AMENDMENT TO THE SENATE AMENDMENT TO
H.R. 5376
OFFERED BY M_.

Strike subtitle B of title I and insert the following:

Subtitle B—Medicare Part D
Provisions

CHAPTER 1—MEDICARE PART D BENEFIT REDESIGN

SEC. 121. MEDICARE PART D BENEFIT REDESIGN.

(a) Benefit Structure Redesign.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting “for a year preceding 2022 and for costs above the annual deductible specified in paragraph (1) and up to the annual out-of-pocket threshold specified in paragraph (4)(B) for 2022 and each subsequent year” after “paragraph (3)”;

(ii) in clause (i), by inserting after “25 percent” the following: “(or, for 2022
and each subsequent year, 15 percent”;

(iii) in clause (ii), by inserting “(or, for 2022 and each subsequent year, 15 percent)” after “25 percent”;

(B) in subparagraph (C)—

(i) in clause (i), in the matter preceding subclause (I), by inserting “for a year preceding 2022,” after “paragraph (4),”; and

(ii) in clause (ii)(III), by striking “and each subsequent year” and inserting “and 2021”; and

(C) in subparagraph (D)—

(i) in clause (i)—

(I) in the matter preceding subclause (I), by inserting “for a year preceding 2022,” after “paragraph (4),”; and

(II) in subclause (I)(bb), by striking “a year after 2018” and inserting “each of years 2018 through 2021”; and

(ii) in clause (ii)(V), by striking “2019 and each subsequent year” and in-
serting “each of years 2019 through 2021”;

(2) in paragraph (3)(A)—

(A) in the matter preceding clause (i), by inserting “for a year preceding 2022,” after “and (4),”; and

(B) in clause (ii), by striking “for a subsequent year” and inserting “for each of years 2007 through 2021”; 

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and indenting appropriately;

(II) in the matter preceding item (aa), as redesignated by subclause (I), by striking “is equal to the greater of—’’ and inserting “is equal to—

“(I) for a year preceding 2022, the greater of—’’;

(III) by striking the period at the end of item (bb), as redesignated by
subclause (I), and inserting ‘‘; and’’;

and

(IV) by adding at the end the follow-

‘‘(II) for 2022 and each suc-

ceeding year, $0.’’; and

(ii) in clause (ii)—

(I) by striking ‘‘clause (i)(I)’’ and

inserting ‘‘clause (i)(I)(aa)’’; and

(II) by adding at the end the fol-

lowing new sentence: ‘‘The Secretary

shall continue to calculate the dollar

amounts specified in clause (i)(I)(aa),

including with the adjustment under

this clause, after 2021 for purposes of

section 1860D–14(a)(1)(D)(iii).’’;

(B) in subparagraph (B)—

(i) in clause (i)—

(I) in subclause (V), by striking

‘‘or’’ at the end;

(II) in subclause (VI)—

(aa) by striking ‘‘for a sub-

sequent year’’ and inserting ‘‘for

2021’’; and
(bb) by striking the period at the end and inserting a semi-colon; and

(III) by adding at the end the following new subclauses:

“(VII) for 2022, is equal to $3,100; or

“(VIII) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (6) for the year involved.”; and

(ii) in clause (ii), by striking “clause (i)(II)” and inserting “clause (i)”;

(C) in subparagraph (C)(i), by striking “and for amounts” and inserting “and for a year preceding 2022 for amounts”; and

(D) in subparagraph (E), by striking “In applying” and inserting “For each of 2011 through 2021, in applying”.

