

**AMENDMENT TO RULES COMMITTEE PRINT 114-**

**45**

**OFFERED BY MR. COLLINS OF GEORGIA**

Add at the end the following:

1 **SEC. 4. PHARMACY BENEFITS MANAGER STANDARDS**

2 **UNDER THE MEDICARE PROGRAM.**

3 (a) IN GENERAL.—Section 1860D–12(b) of the So-  
4 cial Security Act (42 U.S.C. 1395w–112(b)) is amended  
5 by adding at the end the following new paragraph:

6 “(7) PHARMACY BENEFITS MANAGER TRANS-  
7 PARENCY REQUIREMENTS.—Each contract entered  
8 into with a PDP sponsor under this part with re-  
9 spect to a prescription drug plan offered by such  
10 sponsor shall provide that the PDP may not enter  
11 into a contract with any pharmacy benefits manager  
12 (referred to in this paragraph as a ‘PBM’) to man-  
13 age the prescription drug coverage provided under  
14 such plan, or to control the costs of the prescription  
15 drug coverage under such plan, unless the PBM ad-  
16 heres to the following criteria when handling person-  
17 ally identifiable utilization and claims data or other  
18 sensitive patient data:

1           “(A) The PBM may not transmit any per-  
2           sonally identifiable utilization or claims data,  
3           with respect to a plan enrollee, to a pharmacy  
4           owned by a PBM if the plan enrollee has not  
5           voluntarily elected in writing or via secure elec-  
6           tronic means to fill that particular prescription  
7           at the PBM-owned pharmacy.

8           “(B) The PBM may not require that a  
9           plan enrollee use a retail pharmacy, mail order  
10          pharmacy, specialty pharmacy, or other phar-  
11          macy entity providing pharmacy services in  
12          which the PBM has an ownership interest or  
13          that has an ownership interest in the PBM or  
14          provide an incentive to a plan enrollee to en-  
15          courage the enrollee to use a retail pharmacy,  
16          mail order pharmacy, specialty pharmacy, or  
17          other pharmacy entity providing pharmacy serv-  
18          ices in which the PBM has an ownership inter-  
19          est or that has an ownership interest in the  
20          PBM, if the incentive is applicable only to such  
21          pharmacies.”.

22          (b) REGULAR UPDATE OF PRESCRIPTION DRUG  
23          PRICING STANDARD.—Paragraph (6) of section 1860D–  
24          12(b) of the Social Security Act (42 U.S.C. 1395w–  
25          112(b)) is amended to read as follows:

1           “(6) REGULAR UPDATE OF PRESCRIPTION  
2 DRUG PRICING STANDARD.—

3           “(A) IN GENERAL.—If the PDP sponsor of  
4 a prescription drug plan uses a standard for re-  
5 imbursement (as described in subparagraph  
6 (B)) of pharmacies based on the cost of a drug,  
7 each contract entered into with such sponsor  
8 under this part with respect to the plan shall  
9 provide that the sponsor shall—

10           “(i) update such standard not less fre-  
11 quently than once every 7 days, beginning  
12 with an initial update on January 1 of  
13 each year, to accurately reflect the market  
14 price of acquiring the drug;

15           “(ii) disclose to applicable pharmacies  
16 the sources used for making any such up-  
17 date;

18           “(iii) if the source for such a standard  
19 for reimbursement is not publicly available,  
20 disclose to the applicable pharmacies all in-  
21 dividual drug prices to be so updated in  
22 advance of the use of such prices for the  
23 reimbursement of claims; and

24           “(iv) establish a process to appeal, in-  
25 vestigate, and resolve disputes regarding

1 individual drug prices that are less than  
2 the pharmacy acquisition price for such  
3 drug.

4 “(B) PRESCRIPTION DRUG PRICING  
5 STANDARD DEFINED.—For purposes of sub-  
6 paragraph (A), a standard for reimbursement  
7 of a pharmacy is any methodology or formula  
8 for varying the pricing of a drug or drugs dur-  
9 ing the term of the pharmacy reimbursement  
10 contract that is based on the cost of the drug  
11 involved, including drug pricing references and  
12 amounts that are based upon average wholesale  
13 price, wholesale average cost, average manufac-  
14 turer price, average sales price, maximum al-  
15 lowable cost (MAC), or other costs, whether  
16 publicly available or not.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to plan years beginning on or after  
19 January 1, 2016.

