

119TH CONGRESS
1ST SESSION

H. R. 2214

To improve services provided by pharmacy benefit managers.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2025

Mrs. MILLER-MEEKS (for herself, Ms. BARRAGÁN, Ms. MALLIOTAKIS, Mr. SCHNEIDER, Mr. ALLEN, and Mr. NORCROSS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Workforce, 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

A BILL

To improve services provided by pharmacy benefit managers.

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 “Delinking Revenue
5 from Unfair Gouging Act” or the “DRUG Act”.

6 **SEC. 2. IMPROVING PHARMACY BENEFIT MANAGER SERV-**
7 **ICES.**

8 (a) PUBLIC HEALTH SERVICE ACT.—Part D of title
9 XXVII of the Public Health Service Act (42 U.S.C.

1 300gg–111 et seq.) is amended by adding at the end the
 2 following:

3 **“SEC. 2799A–11. IMPROVING PHARMACY BENEFIT MANAGER**
 4 **SERVICES.**

5 “(a) IN GENERAL.—Beginning on January 1, 2027,
 6 except as provided in subsection (b), a pharmacy benefit
 7 manager shall derive no remuneration from any entity for
 8 services, benefit administration, or any other activities re-
 9 lated to prescription drug benefits under a group health
 10 plan or group or individual health insurance coverage.

11 “(b) EXCEPTION FOR BONA FIDE SERVICE FEES.—

12 “(1) IN GENERAL.—A pharmacy benefit man-
 13 ager may charge an entity a bona fide service fee for
 14 the provision of services to such entity only if such
 15 fee is set forth in an agreement between the phar-
 16 macy benefit manager and such entity and the
 17 amount of any bona fide service fee—

18 “(A) is a flat dollar amount; and

19 “(B) is not directly or indirectly based on,
 20 or contingent upon—

21 “(i) a drug price (such as wholesale
 22 acquisition cost) or drug benchmark price
 23 (such as average wholesale price);

24 “(ii) the amount of discounts, rebates,
 25 fees, or other direct or indirect remunera-

tion with respect to prescription drugs prescribed to the participants, beneficiaries, or enrollees in the group health plan or health insurance coverage involved; or

“(iii) any other amounts specified by the Secretary, the Secretary of Labor, and the Secretary of the Treasury;

“(2) DEFINITIONS.—In this section—

“(A) the term ‘bona fide service fee’ means a fee that is equal to the fair market value of a bona fide, itemized service that is actually performed on behalf of an entity, that the entity would otherwise perform (or contract for) in the absence of the service arrangement, and that is not passed on in whole or in part to a client or customer, whether or not the entity takes title to the drug; and

“(B) the term ‘pharmacy benefit manager’ means any person, business, or other entity, such as a third-party administrator, regardless of whether it identifies itself as a pharmacy benefit manager, that, either directly or through an intermediary (including an affiliate, subsidiary, or agent) or an arrangement with a third-party—

1 “(i) acts a price negotiator for pre-
2 scription drugs on behalf of a group health
3 plan or health insurance issuer offering
4 group or individual health insurance cov-
5 erage; or

6 “(ii) manages or administers the pre-
7 scription drug benefits provided by a group
8 health plan or health insurance issuer of-
9 fering group or individual health insurance
10 coverage, including creating formularies,
11 the processing and payment of claims for
12 prescription drugs, arranging alternative
13 access to or funding for prescription drugs,
14 the performance of drug utilization review,
15 the processing of drug prior authorization
16 requests, the adjudication of appeals or
17 grievances related to the prescription drug
18 benefit, contracting with network phar-
19 macies (including retail and mail phar-
20 macies), controlling the cost of covered
21 prescription drugs, or the provision of re-
22 lated services.

23 “(c) ENFORCEMENT.—

1 “(1) IN GENERAL.—The Secretary, in consulta-
2 tion with the Secretary of Labor and the Secretary
3 of the Treasury, shall enforce this section.