(b) DECREASING REINSURANCE PAYMENT AMOUNT.—Section 1860D–15(b)(1) of the Social Security Act (42 U.S.C. 1395w–115(b)(1)) is amended—
(1) by striking “equal to 80 percent” and inserting “equal to—

“(A) for a year preceding 2022, 80 percent”;

(2) in subparagraph (A), as added by paragraph (1), by striking the period at the end and inserting “; and”; and

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

“(B) for 2022 and each subsequent year, the sum of—

“(i) an amount equal to 20 percent of the allowable reinsurance costs (as specified in paragraph (2)) attributable to that portion of gross covered prescription drug costs as specified in paragraph (3) incurred in the coverage year after such individual has incurred costs that exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B) with respect to applicable drugs (as defined in section 1860D–14B(g)(2)); and

“(ii) an amount equal to 30 percent of the allowable reinsurance costs (as specified in paragraph (2)) attributable to that
portion of gross covered prescription drug
costs as specified in paragraph (3) in-
curred in the coverage year after such indi-
vidual has incurred costs that exceed the
annual out-of-pocket threshold specified in
section 1860D–2(b)(4)(B) with respect to
covered part D drugs that are not applica-
tible drugs (as so defined).”.

(c) MANUFACTURER DISCOUNT PROGRAM.—

(1) IN GENERAL.—Part D of title XVIII of the
Social Security Act is amended by inserting after
section 1860D–14A (42 U.S.C. 1495w–114) the fol-
lowing new section:

“SEC. 1860D–14B. MANUFACTURER DISCOUNT PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall estab-
lish a manufacturer discount program (in this section re-
ferred to as the ‘program’). Under the program, the Sec-
retary shall enter into agreements described in subsection
(b) with manufacturers and provide for the performance
of the duties described in subsection (c). The Secretary
shall establish a model agreement for use under the pro-
gram by not later than January 1, 2023, in consultation
with manufacturers, and allow for comment on such model
agreement.

“(b) TERMS OF AGREEMENT.—
“(1) IN GENERAL.—

“(A) AGREEMENT.—An agreement under this section shall require the manufacturer to provide applicable beneficiaries access to discounted prices for applicable drugs of the manufacturer that are dispensed on or after January 1, 2024.

“(B) PROVISION OF DISCOUNTED PRICES AT THE POINT-OF-SALE.—The discounted prices described in subparagraph (A) shall be provided to the applicable beneficiary at the pharmacy or by the mail order service at the point-of-sale of an applicable drug.

“(2) PROVISION OF APPROPRIATE DATA.—Each manufacturer with an agreement in effect under this section shall collect and have available appropriate data, as determined by the Secretary, to ensure that it can demonstrate to the Secretary compliance with the requirements under the program.

“(3) COMPLIANCE WITH REQUIREMENTS FOR ADMINISTRATION OF PROGRAM.—Each manufacturer with an agreement in effect under this section shall comply with requirements imposed by the Secretary or a third party with a contract under subsection (d)(3), as applicable, for purposes of admin-
istering the program, including any determination under subparagraph (A) of subsection (e)(1) or procedures established under such subsection (e)(1).

“(4) LENGTH OF AGREEMENT.—

“(A) IN GENERAL.—An agreement under this section shall be effective for an initial period of not less than 12 months and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

“(B) TERMINATION.—

“(i) BY THE SECRETARY.—The Secretary may provide for termination of an agreement under this section for a knowing and willful violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 30 days after the date of notice to the manufacturer of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, and such hearing shall take place prior to the effective date of the termination with sufficient time for such
effective date to be repealed if the Secretary determines appropriate.

“(ii) BY A MANUFACTURER.—A manufacturer may terminate an agreement under this section for any reason. Any such termination shall be effective, with respect to a plan year—

“(I) if the termination occurs before January 30 of a plan year, as of the day after the end of the plan year;

and

“(II) if the termination occurs on or after January 30 of a plan year, as of the day after the end of the succeeding plan year.

“(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect discounts for applicable drugs of the manufacturer that are due under the agreement before the effective date of its termination.

“(iv) NOTICE TO THIRD PARTY.—The Secretary shall provide notice of such termination to a third party with a contract under subsection (d)(3) within not less
than 30 days before the effective date of such termination.

“(5) **EFFECTIVE DATE OF AGREEMENT.**—An agreement under this section shall take effect on a date determined appropriate by the Secretary, which may be at the start of a calendar quarter.

