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118TH CONGRESS
2D SESSION

H. R. 8987

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to ensure cost sharing for a drug does not exceed the nationwide average of consumer purchase prices for such drug.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2024

Ms. PORTER (for herself, Ms. DELAURO, Mr. GRIJALVA, Mr. COHEN, and Ms. OMAR) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, 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 amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to ensure cost sharing for a drug does not exceed the nationwide average of consumer purchase prices for such drug.

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 ''Lowest Price for Patients Act of 2024''.

SEC. 2. ENSURING COST SHARING FOR A DRUG DOES NOT EXCEED THE NATIONWIDE AVERAGE OF CONSUMER PURCHASE PRICES FOR SUCH DRUG.

(a) PHSA.—Subpart II of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–11 et seq.) is amended by adding at the end the following new section:

"SEC. 2730. LIMITATION ON COST SHARING FOR DRUGS.

"(a) IN GENERAL.—For plan years beginning on or after the date of the enactment of this section, a group health plan, and a health insurance issuer offering group or individual health insurance coverage, may not impose cost sharing (including deductibles, coinsurance, and copayments) with respect to a covered outpatient drug for which benefits are available under such plan or coverage dispensed by an in-network pharmacy in an amount that exceeds the nationwide average of consumer purchase prices for such drug for the 1-year period ending on the first day of such plan year (as determined using information from the survey described in section 1927(f)(1)(A)(i) of the Social Security Act).

"(b) CLARIFICATION ON APPLICATION TO PHARMACY BENEFIT MANAGERS.—A group health plan, and a health insurance issuer offering group or individual health insurance coverage, shall ensure that any pharmacy benefit manager providing services under the plan or coverage

complies with subsection (a) in the same manner as such subsection applies with respect to such plan or issuer.

''(c) DEFINITIONS.—In this section:

''(1) COVERED OUTPATIENT DRUG.—The term 'covered outpatient drug' has the meaning given such term in section 1927(k) of the Social Security Act.

''(2) IN-NETWORK PHARMACY.—The term 'in-network pharmacy' means, with respect to a group health plan or group or individual health insurance coverage and a drug, a pharmacy with a contractual relationship in effect for dispensing such drug under such plan or coverage.''.

(b) ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I 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:

''SEC. 726. LIMITATION ON COST SHARING FOR DRUGS.

''(a) IN GENERAL.—For plan years beginning on or after the date of the enactment of this section, a group health plan, and a health insurance issuer offering group coverage, may not impose cost sharing (including deductibles, coinsurance, and copayments) with respect to

a covered outpatient drug for which benefits are available under such plan or coverage dispensed by an in-network pharmacy in an amount that exceeds the nationwide average of consumer purchase prices for such drug for the 1-year period ending on the first day of such plan year (as determined using information from the survey described in section 1927(f)(1)(A)(i) of the Social Security Act).

''(b) CLARIFICATION ON APPLICATION TO PHARMACY BENEFIT MANAGERS.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall ensure that any pharmacy benefit manager providing services under the plan or coverage complies with subsection (a) in the same manner as such subsection applies with respect to such plan or issuer.

''(c) DEFINITIONS.—In this section:

''(1) COVERED OUTPATIENT DRUG.—The term 'covered outpatient drug' has the meaning given such term in section 1927(k) of the Social Security Act.

''(2) IN-NETWORK PHARMACY.—The term 'in-network pharmacy' means, with respect to a group health plan or group health insurance coverage and a drug, a pharmacy with a contractual relationship in effect for dispensing such drug under such plan or coverage.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 715 the following new item:

"Sec. 726. Limitation on cost sharing for drugs.".

(c) IRC.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9826. LIMITATION ON COST SHARING FOR DRUGS.

"(a) IN GENERAL.—For plan years beginning on or after the date of the enactment of this section, a group health plan may not impose cost sharing (including deductibles, coinsurance, and copayments) with respect to a covered outpatient drug for which benefits are available under such plan dispensed by an in-network pharmacy in an amount that exceeds the nationwide average of consumer purchase prices for such drug for the 1-year period ending on the first day of such plan year (as determined using information from the survey described in section 1927(f)(1)(A)(i) of the Social Security Act).

"(b) CLARIFICATION ON APPLICATION TO PHARMACY BENEFIT MANAGERS.—A group health plan shall ensure that any pharmacy benefit manager providing services under the plan complies with subsection (a) in the same

manner as such subsection applies with respect to such plan.

''(c) DEFINITIONS.—In this section:

''(1) COVERED OUTPATIENT DRUG.—The term 'covered outpatient drug' has the meaning given such term in section 1927(k) of the Social Security Act.

''(2) IN-NETWORK PHARMACY.—The term 'in-network pharmacy' means, with respect to a group health plan and a drug, a pharmacy with a contractual relationship in effect for dispensing such drug under such plan.''.

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 9826. Limitation on cost sharing for drugs.''.

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