4 “(2) DISGORGEMENT.—The pharmacy benefit
5 manager shall disgorge to a group health plan or
6 health insurance issuer offering group or individual
7 health insurance coverage any payment, remunera-
8 tion, or other amount received by the pharmacy ben-
9 efit manager or an affiliate of such pharmacy benefit
10 manager from such plan or issuer in violation of
11 subsection (a) or, pursuant to subsection (b), the
12 agreement entered into with such plan or issuer for
13 bona fide service fees.

14 “(3) PENALTIES.—A pharmacy benefit man-
15 ager that violates subsection (a) or (b) shall be sub-
16 ject to a civil monetary penalty in the amount of
17 \$10,000 for each day during which such violation
18 continues.

19 “(4) PROCEDURE.—Notwithstanding section
20 2723, the provisions of section 1128A of the Social
21 Security Act, other than subsection (a) and (b) and
22 the first sentence of subsection (c)(1) of such sec-
23 tion, shall apply to civil monetary penalties under
24 this subsection in the same manner as such provi-

1 sions apply to a penalty or proceeding under section
2 1128A of the Social Security Act.

3 “(d) REGULATIONS.—Notwithstanding any other
4 provision of law, the Secretary, in consultation with the
5 Secretary of Labor and the Secretary of the Treasury,
6 shall implement this section through interim final regula-
7 tions.

8 “(e) RULES OF CONSTRUCTION.—Nothing in this
9 section shall be construed—

10 “(1) as prohibiting payments related to reim-
11 bursement for ingredient costs to entities that ac-
12 quire prescription drugs or pharmacy dispensing
13 fees; and

14 “(2) to prohibit rebates, discounts, or other
15 price concessions from being fully passed through to
16 a group health plan or health insurance issuer offer-
17 ing group or individual health insurance coverage to
18 lower net costs for prescription drugs.”.

19 (b) ERISA.—

20 (1) IN GENERAL.—Subpart B of part 7 of sub-
21 title B of title I of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
23 amended by inserting after section 725 the fol-
24 lowing:

1 **“SEC. 726. IMPROVING PHARMACY BENEFIT MANAGER**
2 **SERVICES.**

3 “(a) GENERAL.—Beginning on January 1, 2027, ex-
4 cept as provided in subsection (b), a pharmacy benefit
5 manager shall derive no remuneration from any entity for
6 services, benefit administration, or any other activities re-
7 lated to prescription drug benefits under a group health
8 plan or group health insurance coverage.

9 “(b) EXCEPTION FOR BONA FIDE SERVICE FEES.—

10 “(1) IN GENERAL.—A pharmacy benefit man-
11 ager may charge an entity a bona fide service fee for
12 the provision of services to an entity only if such fee
13 is set forth in an agreement between the pharmacy
14 benefit manager and such entity and the amount of
15 any bona fide service fee—

16 “(A) is a flat dollar amount; and

17 “(B) is not directly or indirectly based on,
18 or contingent upon—

19 “(i) a drug price (such as wholesale
20 acquisition cost) or drug benchmark price
21 (such as average wholesale price);

22 “(ii) the amount of discounts, rebates,
23 fees, or other direct or indirect remunera-
24 tion with respect to prescription drugs pre-
25 scribed to the participants, beneficiaries, or

1 enrollees in the group health plan or health
2 insurance coverage involved; or

3 “(iii) any other amounts specified by
4 the Secretary, the Secretary of Health and
5 Human Services, and the Secretary of the
6 Treasury.

7 “(2) DEFINITIONS.—In this section—

8 “(A) the term ‘bona fide service fee’ means
9 a fee that is equal to the fair market value of
10 a bona fide, itemized service that is actually
11 performed on behalf of an entity, that the enti-
12 ty would otherwise perform (or contract for) in
13 the absence of the service arrangement, and
14 that is not passed on in whole or in part to a
15 client or customer, whether or not the entity
16 takes title to the drug; and

17 “(B) the term ‘pharmacy benefit manager’
18 means any person, business, or other entity,
19 such as a third-party administrator, regardless
20 of whether it identifies itself as a pharmacy
21 benefit manager, that, either directly or
22 through an intermediary (including an affiliate,
23 subsidiary, or agent) or an arrangement with a
24 third-party—