“(c) **DUTIES DESCRIBED.**—The duties described in this subsection are the following:

“(1) **ADMINISTRATION OF PROGRAM.**—Administering the program, including—

“(A) the determination of the amount of the discounted price of an applicable drug of a manufacturer;

“(B) the establishment of procedures under which discounted prices are provided to applicable beneficiaries at pharmacies or by mail order service at the point-of-sale of an applicable drug;

“(C) the establishment of procedures to ensure that, not later than the applicable number of calendar days after the dispensing of an applicable drug by a pharmacy or mail order service, the pharmacy or mail order service is reimbursed for an amount equal to the difference between—
“(i) the negotiated price of the applicable drug; and

“(ii) the discounted price of the applicable drug;

“(D) the establishment of procedures to ensure that the discounted price for an applicable drug under this section is applied before any coverage or financial assistance under other health benefit plans or programs that provide coverage or financial assistance for the purchase or provision of prescription drug coverage on behalf of applicable beneficiaries as the Secretary may specify; and

“(E) providing a reasonable dispute resolution mechanism to resolve disagreements between manufacturers, applicable beneficiaries, and the third party with a contract under subsection (d)(3).

“(2) MONITORING COMPLIANCE.—

“(A) IN GENERAL.—The Secretary shall monitor compliance by a manufacturer with the terms of an agreement under this section.

“(B) NOTIFICATION.—If a third party with a contract under subsection (d)(3) determines that the manufacturer is not in compli-
ance with such agreement, the third party shall notify the Secretary of such noncompliance for appropriate enforcement under subsection (e).

“(3) Collection of data from prescription drug plans and MA–PD plans.—The Secretary may collect appropriate data from prescription drug plans and MA–PD plans in a timeframe that allows for discounted prices to be provided for applicable drugs under this section.

“(d) Administration.—

“(1) In general.—Subject to paragraph (2), the Secretary shall provide for the implementation of this section, including the performance of the duties described in subsection (c).

“(2) Limitation.—In providing for the implementation of this section, the Secretary shall not receive or distribute any funds of a manufacturer under the program.

“(3) Contract with third parties.—The Secretary shall enter into a contract with 1 or more third parties to administer the requirements established by the Secretary in order to carry out this section. At a minimum, the contract with a third party under the preceding sentence shall require that the third party—
“(A) receive and transmit information between the Secretary, manufacturers, and other individuals or entities the Secretary determines appropriate;

“(B) receive, distribute, or facilitate the distribution of funds of manufacturers to appropriate individuals or entities in order to meet the obligations of manufacturers under agreements under this section;

“(C) provide adequate and timely information to manufacturers, consistent with the agreement with the manufacturer under this section, as necessary for the manufacturer to fulfill its obligations under this section; and

“(D) permit manufacturers to conduct periodic audits, directly or through contracts, of the data and information used by the third party to determine discounts for applicable drugs of the manufacturer under the program.

“(4) PERFORMANCE REQUIREMENTS.—The Secretary shall establish performance requirements for a third party with a contract under paragraph (3) and safeguards to protect the independence and integrity of the activities carried out by the third party under the program under this section.
“(5) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to the program under this section.

“(e) ENFORCEMENT.—

“(1) AUDITS.—Each manufacturer with an agreement in effect under this section shall be subject to periodic audit by the Secretary.

“(2) CIVIL MONEY PENALTY.—

“(A) IN GENERAL.—The Secretary shall impose a civil money penalty on a manufacturer that fails to provide applicable beneficiaries discounts for applicable drugs of the manufacturer in accordance with such agreement for each such failure in an amount the Secretary determines is commensurate with the sum of—

“(i) the amount that the manufacturer would have paid with respect to such discounts under the agreement, which will then be used to pay the discounts which the manufacturer had failed to provide; and

“(ii) 25 percent of such amount.

“(B) APPLICATION.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under
this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

“(f) Clarification Regarding Availability of Other Covered Part D Drugs.—Nothing in this section shall prevent an applicable beneficiary from purchasing a covered part D drug that is not on the formulary of the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in.

