

## SUMMARY OF LEGISLATION

### *Allowing Medicare to Negotiate Lower Drug Prices*

- Under current law, the Secretary of HHS is prohibited from negotiating lower drug prices on behalf of Medicare Part D beneficiaries. This is called the “non-interference clause.”
- The bill would strike the non-interference clause and direct the Secretary to negotiate lower prices with drug manufacturers that participate in Medicare Part D.
- The bill also would direct the Secretary to establish a formulary to leverage the purchasing power of the government on behalf of Part D plans.
- The Congressional Budget Office (CBO) has found that merely striking the non-interference clause would have only a “[negligible](#)” effect on Medicare spending, but that setting a formulary “[could give the Secretary the ability to obtain significant discounts in negotiations with drug manufacturers.](#)”
- The bill would allow Part D plans to use additional benefit design and formulary tools to secure steeper discounts or rebates for beneficiaries.
- The bill would establish a fallback process if negotiations with drug manufacturers are unsuccessful.
- The bill would preserve critical protections for patient access by including in any formulary certain categories and classes of drugs that are protected under current law.
- The bill would also require the inclusion of at least one drug to treat each clinical condition, as identified by the Secretary, and would preserve patient appeals processes for accessing drugs that are not covered by the formulary.

### *Restoring Low-Income Beneficiary Rebates*

- The bill would restore required drug rebates for low-income beneficiaries that were lost when Medicare Part D was created in 2006.
- CBO [projects](#) that restoring these rebates for brand-name drugs would save taxpayers \$145 billion over ten years.
- Before Part D came into effect, people who were eligible for both Medicare and Medicaid received their drug benefits through Medicaid. After Part D was created, these people began receiving their drug benefits through Medicare.
- Drug manufacturers that participate in Medicaid are required to provide discounts in the form of rebates back to Medicaid, but there are no similar statutory rebates for Medicare.
- As a result of shifting the drug benefits for these dual-eligible individuals from Medicaid to Medicare, the pharmaceutical industry received a huge windfall of [billions of dollars](#) in rebates it was no longer required to pay.