

Fr: 7/31
4:08 pm
A

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3200
OFFERED BY MS. BALDWIN OF WISCONSIN, MS.
CASTOR OF FLORIDA, MR. WEINER OF NEW
YORK, MR. MURPHY OF CONNECTICUT, MS.
SCHAKOWSKY OF ILLINOIS, MRS. CAPPS OF
CALIFORNIA, MS. HARMAN OF CALIFORNIA,
MS. MATSUI OF CALIFORNIA, MS. SUTTON OF
OHIO, MR. WELCH OF VERMONT, MR. SAR-
BANES OF MARYLAND, AND MS. DEGETTE OF
COLORADO**

(AINS-EC_001)

【Contingent adjustment in affordability credit
table:】 In section 243(d), in paragraph (1), as previously
amended, strike “paragraph (3)” and insert “paragraphs
(3) and (4)” and add at the end the following:

1 (4) CONTINGENT ADJUSTMENT FOR ADDI-
2 TIONAL SAVINGS.—

3 (A) IN GENERAL.—Before the beginning of
4 each year beginning with Y2—

5 (i) the Chief Actuary of the Centers of
6 Medicare & Medicaid Services shall esti-
7 mate the amount of savings in the previous

1 year under this division resulting from the
2 application of the provisions described in
3 subparagraph (B) and shall report such es-
4 timate to the Commissioner; and

5 (ii) the Commissioner, based upon
6 such estimate, shall provide for an appro-
7 priate increase in the initial and final pre-
8 mium percentages in the table specified in
9 paragraph (1) in a manner that is de-
10 signed to result an increase in aggregate
11 affordability credits equivalent to the
12 amount so estimated.

13 (B) PROVISIONS DESCRIBED.—The provi-
14 sions described in this subparagraph are as fol-
15 lows:

16 (i) FORMULARY UNDER PUBLIC OP-
17 TION.—Section 223(a)(4).

18 (ii) PBM TRANSPARENCY.—Section
19 133(d).

20 (iii) ACO IN MEDICAID.—Section 1726.

21 (iv) ADMINISTRATIVE SIMPLIFICA-
22 TION.—

23 (I) Section 1173A of the Social
24 Security Act, as added by section
25 163(a)(1).

1 (II) Section 163(c).

2 (III) Section 164.

【Formulary under Public Option:】

In section 223(a)(2)(A), strike “and subsection (b)(1)” and insert “, paragraph (4), and subtitle (b)(1)”.

Amend section 223(a)(4) to read as follows:

3 (4) PRESCRIPTION DRUGS.—Notwithstanding
4 any other provision of law, the Secretary shall estab-
5 lish a particular formulary for prescription drugs
6 under the public health insurance option.

【PBM Transparency:】

Add at the end of section 133 the following:

7 (d) PHARMACY BENEFIT MANAGERS TRANSPARENCY
8 REQUIREMENTS.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, a qualified health benefits plan
11 shall enter into a contract with a pharmacy benefit
12 managers (in this subsection referred to as a
13 “PBM”) to manage the prescription drug coverage
14 provided under such plan, or to control the costs of
15 such prescription drug coverage, only if as a condi-
16 tion of such contract the PBM is required to provide
17 at least annually to the Commissioner and to the

1 QHBP offering entity offering such plan the fol-
2 lowing information:

3 (A) Information on the volume of prescrip-
4 tions under the contract that are filled via mail
5 order and at retail pharmacies.

6 (B) An estimate of aggregate average pay-
7 ments under the contract, per prescription
8 (weighted by prescription volume), made to mail
9 order and retail pharmacists, and and the aver-
10 age amount, per prescription, that the PBM
11 was paid by the plan for prescriptions filled at
12 mail order and retail pharmacists.

13 (C) An estimate of the aggregate average
14 payment per prescription (weighted by prescrip-
15 tion volume) under the contract received from
16 pharmaceutical manufacturers, including all re-
17 bates, discounts, prices concessions, or adminis-
18 trative, and other payments from pharma-
19 ceutical manufacturers, and a description of the
20 types of payments, and the amount of these
21 payments that were shared with the plan, and
22 a description of the percentage of prescriptions
23 for which the PBM receiveds such payments.