“(g) Definitions.—In this section:

“(1) Applicable beneficiary.—The term ‘applicable beneficiary’ means an individual who, on the date of dispensing a covered part D drug—

“(A) is enrolled in a prescription drug plan or an MA–PD plan;

“(B) is not enrolled in a qualified retiree prescription drug plan; and

“(C) has incurred costs for covered part D drugs in the year that are equal to or exceed the annual deductible specified in section 1860D–2(b)(1) for such year.

“(2) Applicable drug.—The term ‘applicable drug’ means, with respect to an applicable beneficiary, a covered part D drug—
“(A) approved under a new drug application under section 505(e) of the Federal Food, Drug, and Cosmetic Act or, in the case of a biologic product, licensed under section 351 of the Public Health Service Act (including a product licensed under subsection (k) of such section); and

“(B)(i) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA–PD plan uses a formulary, which is on the formulary of the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in;

“(ii) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA–PD plan does not use a formulary, for which benefits are available under the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in; or

“(iii) is provided through an exception or appeal.

“(3) APPLICABLE NUMBER OF CALENDAR DAYS.—The term ‘applicable number of calendar days’ means—
“(A) with respect to claims for reimbursement submitted electronically, 14 days; and

“(B) with respect to claims for reimbursement submitted otherwise, 30 days.

“(4) Discounted Price.—

“(A) In General.—The term ‘discounted price’ means, with respect to an applicable drug of a manufacturer furnished during a year to an applicable beneficiary, 90 percent of the negotiated price of such drug.

“(B) Clarification.—Nothing in this section shall be construed as affecting the responsibility of an applicable beneficiary for payment of a dispensing fee for an applicable drug.

“(C) Special Case for Claims Spanning Deductible.—In the case where the entire amount of the negotiated price of an individual claim for an applicable drug with respect to an applicable beneficiary does not fall at or above the annual deductible specified in section 1860D–2(b)(1) for the year, the manufacturer of the applicable drug shall provide the discounted price under this section on only the portion of the negotiated price of the applicable
drug that falls at or above such annual deductible.

“(5) MANUFACTURER.—The term ‘manufacturer’ means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

“(6) NEGOTIATED PRICE.—The term ‘negotiated price’ has the meaning given such term in section 1860D–2(d)(1)(B), except that such negotiated price shall not include any dispensing fee for an applicable drug.

“(7) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term ‘qualified retiree prescription drug plan’ has the meaning given such term in section 11860D–22(a)(2).”.

(2) SUNSET OF MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—Section 1860D–14A of the Social Security Act (42 U.S.C. 1395–114a) is amended—
(A) in subsection (a), in the first sentence, by striking “The Secretary” and inserting “Subject to subsection (h), the Secretary”; and

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

“(h) SUNSET OF PROGRAM.—

“(1) IN GENERAL.—The program shall not apply to applicable drugs dispensed on or after January 1, 2024, and, subject to paragraph (2), agreements under this section shall be terminated as of such date.

“(2) CONTINUED APPLICATION FOR APPLICABLE DRUGS DISPENSED PRIOR TO SUNSET.—The provisions of this section (including all responsibilities and duties) shall continue to apply after January 1, 2024, with respect to applicable drugs dispensed prior to such date.”.

(3) INCLUSION OF ACTUARIAL VALUE OF MANUFACTURER DISCOUNTS IN BIDS.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended—

(A) in subsection (b)(2)(C)(iii)—

(i) by striking “assumptions regarding the reinsurance” and inserting “assumptions regarding—
“(I) the reinsurance”; and

(ii) by adding at the end the following:

“(II) for 2024 and each subsequent year, the manufacturer discounts provided under section 1860D–14B subtracted from the actuarial value to produce such bid; and”; and

(B) in subsection (e)(1)(C)—

(i) by striking “an actuarial valuation of the reinsurance” and inserting “an actuarial valuation of—

“(i) the reinsurance”;

(ii) in clause (i), as added by clause (i) of this subparagraph, by adding “and” at the end; and

(iii) by adding at the end the following:

“(ii) for 2024 and each subsequent year, the manufacturer discounts provided under section 1860D–14B;”.

