

110TH CONGRESS  
1ST SESSION

# H. R. \_\_\_\_\_

To amend part D of title XVIII of the Social Security Act to improve the Medicare part D prescription drug program.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. COURTNEY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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## A BILL

To amend part D of title XVIII of the Social Security Act to improve the Medicare part D prescription drug 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 “Medicare Part D Im-  
5 provement Act of 2007”.

6 **SEC. 2. REFORM OF “DONUT HOLE”.**

7 (a) COUNTING CERTAIN EXPENDITURES TOWARDS  
8 OUT-OF-POCKET LIMITS.—

1           (1) IN GENERAL.—Section 1860D–2(b)(4)(C)  
2 of the Social Security Act (42 U.S.C. 1395w–  
3 102(b)(4)(C)) is amended—

4           (A) in clause (i), by striking “and” at the  
5 end;

6           (B) in clause (ii)—

7           (i) by striking “such costs shall be  
8 treated as incurred only if” and inserting  
9 “subject to clause (iii), such costs shall be  
10 treated as incurred if”;

11           (ii) by striking “, under section  
12 1860D–14, or under a State Pharma-  
13 ceutical Assistance Program”;

14           (iii) by striking “(other than under  
15 such section or such a Program)”;

16           (iv) by striking the period at the end  
17 and inserting “; and”;

18           (C) by inserting after clause (ii) the fol-  
19 lowing new clause:

20           “(iii) such costs shall be treated as in-  
21 curred and shall not be considered to be  
22 reimbursed under clause (ii) if such costs  
23 are borne or paid—

24           “(I) under section 1860D-14;

1                   “(II) under a State Pharma-  
2                   ceutical Assistance Program;

3                   “(III) by the Indian Health Serv-  
4                   ice, an Indian tribe or tribal organiza-  
5                   tion, or an urban Indian organization  
6                   (as defined in section 4 of the Indian  
7                   Health Care Improvement Act);

8                   “(IV) by a rural health clinic or  
9                   Federally qualified health center (as  
10                  defined in section 1861(aa));

11                  “(V) under an AIDS Drug As-  
12                  sistance Program under part B of  
13                  title XXVI of the Public Health Serv-  
14                  ice Act;

15                  “(VI) by a pharmaceutical manu-  
16                  facturer patient assistance program,  
17                  either directly or through the distribu-  
18                  tion or donation of covered part D  
19                  drugs, which shall be valued at the  
20                  negotiated price of such covered part  
21                  D drug under the enrollee’s prescrip-  
22                  tion drug plan or MA–PD plan as of  
23                  the date that the drug was distributed  
24                  or donated; or

1                   “(VII) by a subsection (d) hos-  
2                   pital (as defined in section  
3                   1886(d)(1)(B) that meets the require-  
4                   ments of clauses (i) and (ii) of the  
5                   section 340B(a)(4)(L) of the Public  
6                   Health Service Act.”.

7                   (2) **EFFECTIVE DATE.**—The amendments made  
8                   by paragraph (1) shall apply to costs incurred on or  
9                   after January 1, 2008, for plan years beginning on  
10                  or after such date.

11                  (b) **REPORT ON CLOSING THE GAP.**—The Secretary  
12                  of Health and Human Services shall conduct a study on  
13                  how to eliminate the gap in Medicare part D prescription  
14                  drug coverage created through the application of an initial  
15                  coverage limit and how to finance such elimination. Not  
16                  later than 180 days after the date of the enactment of  
17                  this Act, the Secretary shall submit to Congress a report  
18                  on such study.

19                  **SEC. 3. CONFORMING LATE ENROLLMENT PENALTY TO**  
20                  **MEDICARE PART B PENALTY STRUCTURE.**

21                  (a) **IN GENERAL.**—Section 1860D-13(b)(3) of the  
22                  Social Security Act (42 U.S.C. 1395w-113(b)(3)) is  
23                  amended by striking “is the greater of” and all that fol-  
24                  lows and inserting the following: “is 10 percent of the base  
25                  beneficiary premium (as computed under subsection

1 (a)(2)) for each continuous period of 12 consecutive un-  
2 covered months in such period”.

