

**Amending the Medicare Modernization Act of 2003
Congressional Legislation introduced in the 108th Congress**
(as of October, 2004)

Brief Description
and
List of Sponsors and Co-sponsors

Following is a listing of legislation introduced in the 2003-2004 108th Congress that seeks to amend the new Medicare Modernization Act (PL 108-173). It also includes a list of sponsors and co-sponsors of the various proposals.

The list is a work in progress. We believe it includes all the various bills that have been introduced between December 2003 and the end of the 108th Congress. We welcome corrections and revisions and suggestions on how to make the compilation more useful. The list was compiled by the Government Affairs staff of Families USA and has not been reviewed by the various authors of the legislation.

S 1950	Durbin, Dayton, Levin	Requires HHS operation of a Medicare-operated standard prescription drug plan nationally with uniform premiums, the negotiation of prices and the encouragement of therapeutic equivalents.	
S 1974	Daschle, Schumer	Repeals prohibition on Secretarial price negotiations and formulary development, repeals the Comparative Cost Adjustment program (CCA), directs FDA to permit wider and easier drug re-importation by individuals (provided anti-counterfeiting packaging is used), removes Medicare Advantage Rx plans from the meaning of qualifying prescription drug plans, and repeals the MA Regional Stabilization Fund for PPOs, and repeals Health Savings Accounts.	
S 1992	Kennedy, Bingaman, Boxer, Bob Graham, Mikulski	Requires risk adjustment of managed care plans to ensure any overpayments are returned to the Medicare program, limits payments to MA plans to 100% of fee-for-service payment in an area, eliminates the Regional Stabilization (PPO) fund, CCA program and Title VIII's 45% limit on general revenue spending on Medicare, phases-in elimination of the coverage gap (donut hole), eliminates discriminatory treatment of employer plans (i.e., let's them help fill in the donut hole), allows Medicaid wrap-around for dual-eligibles, eliminates the asset test, ensures beneficiaries have a	

		choice of at least 2 drug-only plans (and not just an HMO v. a single drug plan). Prohibits formularies unless developed by the Secretary. Allows certain Medigap Rx policies to wrap-around coverage, adjusts payments to plans so as to ensure premiums are not increased as a result of this bill, provides major relief to the States by phasing out the clawback, provides for easier re-importation from Canada with appropriate safeguards and guards against manufacturers' manipulation of Canadian supplies and prices, permits the Secretary to negotiate for lower prices, and repeals HSAs.	
S 1994 HR 3671 (see also S 1999 and HR 3672 below)	Feingold Deutsch + 4 others	Repeals prohibition on Secretarial price negotiation.	
S 1995	Feingold	Repeals the MA Regional Stabilization Fund.	
S 1999 HR 3672 (see also legislation supra) HR 3707	Daschle + 19 others Edwards + 110 others Moore + 175 others	Repeals prohibition on Secretarial price negotiation; provides for negotiation of fair prices.	
S 2053	Snowe, Feinstein, Jeffords, Wyden,	Seeks to reduce the cost of Rx for Medicare beneficiaries by providing more information on drug prices under various scenarios and plans, including the VA plan and retail prices for those who do not participate in a Medicare drug plan compared to those in a plan. Repeals ban on Secretarial price negotiation and provides for Secretary to negotiate like the VA and others; eliminates tax deduction for ads of drug companies that discriminate against foreign sellers of drugs to domestic consumers, provides for incentive payments out of PPO Regional Stabilization Fund to those plan who offer drugs at less than 10% more than VA or DoD price.	
S 2111	Clinton Schumer	Prohibits the comparative cost adjustment (CCA) program from operating in the State of New York. Numerous identical bills were introduced by other	