(4) Clarification regarding exclusion of manufacturer discounts from TROOP.—Section 1860D–2(b)(4) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)) is amended—
(A) in subparagraph (C), by inserting “and subject to subparagraph (F)” after “subparagraph (E)”; and

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

“(F) CLARIFICATION REGARDING EXCLUSION OF MANUFACTURER DISCOUNTS.—In applying subparagraph (A), incurred costs shall not include any manufacturer discounts provided under section 1860D–14B.”.

(d) DETERMINATION OF ALLOWABLE REINSURANCE COSTS.—Section 1860D–15(b) of the Social Security Act (42 U.S.C. 1395w–115(b)) is amended—

(1) in paragraph (2)—

(A) by striking “COSTS.—For purposes” and inserting “COSTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), for purposes”; and

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

“(B) INCLUSION OF MANUFACTURER DISCOUNTS ON APPLICABLE DRUGS.—For purposes of applying subparagraph (A), the term ‘allowable reinsurance costs’ shall include the portion of the negotiated price (as defined in section
1860D–14B(g)(6)) of an applicable drug (as defined in section 1860D–14(g)(2)) that was paid by a manufacturer under the manufacturer discount program under section 1860D–14B.”;

and

(2) in paragraph (3)—

(A) in the first sentence, by striking “For purposes” and inserting “Subject to paragraph (2)(B), for purposes”; and

(B) in the second sentence, by inserting “or, in the case of an applicable drug, by a manufacturer” after “by the individual or under the plan”.

(e) Updating Risk Adjustment Methodologies to Account for Part D Modernization Redesign.—Section 1860D–15(e) of the Social Security Act (42 U.S.C. 1395w–115(e)) is amended by adding at the end the following new paragraph:

“(3) Updating risk adjustment methodologies to account for Part D Modernization Redesign.—The Secretary shall update the risk adjustment model used to adjust bid amounts pursuant to this subsection as appropriate to take into account changes in benefits under this part pur-
suant to the amendments made by section 121 of the Lower Costs, More Cures Act of 2021.”.

(f) **CONDITIONS FOR COVERAGE OF DRUGS UNDER THIS PART.**—Section 1860D–43 of the Social Security Act (42 U.S.C. 1395w–153) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

“(4) participate in the manufacturer discount program under section 1860D–14B;

“(5) have entered into and have in effect an agreement described in subsection (b) of such section 1860D–14B with the Secretary; and

“(6) have entered into and have in effect, under terms and conditions specified by the Secretary, a contract with a third party that the Secretary has entered into a contract with under subsection (d)(3) of such section 1860D–14B.”;

(2) by striking subsection (b) and inserting the following:
“(b) EFFECTIVE DATE.—Paragraphs (1) through (3) of subsection (a) shall apply to covered part D drugs dispensed under this part on or after January 1, 2011, and before January 1, 2024, and paragraphs (4) through (6) of such subsection shall apply to covered part D drugs dispensed on or after January 1, 2024.”; and

(3) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) the Secretary determines that in the period beginning on January 1, 2011, and ending on December 31, 2011 (with respect to paragraphs (1) through (3) of subsection (a)) or the period beginning on January 1, 2024, and ending December 31, 2024 (with respect to paragraphs (4) through (6) of such subsection), there were extenuating circumstances.”.

(g) CONFORMING AMENDMENTS.—

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

(A) in subsection (a)(2)(A)(i)(I), by striking “, or an increase in the initial” and inserting “or for a year preceding 2024 an increase in the initial”;

(B) in subsection (c)(1)(C)—
(i) in the subparagraph heading, by striking “AT INITIAL COVERAGE LIMIT”; and

(ii) by inserting “for a year preceding 2024 or the annual out-of-pocket threshold specified in subsection (b)(4)(B) for the year for 2024 and each subsequent year” after “subsection (b)(3) for the year” each place it appears; and

(C) in subsection (d)(1)(A), by striking “or an initial” and inserting “or for a year preceding 2024, an initial”.

(2) Section 1860D–4(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395w–104(a)(4)(B)(i)) is amended by striking “the initial” and inserting “for a year preceding 2024, the initial”.

