

119TH CONGRESS  
1ST SESSION

# H. R. 6837

To amend the Employee Retirement Income Security Act of 1974 to ensure that pharmacy benefit managers are considered fiduciaries, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 2025

Mr. AUCHINCLOSS (for himself and Mr. MACKENZIE) introduced the following bill; which was referred to the Committee on Education and Workforce

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## A BILL

To amend the Employee Retirement Income Security Act of 1974 to ensure that pharmacy benefit managers are considered fiduciaries, and for other purposes.

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. ESTABLISHING FIDUCIARY DUTIES OF PHAR-**  
4 **MACY BENEFIT MANAGERS.**

5 (a) DEEMING PHARMACY BENEFIT MANAGERS AS  
6 ERISA FIDUCIARIES.—Section 3(21) of the Employee  
7 Retirement Income Security Act of 1974 (29 U.S.C.  
8 1002(21)) is amended by adding at the end the following:

1       “(C) A person or entity shall be deemed to be a fidu-  
2 ciary with respect to a group health plan for the purposes  
3 of this Act if the person or entity—

4               “(i) maintains for the group health plan, the  
5 plan sponsor or plan administrator of such plan, or  
6 a health insurance issuer offering group health in-  
7 surance coverage a prescription drug provider net-  
8 work or prescription drug formulary through the  
9 purchase of prescription drugs from a drug manu-  
10 facturer, distributor, wholesaler, rebate aggregator,  
11 group purchasing organization, or any associated  
12 third party; or

13               “(ii) engages in, on behalf of, or in connection  
14 with, the group health plan, the plan sponsor or plan  
15 administrator of such plan, or a health insurance  
16 issuer offering group health insurance coverage—

17                       “(I) the negotiation or aggregation of re-  
18 bates, fees, discounts, or other price concessions  
19 for prescription drugs;

20                       “(II) the processing and payment of claims  
21 for prescription drugs; or

22                       “(III) the performance of utilization review  
23 and management for prescription drugs on be-  
24 half of a group health plan.”.

1 (b) REQUIRED COMPENSATION DISCLOSURES FROM  
2 PHARMACY BENEFIT MANAGERS AND THIRD PARTY AD-  
3 MINISTRATORS.—Section 408(b)(2)(B)(ii)(I)(bb) of the  
4 Employee Retirement Income Security Act of 1974 (29  
5 U.S.C. 1108(b)(2)(B)(ii)(I)(bb)) is amended by adding at  
6 the end the following:

7 “(CC) Pharmacy benefit management  
8 services provided to a covered plan, for  
9 which the covered service provider, an affil-  
10 iate, or a subcontractor reasonably expects  
11 to receive indirect compensation or direct  
12 compensation described in item (dd), in-  
13 cluding the establishment and maintenance  
14 of a prescription drug provider network or  
15 prescription drug formulary or through the  
16 purchase of prescription drugs from a drug  
17 manufacturer, distributor, wholesaler, re-  
18 bate aggregator, group purchasing organi-  
19 zation, or any associated third party for  
20 the covered plan.

21 “(DD) Third party administrative  
22 services provided to a covered plan, for  
23 which the covered service provider, an affil-  
24 iate, or a subcontractor reasonably expects  
25 to receive indirect compensation or direct

1 compensation described in item (dd), in-  
2 cluding establishing and maintaining a net-  
3 work of medical providers, adjudicating or  
4 processing health claims, maintaining  
5 records, and negotiating reimbursement  
6 rates for the covered plan.”.

7 (c) CLARIFICATION OF RESPONSIBLE PLAN FIDU-  
8 CIARY.—Section 408(b)(2)(B)(ii)(I)(ee) of the Employee  
9 Retirement Income Security Act of 1974 (29 U.S.C.  
10 1108(b)(2)(B)(ii)(I)(ee)) is amended by inserting at the  
11 end the following: “A covered service provider may not be  
12 the responsible plan fiduciary for purposes of the dislo-  
13 sures required under clause (iii). Notwithstanding the pre-  
14 ceding sentence, in the case of a pharmacy benefit man-  
15 ager who sponsors a covered plan for the employees of the  
16 pharmacy benefit manager, the pharmacy benefit manager  
17 may be considered the responsible plan fiduciary for such  
18 plan.”.

19 (d) PROHIBITION ON INDEMNIFICATION FOR  
20 BREACHES BY A SECTION 3(21)(C) FIDUCIARY.—Section  
21 410(a) of the Employee Retirement Income Security Act  
22 of 1974 (29 U.S.C. 1110(a)) is amended—

23 (1) by striking “Except” and inserting “(1) Ex-  
24 cept”; and

25 (2) by adding at the end the following:

1       “(2) Except as provided in subsection (b)(2), no per-  
2 son or entity deemed to be a fiduciary under section  
3 3(21)(C) may be indemnified, directly or indirectly, or oth-  
4 erwise relieved from liability for any responsibility, obliga-  
5 tion, or duty of such person or entity under this part.

6       “(3) Any provision of contract in violation of para-  
7 graph (2) shall be void as against public policy.”.

8       (e)           TECHNICAL           AMENDMENT.—Section  
9 408(b)(2)(B)(i) of the Employee Retirement Income Secu-  
10 rity Act of 1974 (29 U.S.C. 1108(b)(2)(B)(i)) is amended  
11 by striking “this clause” and inserting “this subpara-  
12 graph”.

13       (f) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply with respect to plan years begin-  
15 ning with the first plan year that begins at least 12  
16 months after the date of enactment of this Act.

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