See also		Members exempting their States from being one of the 6 CCA demonstration areas scheduled to start in 2010. Concern has been expressed that a CCA in an area will cause premiums in traditional, fee-for-service Medicare to increase (and the law tries to limit the amount of the increase in any one year).
S 2113	Stabenow, Levin	No CCA in Michigan
S 2114	Bingaman	No CCA in New Mexico
S 2115	Daschle,	No CCA in South Dakota
	Johnson	
S 2116	Boxer	No CCA in California
S 2117	Corzine,	No CCA in New Jersey
	Lautenberg	
S 2118	Bob Graham	No CCA in Florida
	Bill Nelson	
S 2119	Dodd	No CCA in Connecticut
	Lieberman	
S 2120	Wyden	No CCA in Oregon
S 2121	Reid	No CCA in Nevada
S 2122	Akaka	No CCA in Hawaii
S 2123	Lincoln, Pryor	No CCA in Arkansas
S 2124	Kennedy,	No CCA in Massachusetts
	Kerry	
S 2125	Reed	No CCA in Rhode Island
S 2126	Edwards	No CCA in North Carolina
HR 3835	Dingell + 5	No CCA in Michigan
	others	
HR 3836	Hoeffel + 6	No CCA in Pennsylvania
	others	
HR 3841	Pallone + 6	No CCA in New Jersey
	others	
HR 3842	Slaughter +	No CCA in New York
	18 others	
HR 3844	Tom Udall	No CCA in New Mexico
HR 3861	Rodriguez +	No CCA in Texas
	12 others	
HR 3876	Hastings + 6	No CCA in Florida
	others	
HR 3905	Larson + 1	No CCA in Connecticut
	other	
HR 3964	Stark + 25	No CCA in California
	others	
HR 4336	Norton	No CCA in the District of Columbia
HR 4672	Kennedy + 1	No CCA in Rhode Island

	other		
S 2234	Daschle + 11 others	Ensures that prescription drug card sponsors pass along discounts to beneficiaries under the Medicare discount card program and transitional assistance program.	
S 2257 (see also S 2652)	Durbin + 2 others	Provides for CMS administration of a national, uniform-premium plan with lower prices negotiated between Medicare and the drug companies.	
S 2300	Kennedy + 10 others	Eliminates ‘privatization of the Medicare program and reduces excessive payments to HMOs and other private sector insurance plans.’ Provides for risk adjustment between plans and traditional Medicare, repeals CCA and the Regional Stabilization (PPO) fund, holds annual managed care payment rates at no more than 100% of Medicare fee-for-service rate, requires that each enrollee have a choice of 2 prescription drug plans (and not just one drug plan and one managed care plan).	
S 2339 HR 4195	Corzine + 4 others Menendez + 6 others	Allows employer contributions on drug costs to count towards the catastrophic limit; provides for direct subsidies for certain State pharmaceutical assistance programs; ensures that employer-based plans receive the same subsidization as the Medicare drug plans; ensures that States can use Medicaid to fill in the gaps in drug coverage for dual eligibles, repeals the CCA program; allows wrap-around prescription drug coverage through Medigap.	
S 2343	Conrad + 2 others	Repeals ban on Secretarial negotiation and provides for negotiation to achieve lower prices, allows re-importation of drugs from Canada, repeals CCAs, the Medicare Stabilization Fund (PPOs), and HSAs, requires that each enrollee have a choice of 2 prescription drug plans (and not just one drug plan and one managed care plan) and that in cases of a fallback plan in an area, that plan be available for at least 2 years. Repeals HSAs, CCA, and Regional Stabilization (PPO) fund. Provides for comprehensive risk adjustment between Plans and traditional Medicare, and phases MA payments to they do not exceed Medicare fee-for-service. Permits Medigap Rx wrap-around policies. In determining adequacy of pharmacy access, plans can only count community pharmacies, and “levels the playing field” between local pharmacies and mail order pharmacies, and	

		compensates pharmacies for providing information. Establishes a 'complex clinical care management payment demonstration in at least 10 sites. Requires more accurate information about plans be made available to beneficiaries, and that changes in formularies during the course of the year be noticed through calls, mail, and internet. Provides adequate funding for Section 641 coverage in 2004-2005 of certain very expensive pharmaceuticals.	
S 2413 (see also S. 2694) HR 4437	Bingaman + 9 others Dingell + 29 others	Provides for automatic enrollment of Medicaid beneficiaries, both dual eligibles and those in the Medicare Savings Program (MSP), for Rx benefits under Part D of Medicare (including the discount card program's \$600 per year transitional assistance provision).	
S 2487	Dayton	Ensures that every Medicare beneficiary has access to a Medicare-administered prescription drug plan option with a uniform premium set in law, repeals the non-interference clause and requires Secretary to negotiate for good prices, directs the promulgation of regulations to allow the safe importation of drugs, and limits Members of Congress's drug coverage to the value of the Medicare drug package.	
S 2512	Conrad	Simplifies the Medicare discount card by requiring that there be no more than 3 card sponsors per state, and that the prices and drugs they offer on December 31, 2004 not be exceeded (or drugs dropped) during 2005.	
S 2530	Dayton	Permits Medicare beneficiaries to purchase more than one discount card and to receive a refund of the enrollment fee if the prices of Rx change or the formulary used by the card sponsor changes during the life of the program.	
S 2587	Stabenow + 4 others	Provides for a higher reimbursement for physicians administrative costs of administering drugs under Part B of Medicare (in 2005 strikes 3% add on and continues 2004's 32% add-on).	
S 2667	Dayton	Seeks to improve MMA Sec. 641 replacement drug demo project, by requiring the Secretary to negotiate for lower prices for the drugs, and removing the dollar limitation on the program.	
S 2725 (see also S. 2629)	Boxer + 3 others	Eliminates the donut hole coverage gap, and repeals HSAs, CCA program, and the Regional Stabilization (PPO) fund.	
S 2754	Daschle + 11 others	Protects Social Security COLAs by ensuring that no more than 25% of a retiree's annual COLA could be	

