

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. RES. 1390

Expressing support for the protection of Medicare part D's six protected classes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2022

Mrs. NAPOLITANO (for herself, Mr. KATKO, Ms. LEE of California, Miss GONZÁLEZ-COLÓN, Mr. FITZPATRICK, Ms. ROYBAL-ALLARD, Ms. MATSUI, Mr. SOTO, Mr. TRONE, Mr. SIRES, Mr. GRIJALVA, and Mr. CÁRDENAS) submitted the following resolution; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## RESOLUTION

Expressing support for the protection of Medicare part D's six protected classes.

Whereas Medicare part D was established by Congress in 2003 to provide much-needed prescription drug coverage for seniors and people with disabilities;

Whereas during implementation, the Centers for Medicare & Medicaid Services (CMS) identified six classes and categories of medicines where patients could face serious risks, complications, and negative health outcomes without access to these medicines;

Whereas CMS requires part D plans to cover all or substantially all medication within these six classes, which help protect patients needing antidepressants, antipsychotics, anticonvulsants, immunosuppressants, antiretrovirals, and antineoplastics;

Whereas these medications help treat patients with, but not limited to, epilepsy, organ transplants, cancer, HIV/AIDS, and mental health conditions;

Whereas, in the past, CMS has considered changes that impact the accessibility of these medicines;

Whereas prior proposed changes would have permitted certain health plans to limit or reduce coverage of drugs in the protected classes;

Whereas prior proposed changes have failed to consider the need for Medicare beneficiaries to have access to treatments that are best for their condition(s) or the necessity and challenges to determine the best regimen to meet those needs;

Whereas if patients are unable to obtain the medicines they need, many will experience costly and avoidable complications that could increase overall costs to the Medicare Program, reduce their quality of life, or even limit life itself;

Whereas such changes would directly target some of our most vulnerable citizens;

Whereas prior proposed changes are particularly worrisome given the unique, often complex, medical needs of some Medicare beneficiaries;

Whereas beneficiaries with schizophrenia who are stabilized on medication and then forced to utilize a different medicine are at risk of a relapse;

Whereas this would lead to higher medical costs in the form of potentially avoidable psychiatric hospitalizations, as well as exacerbate patients' comorbid medical conditions;

Whereas individuals with depression often need to try several medicines before finding one that provides symptom relief;

Whereas having only one or two drugs to treat the wide-ranging ways someone could present with depression is simply inadequate, especially among an older population where depression is a significant predictor of suicide;

Whereas access to medications is essential for those who experience mental health conditions, which are often co-occurring with other conditions, such as Parkinson's disease;

Whereas for people living with HIV, new drug therapies have saved millions of lives and prolonged millions more;

Whereas the advent of antiretroviral medications shifted the prognosis for an individual diagnosed with HIV from a near-certain death to a manageable disease, when patients have access to quality care and medications;

Whereas not all HIV/AIDS medications are the same, and each person may react differently to a particular medication;

Whereas disruptions or delays in access to HIV treatment can have serious consequences for patients and can increase the risk of HIV transmission to others;

Whereas for people living with HIV, drug resistance can occur, and they must have the ability to switch to another drug without interruption;

Whereas HIV disproportionately affects minority populations, and, in 2020, 43 percent of people newly diagnosed with HIV were Black, although Black Americans represent only 12 percent of the United States population, and in 2019, Hispanic people represented 29 percent of those newly diagnosed with HIV but only 16 percent of the United States population;

Whereas access to oncology drugs (antineoplastics) is crucial for cancer patients because drugs in these classes are not always interchangeable;

Whereas oncology patients may respond differently to different treatments, need to access alternative treatments based on changes in their condition, or have fewer or more tolerable side effects if they use one therapy instead of another;

Whereas at least 1,100,000 Medicare beneficiaries live with epilepsy;

Whereas epilepsy medications, known as anticonvulsants or antiseizure medications, are not interchangeable;

Whereas people with epilepsy who cannot access or are forced to switch from the most effective anticonvulsant are at increased risk of breakthrough seizures and related complications including injury, disability, and death;

Whereas seizure-free individuals who are forced to switch their medication have nearly a 17-percent rate of seizure reoccurrence compared to less than 3 percent among people remaining on the most effective medication;

Whereas eliminating immunosuppressants from the list of protected classes would place persons who received any transplant at risk for severe medical complications;

Whereas immunosuppressive medications are not interchangeable;

Whereas if prescription drugs are filled without regard to consistency from one month to the next, the recipient is subject to increased risk of organ rejection, along with additional clinic visits, lab costs, and potential hospitalization;

Whereas this includes individuals who take these same medications to manage their autoimmune disorders, including lupus, psoriasis, rheumatoid arthritis, Crohn's disease, and multiple sclerosis;

Whereas part D plans are already equipped with tools to manage spending and encourage the use of generics, when possible and appropriate, for the six protected classes;

Whereas, according to an analysis of CMS data by the Pew Charitable Trusts, the generic utilization rate in the six protected classes is as high as 92 percent; and

Whereas potential changes to the six protected classes have now been rejected during the Obama, Trump, and Biden administrations after receiving significant opposition from Congress, patient groups, providers, and stakeholders: Now, therefore, be it

1       *Resolved*, That the House of Representatives—

2               (1) supports the six protected classes policy be-  
3       cause it established critical access protection for  
4       many of our most vulnerable Medicare beneficiaries;

5               (2) recognizes that Medicare part D bene-  
6       ficiaries currently needing antidepressants,

1 antipsychotics, anticonvulsants,  
2 immunosuppressants, antiretrovirals, and  
3 antineoplastics depend on the protection of the six  
4 protected classes to meet their complex medical  
5 needs and highly personalized treatments; and  
6 (3) encourages the Centers for Medicare &  
7 Medicaid Services to continue to work with Con-  
8 gress, patient groups, providers, and stakeholders to  
9 secure long-term protection of the six protected  
10 classes policy.

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