(3) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking “The continuation” and inserting “For a year preceding 2024, the continuation”;

(iii) in subparagraph (E), by striking “The elimination” and inserting “For a year preceding 2024, the elimination”; and

(B) in paragraph (2)—

(i) in subparagraph (C), by striking “The continuation” and inserting “For a year preceding 2024, the continuation”; and

(ii) in subparagraph (E)—

(I) by inserting “for a year preceding 2024,” after “subsection (c)”; and


(A) by striking “the value of any discount” and inserting the following: “the value of—
“(i) for years prior to 2024, any discount”;

(B) in clause (i), as inserted by subparagraph (A) of this paragraph, by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(ii) for 2024 and each subsequent year, any discount provided pursuant to section 1860D–14B.”.

(6) Section 1860D–41(a)(6) of the Social Security Act (42 U.S.C. 1395w–151(a)(6)) is amended—

(A) by inserting “for a year before 2024” after “1860D–2(b)(3)” ; and

(B) by inserting “for such year” before the period.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to plan year 2024 and subsequent plan years.
Subtitle C—Other Medicare Part D
Provisions

SEC. 131. ALLOWING THE OFFERING OF ADDITIONAL PRESCRIPTION DRUG PLANS UNDER MEDICARE PART D.

(a) RESCINDING AND ISSUANCE OF NEW GUIDANCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall—

(1) rescind sections of any sub-regulatory guidance that limit the number of prescription drug plans in each PDP region that may be offered by a PDP sponsor under part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–101 et seq.); and

(2) issue new guidance specifying that a PDP sponsor may offer up to 4 (or a greater number if determined appropriate by the Secretary) prescription drug plans in each PDP region, except in cases where the PDP sponsor may offer up to 2 additional plans in a PDP region pursuant to section 1860D–11(d)(4) of the Social Security Act (42 U.S.C. 1395w–111(d)(4)), as added by subsection (b).
(b) Offering of Additional Plans.—Section 1860D–11(d) of the Social Security Act (42 U.S.C. 1395w–111(d)) is amended by adding at the end the following new paragraph:

“(4) Offering of additional plans.—

“(A) In general.—For plan year 2022 and each subsequent plan year, a PDP sponsor may offer up to 2 additional prescription drug plans in a PDP region (in addition to any limit established by the Secretary under this part) provided that the PDP sponsor complies with subparagraph (B) with respect to at least one such prescription drug plan.

“(B) Requirements.—In order to be eligible to offer up to 2 additional plans in a PDP region pursuant to subparagraph (A), a PDP sponsor must ensure that, with respect to at least one such prescription drug plan, the sponsor or any entity that provides pharmacy benefits management services under a contract with any such sponsor or plan does not receive direct or indirect remuneration, as defined in section 423.308 of title 42, Code of Federal Regulations (or any successor regulation), unless at least 25 percent of the aggregate reductions in
price or other remuneration received by the PDP sponsor or entity from drug manufacturers with respect to the plan and plan year—

“(i) are reflected at the point-of-sale to the enrollee; or

“(ii) are used to reduce total beneficiary cost-sharing estimated by the PDP sponsor for prescription drug coverage under the plan in the annual bid submitted by the PDP sponsor under section 1860D–11(b).

“(C) DEFINITION OF REDUCTIONS IN PRICE.—For purposes of subparagraph (B), the term ‘reductions in price’ refers only to collectible amounts, as determined by the Secretary, which excludes amounts which after adjudication and reconciliation with pharmacies and manufacturers are duplicate in nature, contrary to other contractual clauses, or otherwise ineligible (such as due to beneficiary disenrollment or coordination of benefits).”.

(c) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this section shall be construed as limiting the ability of the Secretary to increase any limit otherwise applicable on the number of
prescription drug plans that a PDP sponsor may offer, at the discretion of the PDP sponsor, in a PDP region under part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–101 et seq.).

SEC. 132. ALLOWING CERTAIN ENROLLEES OF PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER MEDICARE PROGRAM TO SPREAD OUT COST-SHARING UNDER CERTAIN CIRCUMSTANCES.