HR 4910	Herseth + 115 others	absorbed by increases in Part B and Part D Medicare premiums.	
S 2766	Specter	Authorizes (i.e., repeals ban) on Secretarial price negotiation and provides for public comparisons between retail drug prices and prices negotiated by the Secretary. Repeals donut gap. Adds a PHS Act program to reduce medical errors in part by increasing the use of medical technologies. Establishes a trust fund for medical treatment outcomes, provides for increased payments to (and Medicaid coverage of) physician assistants and nurse practitioners/specialists, and uses grants to encourage more general medical practice students.	
S 2780 HR 5175	Stabenow + 11 others Carson	Stabilizes the amount of the Medicare part B premium by limiting its adjustment to the amount of the change in the CPI.	
S 2906	Bingaman + 8 others	Provides reductions in the Medicare Part B premium only to those in traditional Medicare fee-for-service through the elimination of certain overpayments to Medicare Advantage programs: (1) the Regional Stabilization (PPO) fund), (2) the application of risk adjustment to the whole Medicare population, and (3) termination of overpayments to Plans relative to fee-for-service in an area.	
HR 3702	Cardin	Repeals prohibition on Secretarial negotiation and formulary; adds a choice of a national, Medicare-run prescription drug plan with a uniform \$35 a month premium (in 2006), in addition to the option of 2 private plans in an area; provides a full employer subsidy for retiree drug coverage and permits their costs to count toward filling the 'donut'; abolishes the Comparative Cost Adjustment program and the MA Regional Stabilization Fund, and repeals provision requiring cuts in Medicare general revenue spending if general revenues reach 45% of total Medicare spending (Title VIII of the MMA).	
HR 3711	Wexler + 9 others	Repeals the Comparative Cost Adjustment program	
HR 3767	Berry + 54 others	Requires that CMS offer one or more Medicare operated prescription drug plans nationally and that	¹

¹ Discharge petition filed

		CMS negotiate for lower prices, Requires the monthly premium charged be uniform nationally and for months in 2006 shall be \$35 and adjusted thereafter as costs change.	
HR 3854 S 2130	Flake + 22 others Graham (SC) + 4 others	Seeks to contain the costs of the new prescription drug program by applying Title VIII expedited legislation concepts specifically to the estimated level of Rx spending. If the Administration estimates that Rx spending between now and 2013 exceeds in any year the original CBO estimate on HR 1/S 1 (which was \$409.5 billion in Rx spending), then expedited legislation is to be submitted and considered to bring actual spending into line with the original CBO estimate.	
HR 4304	Boswell + 59 others	Eliminates Regional Stabilization (PPO) fund, ensures that Medicare Advantage plans are paid no more than 100% of fee-for-service, and requires risk adjustment to be calculated on total Medicare population (i.e., savings from risk adjustment should go to total program, not just among MA's).	
HR 4321	Lynch	Repeals ban on Secretarial negotiation and replaces it with requirement that Secretary negotiate for lower prices.	
HR 4512	Wu	Repeals ban on Secretarial negotiation and gives authority similar to VA's authority to negotiate for lower prices, eliminates the donut hole (by eliminating the initial coverage limit), directs Secretary to promulgate regulations to permit individual (and other) reimportation and makes such importation easier (but must comply with anti-counterfeiting provisions).	
HR 4687	Kind + 18 others	Requires Medicare Advantage plans to pay critical access hospital and rural health clinics at a 110% of the otherwise applicable Medicare payment level.	
HR 4781	Bordallo + 3 others	Treats Medicare-eligible citizens of Guam, the Virgin Islands, American Samoa, the Commonwealth of Puerto and the Commonwealth of the Northern Mariana Islands the same as low-income citizens in the 50 States and DC with respect to the Medicare prescription drug transitional assistance program, and premium and cost-sharing subsidies under the permanent prescription drug program.	
HR 4805	Murphy + 10 others	Establishes a demonstration program under which HHS offsets the costs to Medicare providers of electronic prescribing systems.	
HR 4845	Engel	Imposes an excise tax on the termination of retiree prescription drug coverage, with revenues conveyed	

