

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1725

To amend title XIX of the Social Security Act to require, at the option of a State, drug manufacturers to pay rebates to State prescription drug discount programs as a condition of participation in a rebate agreement for outpatient prescription drugs under the Medicaid Program.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2009

Mr. VAN HOLLEN (for himself, Ms. PINGREE of Maine, Mr. RUPPERSBERGER, Mr. KRATOVIL, and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to require, at the option of a State, drug manufacturers to pay rebates to State prescription drug discount programs as a condition of participation in a rebate agreement for outpatient prescription drugs under the Medicaid Program.

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 “Voluntary State Dis-  
5       count Prescription Drug Plan Act of 2009”.

1 **SEC. 2. OPTIONAL STATE PRESCRIPTION DISCOUNT PRO-**  
2 **GRAM.**

3 (a) IN GENERAL.—Section 1927(a) of the Social Se-  
4 curity Act (42 U.S.C. 1396r–8(a)) is amended by adding  
5 at the end the following:

6 “(8) REQUIREMENTS RELATING TO AGREE-  
7 MENTS FOR DRUGS PROCURED BY INDIVIDUALS  
8 THROUGH OPTIONAL STATE PRESCRIPTION DRUG  
9 DISCOUNT PROGRAMS.—

10 “(A) IN GENERAL.—A manufacturer meets  
11 the requirements of this paragraph if the manu-  
12 facturer enters into an agreement with the  
13 State to make rebate payments for drugs cov-  
14 ered by a State prescription drug discount pro-  
15 gram in the same amounts as are paid by the  
16 manufacturer to the State for such drugs under  
17 a rebate agreement described in subsection (b).  
18 The previous sentence shall only apply to a  
19 State that has elected to establish an optional  
20 State prescription drug discount program and  
21 to apply the provisions of such sentence.

22 “(B) OPTIONAL STATE PRESCRIPTION  
23 DRUG DISCOUNT PROGRAM DEFINED.—

24 “(i) IN GENERAL.—In this paragraph,  
25 the term ‘optional State prescription drug  
26 discount program’ means a State program

1 under which, with respect to a rebate pe-  
2 riod, not less than the amount equal to 95  
3 percent of all the rebates paid to the State  
4 under agreements entered into under sub-  
5 paragraph (A) during such period are pro-  
6 vided to eligible State residents in the form  
7 of discounted prices for the purchase of  
8 outpatient prescription drugs.

9 “(ii) ELIGIBLE STATE RESIDENT.—  
10 For purposes of clause (i), the term ‘eligi-  
11 ble State resident’ means an individual  
12 who is a State resident and whose income  
13 does not exceed a percentage (specified  
14 under the optional State prescription drug  
15 discount program, but not to exceed 300  
16 percent) of the income official poverty line  
17 (as defined by the Office of Management  
18 and Budget, and revised annually in ac-  
19 cordance with section 673(2) of the Omni-  
20 bus Budget Reconciliation Act of 1981)  
21 applicable to a family of the size involved.

22 “(iii) ADDITIONAL SUBSIDIES.—Noth-  
23 ing in this subparagraph shall be construed  
24 as—

1           “(I) requiring a State to expend  
2           State funds to carry out a State pre-  
3           scription drug discount program; or

4           “(II) prohibiting a State from  
5           electing to contribute State funds to a  
6           State prescription drug discount pro-  
7           gram to provide greater subsidies to  
8           eligible State residents for outpatient  
9           prescription drugs covered under the  
10          program.

11          “(iv) NO SECTION 1115 WAIVER RE-  
12          QUIRED TO IMPLEMENT.—Nothing in this  
13          subparagraph shall be construed as requir-  
14          ing a State to obtain a waiver under sec-  
15          tion 1115 or otherwise of any requirement  
16          of this title to implement an optional State  
17          prescription drug discount program.

18          “(C) NO OFFSET AGAINST MEDICAL AS-  
19          SISTANCE.—Amounts received by a State under  
20          an agreement entered into under subparagraph  
21          (A) in any quarter shall not be considered to be  
22          a reduction in the amount expended under the  
23          State plan in the quarter for medical assistance  
24          for purposes of section 1903(a)(1).”.

1           (b) CONFORMING AMENDMENT.—The first sentence  
2 of section 1927(a)(1) of such Act (42 U.S.C. 1396r–  
3 8(a)(1)) is amended, by striking “and paragraph (6)” and  
4 inserting “, paragraph (6), and paragraph (8)”.

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