AMENDMENT TO RULES

COMMITTEE PRINT 116–41

OFFERED BY MR. KENNEDY OF MASSACHUSETTS

In section 1192 of the Social Security Act, as proposed to be added by section 101(a)—

(1) in subsection (a), strike “the Secretary shall” and insert “subject to subsection (h), the Secretary shall”; and

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

“(h) CONFLICT OF INTEREST.—

“(1) IN GENERAL.—In the case the General Counsel of the Department of Health and Human Services determines the Secretary has a conflict, with respect to a matter described in paragraph (2), the individual described in paragraph (3) shall carry out the duties of the Secretary under this part, with respect to a negotiation-eligible drug, that would otherwise be such a conflict.

“(2) MATTER DESCRIBED.—A matter described in this paragraph is—

“(A) a financial interest (as described in section 2635.402 of title 5, Code of Federal
Regulations (except for an interest described in subsection (b)(2)(iv) of such section)) on the date of the selected drug publication date, with respect the price applicability year (as applicable);

“(B) a personal or business relationship (as described in section 2635.502 of such title) on the date of the selected drug publication date, with respect the price applicability year;

“(C) employment by a manufacturer of a negotiation-eligible drug during the preceding 10-year period beginning on the date of the selected drug publication date, with respect to each price applicability year; and

“(D) any other matter the General Counsel determines appropriate.

“(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is—

“(A) the highest-ranking officer or employee of the Department of Health and Human Services (as determined by the organizational chart of the Department) that does not have a conflict under this subsection; and
“(B) is nominated by the President and confirmed by the Senate with respect to the position;”.

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