

119TH CONGRESS
2D SESSION

S. _____

To preserve patient access to health care providers and prescription drug coverage under Medicare and individual market plans.

IN THE SENATE OF THE UNITED STATES

Ms. ROSEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To preserve patient access to health care providers and prescription drug coverage under Medicare and individual market plans.

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 “Preserving Patient Ac-
5 cess Act”.

6 **SEC. 2. PRESERVING PATIENT ACCESS TO HEALTH CARE**

7 **PROVIDERS AND PRESCRIPTION DRUG COV-**

8 **ERAGE UNDER MEDICARE AND INDIVIDUAL**

9 **MARKET PLANS.**

10 (a) **MEDICARE.**—

1 (1) MEDICARE ADVANTAGE PLANS.—Section
2 1851(e)(4) of the Social Security Act (42 U.S.C.
3 1395w–21(e)(4)) is amended—

4 (A) in subparagraph (C)(ii), by striking
5 “or” at the end;

6 (B) by redesignating subparagraph (D) as
7 subparagraph (E); and

8 (C) by inserting after subparagraph (C)
9 the following new subparagraph:

10 “(D) a health care provider with whom the
11 individual has had an in-person or telehealth
12 visit, within the preceding 2 year period, and
13 who was listed as an in-network provider under
14 the plan during the annual, coordinated election
15 period described in paragraph (3) for the plan
16 year becomes an out-of-network provider under
17 the plan.”.

18 (2) PRESCRIPTION DRUG PLANS AND MA–PD
19 PLANS.—Section 1860D–1(b)(3) of the Social Secu-
20 rity Act (42 U.S.C. 1395w–101(b)(3)) is amended
21 by adding at the end the following new subpara-
22 graph:

23 “(F) MID-YEAR NEGATIVE FORMULARY
24 CHANGES.—

1 “(i) IN GENERAL.—In the case where
2 a prescription drug plan or MA–PD plan
3 implements a negative formulary change
4 with respect to a covered part D drug dis-
5 pensed to the part D eligible individual
6 within the previous 6-month period, for
7 which the plan provided coverage, and for
8 which approval or licensure under section
9 505 of the Federal Food, Drug, and Cos-
10 metic Act or section 351 of the Public
11 Health Service Act is still in effect.

12 “(ii) NEGATIVE FORMULARY
13 CHANGE.—In this subparagraph, the term
14 ‘negative formulary change’ has the mean-
15 ing given such term in section 423.100 of
16 title 42, Code of Federal Regulations (or
17 successor regulations).”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply with respect to plan
20 years beginning on or after January 1, 2027.

21 (b) INDIVIDUAL MARKET PLANS.—

22 (1) IN GENERAL.—Section 2702(b)(2) of the
23 Public Health Service Act (42 U.S.C. 300gg–
24 1(b)(2)) is amended—

1 (A) by inserting “and, as applicable, for
2 mid-plan year changes to provider networks or
3 formularies described in subparagraph (B)” be-
4 fore the period at the end;

5 (B) by striking “A health” and inserting
6 the following:

7 “(A) IN GENERAL.—A health”; and

8 (C) by adding at the end the following:

9 “(B) SPECIAL ENROLLMENT PERIOD FOR
10 INDIVIDUAL MARKET PLANS.—

11 “(i) IN GENERAL.—A health insur-
12 ance issuer offering individual health in-
13 surance coverage shall establish a special
14 enrollment period under which any indi-
15 vidual may enroll in the coverage during a
16 plan year if the individual, during the
17 same plan year, is enrolled in other indi-
18 vidual health insurance coverage (referred
19 to in this subparagraph as the ‘initial
20 plan’) and—

21 “(I) a provider with whom the in-
22 dividual had an in-person or telehealth
23 visit within the preceding 2-year pe-
24 riod, and who was listed as an in-net-
25 work provider under the initial plan

1 during the most recent open enroll-
2 ment period, becomes an out-of-net-
3 work provider under the initial plan;
4 or

5 “(II) the initial plan implements
6 a negative formulary change with re-
7 spect to a prescription drug dispensed
8 or administered to the individual with-
9 in the previous 6-month period, for
10 which the initial plan provided bene-
11 fits, and for which approval or licen-
12 sure under section 505 of the Federal
13 Food, Drug, and Cosmetic Act or sec-
14 tion 351 of this Act is still in effect.

15 “(ii) NEGATIVE FORMULARY
16 CHANGE.—In this subparagraph, the term
17 ‘negative formulary change’ has the mean-
18 ing given such term in section 423.100 of
19 title 42, Code of Federal Regulations (or
20 successor regulations), except that, for
21 purposes of this subparagraph, the term ‘a
22 drug covered by the initial plan’ shall be
23 substituted for the term ‘a covered Part D
24 drug’.”.

1 (2) EXCHANGES.—Section 1311(c)(6)(C) of the
2 Patient Protection and Affordable Care Act (42
3 U.S.C. 18031(c)(6)(C)) is amended by inserting “,
4 section 2702(b)(1)(B),” after “of 1986”.