3 (b) NOT COUNTING PERIODS OF NON-ENROLLMENT  
4 DURING FIRST YEAR OF PROGRAM.—Subparagraph (B)  
5 of such section is amended by inserting “(after December  
6 2007)” after “any month”.

7 (c) PRESUMPTION OF ERRORS IN ENROLLMENT OR  
8 NONENROLLMENT DUE TO OFFICIAL ERROR.—Section  
9 1837(h) of such Act (42 U.S.C. 1395p(h)) is amended by  
10 adding at the end the following: “In applying the previous  
11 sentence, an individual’s unintentional, inadvertent, or er-  
12 roneous enrollment or nonenrollment shall be presumed to  
13 be the result of an error, misrepresentation, or inaction  
14 of an officer, employee, or agent of the Federal Govern-  
15 ment, or its instrumentalities, unless the Secretary dem-  
16 onstrates otherwise.”.

17 (d) EFFECTIVE DATES.—The amendments made by  
18 subsections (a) and (b) shall apply to late enrollment pen-  
19 alties for months beginning with January 2008. The  
20 amendment made by subsection (c) shall take effect on  
21 January 1, 2008, and shall apply as of such date to enroll-  
22 ments (and non-enrollments) occurring before, on, or after  
23 such date.

1 **SEC. 4. MORE FREQUENT CHANGES IN PLANS PERMITTED.**

2 (a) IN GENERAL.—Section 1860D-1(b)(3) of the So-  
3 cial Security Act (42 U.S.C. 1395w-101(b)(3)) is amended  
4 by adding at the end the following new subparagraph:

5 “(F) SAME FREQUENCY AS CHANGES IN  
6 FORMULARIES.—In the case of an individual  
7 enrolled in a prescription drug plan (or MA-PD  
8 plan), as often as the Secretary permits such  
9 plan to make changes in its formulary.”.

10 (b) PERMITTING CHANGE IN ENROLLMENT DURING  
11 FIRST 3 MONTHS OF EACH YEAR AS PERMITTED UNDER  
12 THE MEDICARE ADVANTAGE PROGRAM.—Section  
13 1860D—1(b)(1)(B)(iii) of such Act (42 U.S.C. 1395w-  
14 101(b)(1)(B)(iii)) is amended by striking “, (C),”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on January 1, 2008.

17 **SEC. 5. LOW INCOME SUBSIDY IMPROVEMENTS.**

18 (a) REMOVAL OF ASSET TEST.—

19 (1) IN GENERAL.—Section 1860D-14(a) of the  
20 Social Security Act (42 U.S.C. 1395w-114(a)) is  
21 amended—

22 (A) in paragraph (1), in the matter before  
23 subparagraph (A), by striking “and who meets  
24 the resources requirement described in para-  
25 graph (3)(D)”;

26 (B) in paragraph (3)—

1 (i) in paragraph (3)(A), by adding  
2 “and” at the end of clause (i), by striking  
3 “; and” at the end of clause (ii) and insert-  
4 ing a period, and by striking clause (iii);  
5 and

6 (ii) by striking subparagraphs (D)  
7 and (E).

8 (2) EFFECTIVE DATE.—The amendments made  
9 by paragraph (1) shall apply to benefits for months  
10 beginning with January 2008.

11 (b) ELIMINATION OF LATE ENROLLMENT PEN-  
12 ALTIES FOR SUBSIDY ELIGIBLE INDIVIDUALS.—

13 (1) IN GENERAL.—Section 1860D-13(b)(2) of  
14 the Social Security Act (42 U.S.C. 1395w-  
15 113(b)(2)) is amended by inserting “who is not a  
16 subsidy eligible individual and” after “an indi-  
17 vidual”.

18 (2) CONFORMING AMENDMENTS.—Section  
19 1860D-14 of such Act (42 U.S.C. 1395w-114) is  
20 amended—

21 (A) in subsection (a)(1)(A), by striking  
22 “equal to” and all that follows and inserting  
23 the following: “100 percent of the amount de-  
24 scribed in subsection (b)(1), but not to exceed

1           the premium amount specified in subsection  
2           (b)(2)(B).”; and

3                   (B) in subsection (b)(2)(B), by striking the  
4           last sentence.

5           (3) EFFECTIVE DATE.—The amendments made  
6           by this subsection shall apply to late enrollment pen-  
7           alties for months beginning with January 2008.