24 (D) Information on the overall percentage
25 of generic drugs dispensed under the contract

1 at retail and mail order pharmacies, and the
2 percentage of cases in which a generic drug is
3 dispensed when available.

4 (E) Information on the percentage and
5 number of cases under the contract in which in-
6 dividuals were switched from a prescribed drug
7 that was less expensive to a drug that was more
8 expensive, the rationale for these switches, and
9 a description of the PBM policies governing
10 such switches.

11 (2) CONFIDENTIALITY OF INFORMATION.—Not-
12 withstanding any other provision of law, information
13 disclosed by a PBM to the Commissioner or a
14 QHBP offering entity under this subsection is con-
15 fidential and shall not be disclosed by the Commis-
16 sioner or the QHBP offering entity in a form which
17 discloses the identity of a specific PBM or prices
18 charged by such PBM or a specific retailer, manu-
19 facturer, or wholesaler, except—

20 (A) as the Commissioner determines to be
21 necessary to carry out this subsection;

22 (B) to permit the Comptroller General to
23 review the information provided;

1 (C) to permit the Director of the Congres-
2 sional Budget Office to review the information
3 provided; and

4 (D) to permit the Commissioner to disclose
5 industry-wide aggregate or average information
6 to be used in assessing the overall impact of
7 PBMs on prescription drug prices and spend-
8 ing.

【ACO in Medicaid:】

In subtitle C of title VII of division B, insert at the
end the following new section:

9 **SEC. 1726. ACCOUNTABLE CARE ORGANIZATION PILOT**
10 **PROGRAM.**

11 (a) **IN GENERAL.**—The Secretary of Health and
12 Human Services shall establish under this section an ac-
13 countable care program under which a State may apply
14 to the Secretary for approval of an accountable care orga-
15 nization pilot program described in subsection (b) (in this
16 section referred to as a “pilot program”) for the applica-
17 tion of the accountable care organization concept under
18 title XIX of the Social Security Act.

19 (b) **PILOT PROGRAM DESCRIBED.**—

20 (1) **IN GENERAL.**—The pilot program described
21 in this subsection is a program that applies one or

1 more of the accountable care organization models
2 described in section 1866D of the Social Security
3 Act, as added by section 1301 of this Act.

4 (2) LIMITATION.—The pilot program shall op-
5 erate for a period of not more than 5 years.

6 (c) ADDITIONAL INCENTIVES.—In the case of the
7 pilot program under this section, the Secretary may

8 (1) waive the requirements of—

9 (A) section 1902(a)(1) of the Social Secu-
10 rity Act (relating to statewideness);

11 (B) section 1902(a)(10)(B) of such Act
12 (relating to comparability); and

13 (2) increase matching percentage for adminis-
14 trative expenditures up to—

15 (A) 90 percent (for the first 2 years of the
16 pilot program); and

17 (B) 75 percent (for the next 3 years).

18 (d) EVALUATION; REPORT.—

19 (1) EVALUATION.—The Secretary, using the
20 criteria described in section 1866D(f)(1) of the So-
21 cial Security Act (as inserted by section 1301 of this
22 Act), shall conduct an evaluation of the pilot pro-
23 gram under this section.

24 (2) REPORT.—Not later than 60 days after the
25 date of completion of the evaluation under para-

1 graph (1), the Secretary shall submit to Congress
2 and make available to the public a report on the
3 findings of the evaluation under such paragraph.

【Administrative simplification:】

In section 137, insert after “Social Security Act”
the following: “and the operating rules under section
1173B of such Act”.

