To amend title XI of the Social Security Act to strengthen transparency requirements with respect to pharmacy benefit managers.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pharmacy Benefit Manager Sunshine and Accountability Act”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 2. STRENGTHENING PHARMACY BENEFIT MANAGER
TRANSPARENCY REQUIREMENTS.

Section 1150A of the Social Security Act (42 U.S.C. 1320b–23) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “; or” and inserting a semicolon;

(B) in paragraph (2), by striking the comma at the end and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(3) a group health plan or health insurance issuer offering group or individual health insurance coverage (as such terms are defined in section 2791 of the Public Health Service Act),”.

(2) by amending subsection (b) to read as follows:

“(b) INFORMATION DESCRIBED.—The information described in this subsection is the following with respect to services provided by a health benefits plan or PBM for a contract year:

“(1) With respect to a contract with each entity described in paragraphs (1) through (3) of subsection (a), the aggregate dollar amount of all—
“(A) rebates that a PBM or health benefits plan received under each such contract from all drug manufacturers;

“(B) administrative fees that a PBM or health benefits plan received under each such contract with from all drug manufacturers;

“(C) administrative fees that a PBM or health benefits plan received under each contract from each such entity;

“(D) rebates that a PBM or health benefits plan received under each contract with each entity from all pharmaceutical manufacturers that were not passed through to such entities;

“(E) administrative fees that a PBM or health benefits plan received under each contract from all pharmaceutical manufacturers and did not pass through to such entities;

“(F) total post-claim adjudication payments that a PBM or health benefits plan collected from a pharmacy under each contract, including any fees, reimbursements, or other claw backs including generic effective rate and brand effective rate contracts; and

“(G) any post-claim adjudication payments that a PBM or health benefits plan collected
from a pharmacy under each contract, including
any fees, reimbursements, or other claw backs
including generic effective rate and brand effective rate contracts that were not passed through
to such entities.

“(2) The aggregate retained rebate percentage
under each contract (that is the value in paragraph
(1)(D) divided by the value in paragraph (1)(A)).

“(3) Across all contractual relationships for
each PBM whereby such PBM is managing prescription drug coverage for a entity described in in paragraphs (1) through (3) of subsection (a), the highest
retained rebate percentage and lowest retained re-
bate percentage for each contract under which such
PBM provided services.”;

(3) in subsection (c)—

(A) in the matter preceding paragraph (1),
by striking “, plan, or prices charged for
drugs,” and inserting “or plan, the prices
charged for a specific drug or classes of drugs,
or the amount of any rebates provided for a
specific drug or classes of drugs,”; and

(B) by adding at the end the following new
paragraph:
“(5) To carry out the reporting requirement under subsection (e).”; and

(4) by adding at the end the following new subsections:

“(e) PUBLIC REPORTING REQUIREMENT.—Not later than the first calendar quarter following the first full plan year beginning on or after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish on a public website of the Department of Health and Human Services the information reported under subsection (b), in accordance with the confidentiality requirements described in subsection (c).

“(f) DEFINITIONS.—In this section:

“(1) BRAND EFFECTIVE RATE.—The term ‘brand effective rate’ means the claim reimbursement for a brand name drug, expressed as a percentage discount from the average wholesale price of such drug.

“(2) GENERIC EFFECTIVE RATE.—The term ‘generic effective rate’ means the claim reimbursement for a generic drug, expressed as a percentage discount from the average wholesale price of such drug.
“(3) PHARMACY BENEFITS MANAGER.—The term ‘pharmacy benefits manager’ or ‘PBM’ means—

“(A) an entity that manages prescription drug benefits on behalf of an entity described in paragraphs (1) through (3) of subsection (a); and

“(B) for purposes of this section, includes any other organization that—

“(i) has directly or indirectly (as determined by the Secretary in regulations), an ownership interest of 5 percent or more in the PBM;

“(ii) shares, or is otherwise a part of, the same organizational structure as the PBM;

“(iii) exercises operational, financial, or managerial control over the PBM or a part thereof, or provides policies or procedures for any of the operations of the PBM, or provides financial or cash management services to the PBM; or

“(iv) provides management or administrative services, management or clinical
consulting services, or accounting or financial services to the PBM.

“(4) ORGANIZATIONAL STRUCTURE.—The term ‘organizational structure’ means, in the case of—

“(A) a corporation, the officers, directors, and shareholders of the corporation who have an ownership interest in the corporation which is equal to or exceeds 5 percent;

“(B) a limited liability company, the members and managers of the limited liability company;

“(C) a general partnership, the partners of the general partnership;

“(D) a limited partnership, the general partners and any limited partners of the limited partnership who have an ownership interest in the limited partnership which is equal to or exceeds 5 percent;

“(E) a trust, the trustees of the trust; or

“(F) any other person or entity as the Secretary determines appropriate.”.