1 “(i) acts a price negotiator for pre-
2 scription drugs on behalf of a group health
3 plan or health insurance issuer offering
4 group health insurance coverage; or

5 “(ii) manages or administers the pre-
6 scription drug benefits provided by a group
7 health plan or health insurance issuer of-
8 fering group health insurance coverage, in-
9 cluding creating formularies, the proc-
10 essing and payment of claims for prescrip-
11 tion drugs, arranging alternative access to
12 or funding for prescription drugs, the per-
13 formance of drug utilization review, the
14 processing of drug prior authorization re-
15 quests, the adjudication of appeals or
16 grievances related to the prescription drug
17 benefit, contracting with network phar-
18 macies (including retail and mail phar-
19 macies), controlling the cost of covered
20 prescription drugs, or the provision of re-
21 lated services.

22 “(c) ENFORCEMENT.—The Secretary shall enforce
23 this section as provided for in section 502(c)(13).

24 “(d) REGULATIONS.—Notwithstanding any other
25 provision of law, the Secretary, in consultation with the

1 Secretary of Health and Human Services and the Sec-
 2 retary of the Treasury, shall implement this section
 3 through interim final regulations.

4 “(e) RULES OF CONSTRUCTION.—Nothing in this
 5 section shall be construed—

6 “(1) as prohibiting payments related to reim-
 7 bursement for ingredient costs to entities that ac-
 8 quire prescription drugs or pharmacy dispensing
 9 fees; and

10 “(2) to prohibit rebates, discounts, or other
 11 price concessions from being fully passed through to
 12 a group health plan or health insurance issuer offer-
 13 ing group health insurance coverage to lower net
 14 costs for prescription drugs.”.

15 (2) ENFORCEMENT.—Section 502 of the Em-
 16 ployee Retirement Income Security Act of 1974 (29
 17 U.S.C. 1132) is amended—

18 (A) in subsection (a)(6), by striking “or
 19 (9)” and inserting “(9), or (13)”; and

20 (B) in subsection (c), by adding at the end
 21 the following:

22 “(13) SECRETARIAL ENFORCEMENT AUTHORITY RE-
 23 LATING TO PHARMACY BENEFIT MANAGER SERVICES.—

24 “(A) DISGORGEMENT.—With respect to a viola-
 25 tion of section 726 by a pharmacy benefit manager,

1 such pharmacy benefit manager shall disgorge to a
2 group health plan or health insurance issuer offering
3 group health insurance coverage any payment, remuneration, or other amount received by the pharmacy
4 benefit manager or an affiliate of such pharmacy
5 benefit manager from such plan or issuer in violation of subsection (a) of such section or, pursuant to
6 subsection (b) of such section, the agreement entered into with such plan or issuer for bona fide
7 service fees.

11 “(B) PENALTIES.—A pharmacy benefit manager that violates subsection (a) or (b) of section
12 726 shall be subject to a civil monetary penalty in
13 the amount of \$10,000 for each day during which
14 such violation continues.

16 “(C) PROCEDURE.—Except as provided in this
17 paragraph, the provisions of this section shall apply
18 to civil monetary penalties under this paragraph in
19 the same manner as such provisions apply to other
20 civil penalties under this section.

21 “(D) RULE OF CONSTRUCTION.—Nothing in
22 this paragraph shall effect the authority of the Secretary under subsection (a)(5).”.

24 (3) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1001 et seq.)
2 is amended by inserting after the item relating to
3 section 725 the following new item:

Sec. 726. Improving pharmacy benefit manager services.

4 (c) INTERNAL REVENUE CODE OF 1986.—

5 (1) IN GENERAL.—Subchapter B of chapter
6 100 of the Internal Revenue Code of 1986 is amend-
7 ed by adding at the end the following:

8 **“SEC. 9826. IMPROVING PHARMACY BENEFIT MANAGER**
9 **SERVICES.**

10 “(a) IN GENERAL.—Beginning on January 1, 2027,
11 except as provided in subsection (b), a pharmacy benefit
12 manager shall derive no remuneration from any entity for
13 services, benefit administration, or any other activities re-
14 lated to prescription drug benefits under a group health
15 plan.