In part C of title XI of the Social Security Act, as
added by section 163(a)(1), insert after section 1173A
the following new section:

4 **“SEC. 1173B. OPERATING RULES.**

5 “(a) IN GENERAL.—The Secretary shall adopt oper-
6 ating rules for each transaction described in section
7 1173(a)(2) of the Social Security Act (42 U.S.C. 1320d-
8 2(a))

9 “(b) OPERATING RULES DEVELOPMENT.—In adopt-
10 ing such rules, the Secretary shall take into account the
11 development of operating rules that have been developed
12 by a nonprofit entity that meets the following criteria:

13 “(1) The entity focuses its mission on adminis-
14 trative simplification.

15 “(2) The entity demonstrates a established
16 multi-stakeholder process that creates consensus
17 based operating rules using a voting policy with bal-

1 anced representation by the critical stakeholders (in-
2 cluding health plans and health care providers) so
3 that no one group dominates the entity and shall in-
4 clude others such as standards development organi-
5 zations, and relevant Federal agencies.

6 “(3) The entity has in place a public set of
7 guiding principles that ensure the operating rules
8 and process are open and transparent.

9 “(4) The entity shall coordinate its activities
10 with the HIT Policy Committee and the HIT Stand-
11 ards Committee (established under title XXX of the
12 Public Health Service Act) and complements the ef-
13 forts of the Office of the National Healthcare Coor-
14 dinator and its related health information exchange
15 goals.

16 “(5) The entity incorporates national stand-
17 ards, including the transaction standards issued
18 under Health Insurance Portability and Account-
19 ability Act of 1996.

20 “(6) The entity uses existing market research
21 and proven best practices.

22 “(7) The entity has a set of measures that
23 allow for the evaluation of their market impact and
24 public reporting of aggregate stakeholder impact.

1 “(8) The entity supports nondiscrimination and
2 conflict of interest policies that demonstrate a com-
3 mitment to open, fair, and nondiscriminatory prac-
4 tices.

5 “(9) The entity allows for public reviews and
6 updates of the operating rules.

7 “(c) IMPLEMENTATION.—The Secretary shall adopt
8 operating rules under this section, by regulation or other-
9 wise, only after taking into account the rules developed
10 by the entity under subsection (b) and having ensured con-
11 sultation with providers. The first set of operating rules
12 for the transactions for eligibility for health plan and
13 health claims status under this section shall be adopted
14 not later than October 1, 2011, in a manner such that
15 such set of rules is effective beginning not later than Jan-
16 uary 1, 2013. The second set of operating rules for the
17 remainder of the transactions described in section
18 1173(a)(2) of the Social Security Act (42 U.S.C. 1320d-
19 2(a)) shall be adopted not later than October 1, 2012, in
20 a manner such that such set of rules is effective beginning
21 not later than January 1, 2014.”.

At the end of section 163 insert the following:

22 (c) UNIQUE HEALTH PLAN IDENTIFIER.—Not later
23 than 2 years after the date of the enactment of this Act,
24 the Secretary of Health and Human Services shall promul-

1 gate a final rule to establish a unique health plan identifier
2 described in section 1173(b) of the Social Security Act (42
3 U.S.C. 1320d-2(b)) based on the input of the National
4 Committee of Vital and Health Statistics and consultation
5 with health plans. The Secretary may do so on an interim
6 final basis and effective not later than October 1, 2012.

At the end of section 163 insert the following new
section (and redesignate the succeeding sections accord-
ingly):

7 **SEC. 164. EXPANSION OF ELECTRONIC TRANSACTIONS IN**
8 **MEDICARE.**

9 (a) IN GENERAL.—Section 1862(a) of the Social Se-
10 curity Act (42 U.S.C. 1395y(a)) is amended

11 (1) in paragraph (23), by striking the “or” at
12 the end;

13 (2) in paragraph (24), by striking the period
14 and inserting “; or”; and

15 (3) by inserting after paragraph (24) the fol-
16 lowing new paragraph:

17 “(25) subject to subsection (h), not later than
18 January 1, 2015, for which the payment is other
19 than by electronic funds transfer (EFT) or an elec-
20 tronic remittance in a form as specified in ASC X12
21 835 Health Care Payment and Remittance Advice or
22 subsequent standard.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect upon the date of the enact-
3 ment of this Act.