(a) STANDARD PRESCRIPTION DRUG COVERAGE.—

Section 1860D–2(b)(2) of the Social Security Act (42 U.S.C. 1395w–102(b)(2)), as amended by section 121, is further amended—

(1) in subparagraph (A), by striking “Subject to subparagraphs (C) and (D)” and inserting “Subject to subparagraphs (C), (D), and (E)”; and

(2) by adding at the end the following new sub-

paragraph:

“(E) ENROLLEE OPTION REGARDING SPREADING COST-SHARING.—

“(i) IN GENERAL.—The Secretary shall establish by regulation a process under which, with respect to plan year 2022 and subsequent plan years, a prescription drug plan or an MA–PD plan shall, in the case of a part D eligible indi-
individual enrolled with such plan for such plan year with respect to whom the plan projects that the dispensing of a covered part D drug to such individual will result in the individual incurring costs within a 30-day period that are equal to a significant percentage (as specified by the Secretary pursuant to such regulation) of the annual out-of-pocket threshold specified in paragraph (4)(B) for such plan year, provide such individual with the option to make the coinsurance payment required under subparagraph (A) for such costs in the form of equal monthly installments over the remainder of such plan year.

“(ii) Significant percentage limitations.—In specifying a significant percentage pursuant to the regulation established by the Secretary under clause (i), the Secretary may not specify a percentage that is less than 30 percent or greater than 100 percent.”.

(b) Alternative Prescription Drug Coverage.—Section 1860D–2(c) of the Social Security Act
(42 U.S.C. 1395w–102(c)) is amended by adding at the end the following new paragraph:

“(4) SAME ENROLLEE OPTION REGARDING SPREADING COST-SHARING.—For plan year 2022 and subsequent plan years, the coverage provides the enrollee option regarding spreading cost-sharing described in and required under subsection (b)(2)(E).”.

SEC. 133. ESTABLISHING A MONTHLY CAP ON BENEFICIARY INCURRED COSTS FOR INSULIN PRODUCTS AND SUPPLIES UNDER A PRESCRIPTION DRUG PLAN OR MA–PD PLAN.

(a) IN GENERAL.—Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102), as amended by sections 121 and 133, is further amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A), by striking “and (E)” and inserting “(E), and (F)”;

(B) in subparagraph (B), by striking “and (D)” and inserting “(D), and (F)”;

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

“(F) CAP ON INCURRED COSTS FOR INSULIN PRODUCTS AND SUPPLIES.—
“(i) IN GENERAL.—The coverage provides benefits, for costs above the annual deductible specified in paragraph (1) and up to the annual out-of-pocket threshold described in paragraph (4)(B) and with respect to a month (beginning with January of 2022), with cost sharing that is equal to $0 for a specified covered part D drug (as defined in clause (iii)) furnished to an individual who has incurred costs during such month with respect to specified covered part D drugs equal to—

“(I) for months occurring in 2022, $50; or

“(II) for months occurring in a subsequent year, the amount applicable under this clause for months occurring in the year preceding such subsequent year, increased by the annual percentage increase specified in paragraph (6) for such subsequent year and rounded to the nearest dollar.

“(ii) APPLICATION.—The provisions of clauses (i) through (iii) of paragraph

...
(4)(C) shall apply with respect to the determination of the incurred costs for specified covered part D drugs for purposes of clause (i) in the same manner as such provisions apply with respect to the determination of incurred costs for covered part D drugs for purposes of paragraph (4)(A).

“(iii) Specified covered part D drug.—For purposes of this subparagraph, the term ‘specified covered part D drug’ means a covered part D drug that is—

“(I) insulin; or

“(II) a medical supply associated with the injection of insulin (as defined in regulations of the Secretary promulgated pursuant to subsection (e)(1)(B)).”;

and

(2) in subsection (c), by adding at the end the following new paragraph:

“(5) Same protection with respect to expenditures for insulin and certain medical supplies.—The coverage provides the coverage required under subsection (b)(2)(F).”.