16 “(b) EXCEPTION FOR BONA FIDE SERVICE FEES.—

17 “(1) IN GENERAL.—A pharmacy benefit man-
18 ager may charge an entity a bona fide service fee for
19 the provision of services to such entity only if such
20 fee is set forth in an agreement between the phar-
21 macy benefit manager and such entity and the
22 amount of any bona fide service fee—

23 “(A) is a flat dollar amount; and

24 “(B) is not directly or indirectly based on,
25 or contingent upon—

1 “(i) a drug price (such as wholesale
2 acquisition cost) or drug benchmark price
3 (such as average wholesale price);

4 “(ii) the amount of discounts, rebates,
5 fees, or other direct or indirect remunera-
6 tion with respect to prescription drugs pre-
7 scribed to the participants, beneficiaries, or
8 enrollees in the group health plan involved;
9 or

10 “(iii) any other amounts specified by
11 the Secretary, the Secretary of Health and
12 Human Services, and the Secretary of the
13 Labor.

14 “(2) DEFINITIONS.—In this section—

15 “(A) the term ‘bona fide service fee’ means
16 a fee that is equal to the fair market value of
17 a bona fide, itemized service that is actually
18 performed on behalf of an entity, that the enti-
19 ty would otherwise perform (or contract for) in
20 the absence of the service arrangement, and
21 that is not passed on in whole or in part to a
22 client or customer, whether or not the entity
23 takes title to the drug; and

24 “(B) the term ‘pharmacy benefit manager’
25 means any person, business, or other entity

1 such as a third-party administrator, regardless
2 of whether it identifies itself as a pharmacy
3 benefit manager, that, either directly or
4 through an intermediary (including an affiliate,
5 subsidiary, or agent) or an arrangement with a
6 third-party—

7 “(i) acts as a price negotiator for pre-
8 scription drugs on behalf of a group health
9 plan; or

10 “(ii) manages or administers the pre-
11 scription drug benefits provided by a group
12 health plan, including creating formularies,
13 the processing and payment of claims for
14 prescription drugs, arranging alternative
15 access to or funding for prescription drugs,
16 the performance of drug utilization review,
17 the processing of drug prior authorization
18 requests, the adjudication of appeals or
19 grievances related to the prescription drug
20 benefit, contracting with network phar-
21 macies, controlling the cost of covered pre-
22 scription drugs, or the provision of related
23 services.

24 “(c) ENFORCEMENT.—

1 “(1) IN GENERAL.—The Secretary, in consulta-
2 tion with the Secretary of Health and Human Serv-
3 ices and the Secretary of Labor, shall enforce this
4 section.

5 “(2) DISGORGEMENT.—The pharmacy benefit
6 manager shall disgorge to a group health plan any
7 payment, remuneration, or other amount received by
8 the pharmacy benefit manager or an affiliate of such
9 pharmacy benefit manager from such plan or issuer
10 in violation of subsection (a) or, pursuant to sub-
11 section (b), the agreement entered into with such
12 plan for bona fide service fees.

13 “(3) PENALTIES.—A pharmacy benefit man-
14 ager that violates subsection (a) or (b) shall be sub-
15 ject to a civil monetary penalty in the amount of
16 \$10,000 for each day during which such violation
17 continues.

18 “(4) PROCEDURE.—The provisions of section
19 1128A of the Social Security Act, other than sub-
20 section (a) and (b) and the first sentence of sub-
21 section (c)(1) of such section, shall apply to civil
22 monetary penalties under this subsection in the
23 same manner as such provisions apply to a penalty
24 or proceeding under section 1128A of the Social Se-
25 curity Act.

1 “(d) REGULATIONS.—Notwithstanding any other
2 provision of law, the Secretary, in consultation with the
3 Secretary of Health and Human Services and the Sec-
4 retary of Labor, shall implement this section through in-
5 terim final regulations.”.

6 (2) CLERICAL AMENDMENT.—The table of sec-
7 tions for subchapter B of chapter 100 of the Inter-
8 nal Revenue Code of 1986 is amended by adding at
9 the end the following new item:

“Sec. 9826. Improving pharmacy benefit manager services.”.

