AMENDMENT TO THE SENATE AMENDMENT TO  
H.R. 5376  
OFFERED BY MR. BURGESS OF TEXAS

Strike sections 11406 through 11408 and insert the following:

SEC. 11406. NEGOTIATED PRICE CONCESSIONS FOR INSULIN AT POINT-OF-SALE UNDER PART D OF MEDICARE PROGRAM.

(a) In General.—Section 1860D–2(d)(1) of the Social Security Act (42 U.S.C. 1395w–102(d)(1)) is amended—

(1) in subparagraph (A), by striking “Under” and inserting “Subject to subparagraph (D), under”;

and

(2) by adding at the end the following new subparagraph:

“(D) Negotiated price concessions for insulin at point-of-sale.—

“(i) In general.—For drugs dispensed in plan year 2022 or a subsequent plan year, the minimum percentage described in clause (ii) for such plan year of price concessions negotiated between man-
ufacturers and a prescription drug plan or MA–PD plan (or any entity that provides pharmacy benefits management services under a contract with any such prescription drug plan or MA–PD plan) and taken into account under subparagraph (B) in determining negotiated prices for the plan year for covered part D drugs that are insulin provided under such a plan shall be provided to enrollees of such a plan at pharmacies or by mail order service at the point-of-sale of such drugs.

“(ii) AMOUNT OF PRICE CONCESSION.—For purposes of clause (i), and subject to clause (iii), the minimum percentage described in this clause is—

“(I) for drugs dispensed in plan year 2022, 50 percent;

“(II) for drugs dispensed in plan year 2023, 75 percent; and

“(III) for drugs dispensed in plan year 2024 or a subsequent plan year, 100 percent.

“(iii) MODIFICATION OF MINIMUM PERCENTAGE.—For plan years beginning
on or after January 1, 2024, the Secretary may, through notice and comment rule-making, specify a percentage other than the percentage described in clause (ii) for a plan year, except that in specifying such percentage the Secretary shall not specify a percentage that is less than 50 percent of the negotiated price concession for such plan year. Any percentage specified pursuant to the authority of the previous sentence for a plan year that would be less than the percentage otherwise described in clause (ii) for the plan year may only be applied if such reduction in percentage is justified as a benefit to individuals enrolled under this title.”.

(b) INCLUSION OF INFORMATION IN BID SUBMISSION.—Section 1860D–11(b)(2) of the Social Security Act (42 U.S.C. 1395w–11(b)(2)) is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following new subparagraph:

“(F) POINT-OF-SALE PRICE CONCESSIONS FOR INSULIN.—For plan years beginning on or
after January 1, 2022, an estimate of the aggregate price concessions for all insulin negotiated by the plan for such plan year.”.

(c) GAO Study and Report on Insulin Pricing.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall—

(1) conduct a study on the effects of the implementation of the requirement described in subparagraph (D) of section 1860D–2(d)(1) of the Social Security Act (42 U.S.C. 1395w–102(d)(1)), as added by subsection (a), including an analysis of—

(A) trends in the list and net prices of insulin for qualified prescription drug coverage offered by a prescription drug plan under part D of the Social Security Act or an MA–PD plan under part C of such title;

(B) savings on insulin for individuals enrolled in a prescription drug plan under part D of the Social Security Act or an MA–PD plan under part C of such title;

(C) trends in out-of-pocket costs for individuals enrolled in such plans, as compared to individuals enrolled in a group health plan (as defined in section 2791(a) of the Public Health
Service Act (42 U.S.C. 300gg–91(a)), a State plan under title XIX of the Social Security Act, or a qualified health plan offered through an Exchange established under title I of the Patient Protection and Affordable Care Act (42 U.S.C. 18001 et seq.); and

(D) approval and market entry of biosimilar insulin under section 351(k) of the Public Health Service Act (42 U.S.C. 262); and

(2) submit to the Committee on Energy and Commerce and the Committee on Ways and Means in the House of Representatives, and the Committee on Finance in the Senate, a report on the study conducted under paragraph (1), with recommendations on how to enhance the access of individuals enrolled in a prescription drug plan under part D of the Social Security Act or an MA–PD plan under part C of such title to lower out-of-pocket costs for insulin.

(d) TRANSPARENCY.—Section 1860D–1(c)(3) of the Social Security Act (42 U.S.C. 1395w–101(c)(3)) is amended by adding at the end the following new subparagraph:

“(C) ADDITIONAL INFORMATION.—For plan year 2022 and each subsequent plan year, such information referred to in paragraph
(2)(A) shall also include, for a plan year, information regarding the requirement described in subparagraph (D) of section 1860D–2(d)(1) with respect to insulin negotiated by the plan for such plan year.”.