prescription drug plans under Medicare part D from which to choose.

SEC. 3. SENSE OF THE SENATE.

It is the sense of the Senate that non-interference in the Medicare part D Prescription Drug Benefit program under section 1860D–11(i) of the Social Security Act (42 U.S.C. 1395w–111(i)) should not be repealed.

SEC. 4. PROHIBITION ON CMI TESTING OF MODELS THAT WOULD REPEAL NONINTERFERENCE.

Section 1115A(b) of the Social Security Act (42 U.S.C. 1315a(b)) is amended by adding at the end the following new paragraph:

''(5) PROHIBITION ON TESTING OF MODELS THAT WOULD REPEAL NONINTERFERENCE.—The CMI shall not test any model that would repeal or require a waiver of section 1860D–11(i).''.

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