(b) Conforming Amendments.—
(1) IN GENERAL.—Section 1860D–14(a)(1)(D) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)), as amended by section 121, is further amended—

(A) in clause (ii), by striking “section 1860D–2(b)(2)” and inserting “section 1860D–2(b)(2)(A)”; and

(B) in clause (iii), by striking “section 1860D–2(b)(2)” and inserting “section 1860D–2(b)(2)(A)”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to plan year 2022 and each subsequent plan year.

SEC. 134. GROWTH RATE OF MEDICARE PART D OUT-OF-POCKET COST THRESHOLD.

(a) PROVIDING MEDICARE PART D BENEFICIARIES WITH CERTAIN 2020 OFFSET PAYMENTS.—Section 1860D–2(b)(4) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)) is amended by adding at the end the following new subparagraph:

“(F) 2020 OFFSET PAYMENTS.—

“(i) IN GENERAL.—Subject to clause (iv), the Secretary shall provide for payment from the Medicare Prescription Drug Account as follows:

Account as follows:
“(I) In the case of a specified individual (as defined in clause (ii)(I)) who as of the last day of a calendar quarter in 2020 has incurred costs for covered part D drugs so that the individual has exceeded the annual out-of-pocket threshold applied under subparagraph (B)(i)(V) for 2020, payment to the individual by not later than 15th day of the third month following the end of such quarter of the amount by which such threshold so applied exceeded the target threshold for 2020.

“(II) In the case of a specified individual who is not described in sub-clause (I) and who as of the last day of 2020 has incurred costs for covered part D drugs so that the individual has exceeded the target threshold for 2020, payment to the individual by not later than December 31, 2021, of the amount by which such incurred costs exceeded the target threshold for 2020.
“(ii) DEFINITIONS.—For purposes of this subparagraph:

“(I) SPECIFIED INDIVIDUAL.—The term ‘specified individual’ means an individual who—

“(aa) is enrolled in a prescription drug plan or an MA–PD plan;

“(bb) is not enrolled in a qualified retiree prescription drug plan; and

“(cc) is not entitled to an income-related subsidy under section 1860D–14(a).

“(II) TARGET THRESHOLD FOR 2020.—The term ‘target threshold for 2020’ means the annual out-of-pocket threshold that would have been applied under subparagraph (B)(i) for 2020 if such threshold had been determined in accordance with subclause (IV) of such subparagraph instead of subclause (V) of such subparagraph.

“(iii) NOTIFICATION.—In the case of any specified individual who during 2020
has incurred costs for covered part D

drugs so that the individual has exceeded
the target threshold for 2020, the Sec-

etary shall, not later than September 30,
2021, provide to such individual a notifica-
tion informing such individual of such indi-

vidual’s right to a payment described in
clause (i) and the estimated timing of such

payment.

“(iv) CLARIFICATION.—The Secretary
shall provide only 1 payment under this

subparagraph with respect to any indi-

vidual.

“(v) IMPLEMENTATION.—The Sec-

etary may implement this subparagraph
by program instruction or otherwise.”.

(b) REDUCED GROWTH RATE FOR 2021 OF MEDI-
CARE PART D OUT-OF-POCKET COST THRESHOLD.—Sec-
tion 1860D–2(b)(4)(B)(i) of the Social Security Act (42
U.S.C. 1395w–102(b)(4)(B)(i)) is amended—

(1) in subclause (V), by striking at the end

“or”;

(2) by redesignating subclause (VI) as sub-

clause (VIII); and
(3) by inserting after subclause (V) the following new subclauses:

“(VI) for 2021, is equal to the amount that would have been applied under this subparagraph for 2020 if such amount had been determined in accordance with subclause (IV) instead of subclause (V), increased by the lesser of—

“(aa) the annual percentage increase described in paragraph (7) for 2021, plus 2 percentage points; or

“(bb) the annual percentage increase described in paragraph (6) for 2021;

“(VII) for 2022, is equal to the amount that would have been applied under this subparagraph for 2022 if the amendments made by section 1101(d)(1) of the Health Care and Education Reconciliation Act of 2010 and by section 134 of subtitle B of title I of the Act titled ‘An Act to provide for reconciliation pursuant to

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title II of S. Con. Res. 14’ had not been enacted; or”.

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