		over to the MMA prescription drug program.	
HR 4903	Brown (OH), Dingell, Rangel, Stark, Waxman	The Medicare Advantage and Prescription Drug Accountability Act of 2004, requires minimum loss ratios and sets maximum administrative cost ratios for both MA and PDP/MA-PD plans, provides for a regular system of audits, and requires beneficiaries enrolling in plans to sign an acknowledgement that premiums, formularies, etc., may vary over time, and requires more reporting of costs and profits of plans, etc.	
HR 4919	Allen + 1 other	Provides for the offering of a Federal national prescription drug discount card program. Charges a \$30 fee for the card under the program. Provides for direct negotiations by the Secretary of Health and Human Services with prescription drug manufacturers to obtain discount prices that are to be less than prices otherwise available in the retail market. Provides that: (1) for periods beginning with January 1, 2005, the only discount card program in which an individual may be enrolled shall be the Federal national prescription drug discount card program; and (2) individuals enrolled in another program as of December 31, 2004, who do not affirmatively disenroll from all discount card programs are deemed to be enrolled in such Federal national prescription drug discount card program	
HR 4978	Nadler + 23 others	Conditions the payment of employer Rx subsidies on the maintenance of current prescription drug benefits.	
HR 5095	Frank	Places an indefinite freeze on increases in the monthly premiums for Medicare approximately paid for by an increase in the top rate of the personal income tax.	

PRESCRIPTION DRUG REIMPORTATION LEGISLATION

HR 4766	Agriculture Appropriations for FY 05	An amendment offered by Rep. Kaptur would prohibit the FDA from spending agency funds to enforce its prohibition on reimportation of FDA-approved drugs.	2
S 2493	Gregg + 8 others	Safe IMPORT Act of 2004. Would immediately allow individuals to import legally a 90 day supply of FDA approved drugs from Canadian FDA-approved facilities, and within a year this right would be extended to pharmacies and wholesalers. Within 3 years, right of reimportation <u>could</u> be extended to up to 15 EU nations, if the FDA finds such reimportation would be safe. Establishes procedures to make sure	
HR 4923	Bradley + 1 other		

² Issue still part of unresolved appropriations process.

		Internet pharmacies are safe, etc.	
S 2328	Dorgan-Snowe + 30 others	Requires HHS to promulgate regulations allowing the safe importation of Rx drugs by registered exporters or registered importers from Canada within 90 days and from Australia, EU, Japan, New Zealand, or Switzerland <u>within one year</u> . Allows for the immediate importation of Rx for personal use from licensed Canadian pharmacies. Amends the Clayton Act to prohibit drug manufacturers from preventing importation by engaging in behavior such as charging higher prices or limiting supplies to registered exporters and importers or changing the form of the drug for such purpose. States that the resale in the United States of prescription drugs that were properly sold abroad is not patent infringement.	
S 2307	Grassley	Reliable Entry for Medicines at Everyday Discounts through Importation with Effective Safeguards Act of 2004 - Requires HHS to issue regulations allowing the importation of qualifying prescription drugs from permitted countries (defined as Canada, other countries that may be designated by the Secretary as meeting qualifying requirements, and, after a specified report due within 18 months is published, Australia, EU, Japan and New Zealand). Allows such importation only from registered exporters by importers or by individuals for personal use. Sets conditions on registered exporters, Requires the Secretary to regulate such importation and take steps to ensure safety. Disallows any tax deduction for advertising costs of a drug manufacturer that does not certify that it has <u>not</u> taken any action to prevent authorized importation; and (2) provides a 20% increase in the research tax credit for a drug manufacturer that makes such certification.	
HR 2427 S 2137 S 1781	Gutknecht + 53 others Dorgan + 4 others Dorgan + 12 others	Pharmaceutical Market Access Act of 2003 – directs HHS to promulgate regulations allowing qualifying individuals to import covered products (in addition to pharmacists and wholesalers, whom current law authorizes to import such products), simplifies record-keeping. Declares that specified tests, including ones involving authenticity and degradation of products, shall not be required unless the importer is a wholesaler. Classifies prescription drugs as misbranded if they do not incorporate specified	³

³ Passed House July 25, 2003 by a vote of 243-186.

		counterfeit-resistant technologies in packaging.	
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