20 **SEC. 5. REGULAR UPDATE OF PRESCRIPTION DRUG PRIC-**  
21 **ING STANDARD UNDER TRICARE RETAIL**  
22 **PHARMACY PROGRAM.**

23 Section 1074g(d) of title 10, United States Code, is  
24 amended by adding at the end the following new para-  
25 graph:

1 “(3) To the extent practicable, with respect to the  
2 TRICARE retail pharmacy program described in sub-  
3 section (a)(2)(E)(ii), the Secretary shall ensure that a con-  
4 tract entered into with a TRICARE managed care support  
5 contractor includes requirements described in section  
6 1860D–12(b)(6) of the Social Security Act (42 U.S.C.  
7 1395w–112(b)(6)) to ensure the provision of information  
8 regarding the pricing standard for prescription drugs.”.

9 **SEC. 6. PRESCRIPTION DRUG TRANSPARENCY IN THE FED-**  
10 **ERAL EMPLOYEE HEALTH BENEFITS PRO-**  
11 **GRAM.**

12 (a) IN GENERAL.—Section 8902 of title 5, United  
13 States Code, is amended by adding at the end the fol-  
14 lowing new subsections:

15 “(p) A contract may not be made or a plan approved  
16 under this chapter under which a carrier has an agree-  
17 ment with a pharmacy benefits manager (in this sub-  
18 section referred to as a ‘PBM’) to manage prescription  
19 drug coverage or to control the costs of the prescription  
20 drug coverage unless the carrier and PBM adhere to the  
21 following criteria:

22 “(1) The PBM may not transmit any personally  
23 identifiable utilization or claims data with respect to  
24 an individual enrolled under such contract or plan to  
25 a pharmacy owned by the PBM if the individual has

1 not voluntarily elected in writing or via secure elec-  
2 tronic means to fill that particular prescription at  
3 such a pharmacy.

4 “(2) The PBM may not require that an indi-  
5 vidual enrolled under such contract or plan use a re-  
6 tail pharmacy, mail order pharmacy, specialty phar-  
7 macy, or other pharmacy entity providing pharmacy  
8 services in which the PBM has an ownership interest  
9 or that has an ownership interest in the PBM or  
10 provide an incentive to a plan enrollee to encourage  
11 the enrollee to use a retail pharmacy, mail order  
12 pharmacy, specialty pharmacy, or other pharmacy  
13 entity providing pharmacy services in which the  
14 PBM has an ownership interest or that has an own-  
15 ership interest in the PBM, if the incentive is appli-  
16 cable only to such pharmacies.

17 “(q)(1) If a contract made or plan approved under  
18 this chapter provides for a standard for reimbursement  
19 (as described in paragraph (2)) with respect to a prescrip-  
20 tion drug plan, such contract or plan shall provide that  
21 the applicable carrier—

22 “(A) update such standard not less frequently  
23 than once every 7 days, beginning with an initial up-  
24 date on January 1 of each year, to accurately reflect  
25 the market price of acquiring the drug;

1           “(B) disclose to applicable pharmacies the  
2 sources used for making any such update;

3           “(C) if the source for such a standard for reim-  
4 bursement is not publicly available, disclose to the  
5 applicable pharmacies all individual drug prices to be  
6 so updated in advance of the use of such prices for  
7 the reimbursement of claims; and

8           “(D) establish a process to appeal, investigate,  
9 and resolve disputes regarding individual drug prices  
10 that are less than the pharmacy acquisition price for  
11 such drug.

12          “(2) For purposes of paragraph (1), a standard for  
13 reimbursement of a pharmacy is any methodology or for-  
14 mula for varying the pricing of a drug or drugs during  
15 the term of the pharmacy reimbursement contract that is  
16 based on the cost of the drug involved, including drug pric-  
17 ing references and amounts that are based upon average  
18 wholesale price, wholesale average cost, average manufac-  
19 turer price, average sales price, maximum allowable cost,  
20 or other costs, whether publicly available or not.”.

21          (b) APPLICATION.—The amendment made by sub-  
22 section (a) shall apply to any contract entered into under  
23 section 8902 of title 5, United States Code, on or after  
24 the date of enactment of this section.

