

119TH CONGRESS
1ST SESSION

S. _____

To amend title XVIII of the Social Security Act to temporarily provide for long-term care pharmacy supply fees in connection with the dispensing of certain drugs.

IN THE SENATE OF THE UNITED STATES

Mr. LANKFORD (for himself and Mr. MULLIN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to temporarily provide for long-term care pharmacy supply fees in connection with the dispensing of certain drugs.

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 “Preserving Patient Ac-
5 cess to Long-Term Care Pharmacies Act”.

6 **SEC. 2. LONG TERM CARE PHARMACY SUPPLY FEE.**

7 (a) IN GENERAL.—Section 1860D–4(b)(1) of the So-
8 cial Security Act (42 U.S.C. 1395w–104(b)(1)) is amend-
9 ed by adding at the end the following new subparagraph:

1 “(F) LONG-TERM CARE PHARMACY SUPPLY
2 FEES.—

3 “(i) PLAN REIMBURSEMENT TO PHAR-
4 MACY.—

5 “(I) IN GENERAL.—For plan
6 years 2026 and 2027, for each speci-
7 fied prescription dispensed by a long-
8 term care pharmacy to an enrollee
9 during such plan year, each PDP
10 sponsor of a prescription drug plan
11 and each MA organization offering an
12 MA–PD plan shall pay such pharmacy
13 a supply fee in an amount equal to—

14 “(aa) for plan year 2026,
15 \$30; and

16 “(bb) for plan year 2027,
17 the amount of the supply fee for
18 the prior plan year, increased by
19 the annual percentage increase
20 described in section 1860D–
21 2(b)(6).

22 “(II) CLARIFICATION.—The sup-
23 ply fee under this subparagraph shall
24 be paid at the same time and in addi-
25 tion to any other pharmacy reim-

1 bursements, including ingredient
2 costs, dispensing fees, or other pay-
3 ments negotiated between the PDP
4 sponsor or MA organization and the
5 long-term care pharmacy, and shall
6 not result in a reduction to such other
7 reimbursements.

8 “(ii) ENFORCEMENT.—

9 “(I) CIVIL MONEY PENALTY.—

10 The Secretary shall impose a civil
11 money penalty on each PDP sponsor
12 of a prescription drug plan and MA
13 organization offering an MA–PD plan
14 that fails to pay a supply fee for a
15 specified prescription dispensed to an
16 enrollee in accordance with this sub-
17 paragraph for each such failure in an
18 amount of not less than \$10,000.

19 “(II) APPLICATION.—The provi-
20 sions of section 1128A (other than
21 subsections (a) and (b)) shall apply to
22 a civil money penalty under this
23 clause in the same manner as such
24 provisions apply to a penalty or pro-
25 ceeding under section 1128A(a).

1 “(iii) DEFINITIONS.—In this subpara-
2 graph:

3 “(I) APPLICABLE MAXIMUM FAIR
4 PRICE ELIGIBLE INDIVIDUAL.—The
5 term ‘applicable maximum fair price
6 eligible individual’ means, with respect
7 to a specified prescription, a max-
8 imum fair price eligible individual
9 who, with respect to such prescription,
10 is described in section 1191(c)(2)(A).

11 “(II) LONG-TERM CARE PHAR-
12 MACY.—The term ‘long-term care
13 pharmacy’ means a pharmacy with a
14 national provider identifier associated
15 with taxonomy code 3336L0003X (or
16 a successor code), as maintained by
17 the National Uniform Claim Com-
18 mittee.

19 “(III) MAXIMUM FAIR PRICE.—
20 The term ‘maximum fair price’ has
21 the meaning given such term in sec-
22 tion 1191(c)(3).

23 “(IV) MAXIMUM FAIR PRICE ELI-
24 GIBLE INDIVIDUAL.—The term ‘max-
25 imum fair price eligible individual’ has

1 the meaning given such term in sec-
2 tion 1191(c)(2).

3 “(V) SPECIFIED PRESCRIP-
4 TION.—The term ‘specified prescrip-
5 tion’ means a covered part D drug
6 dispensed by a long-term care phar-
7 macy to an applicable maximum fair
8 price eligible individual at the max-
9 imum fair price pursuant to section
10 1193(a)(3)(A).”.

11 (b) REPAYMENT OF LONG-TERM PHARMACY SUPPLY
12 FEES.—Section 1860D–15 of the Social Security Act (42
13 U.S.C. 1395w–115) is amended by adding at the end the
14 following new subsection:

15 “(i) REPAYMENT OF LONG-TERM PHARMACY SUP-
16 PLY FEES.—

17 “(1) IN GENERAL.—In addition to amounts
18 otherwise payable under this section to a PDP spon-
19 sor of a prescription drug plan or an MA organiza-
20 tion offering an MA–PD plan, for plan years 2026
21 and 2027, the Secretary shall provide the PDP
22 sponsor or MA organization offering the plan sub-
23 sidies in an amount equal to the aggregate amount
24 of supply fees paid by such sponsor or organization

1 to long-term care pharmacies pursuant to section
2 1860D–4(b)(1)(F) during the plan year.

3 “(2) TIMING.—The Secretary shall provide a
4 subsidy under paragraph (1), as applicable, not later
5 than 18 months following the end of the applicable
6 plan year.”.

7 (c) GAO STUDY AND REPORT.—

8 (1) IN GENERAL.—Not later than 12 months
9 after the date of enactment of this section, the
10 Comptroller General of the United States shall com-
11 plete a study and submit to Congress a report on
12 the economic sustainability of the participation of
13 long-term care pharmacies in the Medicare prescrip-
14 tion drug program. Such report shall include—

15 (A) an analysis of—

16 (i) payment to long-term care phar-
17 macies under the Medicare prescription
18 drug program with respect to—

19 (I) ingredient costs—

20 (aa) for brand-name drugs;

21 and

22 (bb) for generic drugs; and

23 (II) dispensing fees;

24 (ii) the costs to long-term care phar-
25 macies of compliance with the performance

1 and service criteria for network long-term
2 care pharmacies, as described in the Medi-
3 care Prescription Drug Benefit Manual;
4 and

5 (iii) changes to payment to long-term
6 care pharmacies under the Medicare pre-
7 scription drug program during the 5-year
8 period preceding the date of enactment of
9 this section; and

10 (B) recommendations on steps that Con-
11 gress and the Secretary of Health and Human
12 Services should consider for purposes of cre-
13 ating a sustainable payment system under the
14 Medicare prescription drug program for long-
15 term care pharmacies that would ensure that
16 Medicare beneficiaries with long-term care
17 needs have uninterrupted access to long-term
18 care pharmacy services in all markets, particu-
19 larly rural markets.

20 (2) DEFINITIONS.—In this subsection:

21 (A) LONG-TERM CARE PHARMACY.—The
22 term “long-term care pharmacy” has the mean-
23 ing given such term in subparagraph (F)(iii)(II)
24 of section 1860D–4(b)(1) of the Social Security

1 Act (42 U.S.C. 1395w–104(b)(1)), as added by
2 subsection (a).

3 (B) MEDICARE BENEFICIARY.—The term
4 “Medicare beneficiary” means an individual
5 who is entitled to benefits under part A of title
6 XVIII of the Social Security Act (42 U.S.C.
7 1395c et seq.) or enrolled under part B of such
8 title (42 U.S.C. 1395j et seq.).

9 (C) MEDICARE PRESCRIPTION DRUG PRO-
10 GRAM.—The term “Medicare prescription drug
11 program” means the program under part D of
12 title XVIII of the Social Security Act (42
13 U.S.C. 1395w–101 et seq.).