

119TH CONGRESS
1ST SESSION

S. _____

To clarify the requirement to disclose direct and indirect compensation from entities providing pharmacy benefit management services or third party administration services.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To clarify the requirement to disclose direct and indirect compensation from entities providing pharmacy benefit management services or third party administration services.

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 “PBM Disclosure Act”.

1 **SEC. 2. CLARIFICATION OF REQUIREMENT TO DISCLOSE**
2 **DIRECT AND INDIRECT COMPENSATION FOR**
3 **BROKERS AND CONSULTANTS TO EMPLOYER-**
4 **SPONSORED HEALTH PLANS.**

5 (a) IN GENERAL.—Section 408(b)(2)(B)(ii)(I)(bb) of
6 the Employee Retirement Income Security Act of 1974
7 (29 U.S.C. 1108(b)(2)(B)(ii)(I)(bb)) is amended by add-
8 ing at the end the following:

9 “(CC) Pharmacy benefit management services
10 provided by pharmacy benefit managers or other
11 service providers and related services provided by
12 third party administrators (or other entities pro-
13 viding such services) for which the covered service
14 provider, an affiliate, or a subcontractor reasonably
15 expects to receive indirect compensation or direct
16 compensation described in item (dd).”.

17 (b) REGULATIONS.—Not later than 180 days after
18 the date of enactment of this Act, the Secretary of Labor
19 shall promulgate regulations, through notice and comment
20 rulemaking, clarifying the requirements of section
21 408(b)(2)(B) of the Employee Retirement Income Secu-
22 rity Act of 1974 (29 U.S.C. 1108(b)(2)(B)) with respect
23 to covered service providers providing services described
24 in subitem (CC) of subclause (I)(bb) of such section, as
25 amended by subsection (a). Such regulations shall apply
26 with respect to any plan year that begins on or after the

1 date that is 6 months after such regulations are promul-
2 gated.

3 (c) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the amendment made by subsection (a) clarifies
5 the existing requirement of covered service providers with
6 respect to services described in section
7 408(b)(2)(B)(ii)(I)(bb)(BB) of the Employee Retirement
8 Income Security Act of 1974 (29 U.S.C.
9 1108(b)(2)(B)(ii)(I)(bb)(BB)) that were in effect since the
10 application date described in section 202(e) of the No Sur-
11 prises Act (Public Law 116–260; 29 U.S.C. 1108 note),
12 and does not impose any additional requirement under
13 section 408(b)(2)(B) of the Employee Retirement Income
14 Security Act of 1974 (29 U.S.C. 1108(b)(2)(B)).