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**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3200  
OFFERED BY MS. BALDWIN OF WISCONSIN, MS.  
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BANES OF MARYLAND, AND MS. DEGETTE OF  
COLORADO**

(AINS-EC\_001)

【Contingent adjustment in affordability credit table:】 In section 243(d), in paragraph (1), as previously amended, strike “paragraph (3)” and insert “paragraphs (3) and (4)” and add at the end the following:

1           (4) CONTINGENT ADJUSTMENT FOR ADDI-  
2           TIONAL SAVINGS.—

3                   (A) IN GENERAL.—Before the beginning of  
4           each year beginning with Y2—

5                           (i) the Chief Actuary of the Centers of  
6           Medicare & Medicaid Services shall esti-  
7           mate the amount of savings in the previous

1 year under this division resulting from the  
2 application of the provisions described in  
3 subparagraph (B) and shall report such es-  
4 timate to the Commissioner; and

5 (ii) the Commissioner, based upon  
6 such estimate, shall provide for an appro-  
7 priate increase in the initial and final pre-  
8 mium percentages in the table specified in  
9 paragraph (1) in a manner that is de-  
10 signed to result an increase in aggregate  
11 affordability credits equivalent to the  
12 amount so estimated.

13 (B) PROVISIONS DESCRIBED.—The provi-  
14 sions described in this subparagraph are as fol-  
15 lows:

16 (i) FORMULARY UNDER PUBLIC OP-  
17 TION.—Section 223(a)(4).

18 (ii) PBM TRANSPARENCY.—Section  
19 133(d).

20 (iii) ACO IN MEDICAID.—Section 1726.

21 (iv) ADMINISTRATIVE SIMPLIFICA-  
22 TION.—

23 (I) Section 1173A of the Social  
24 Security Act, as added by section  
25 163(a)(1).

1 (II) Section 163(c).

2 (III) Section 164.

**【Formulary under Public Option:】**

In section 223(a)(2)(A), strike “and subsection (b)(1)” and insert “, paragraph (4), and subtitle (b)(1)”.

Amend section 223(a)(4) to read as follows:

3 (4) PRESCRIPTION DRUGS.—Notwithstanding  
4 any other provision of law, the Secretary shall nego-  
5 tiate with pharmaceutical manufacturers the pay-  
6 ment rates (including discounts, rebates, and other  
7 price concessions) that may be charged for prescrip-  
8 tion drugs for individuals who are enrolled under the  
9 public health insurance option and shall establish a  
10 particular formulary for prescription drugs under  
11 such option.

**【PBM Transparency:】**

Add at the end of section 133 the following:

12 (d) PHARMACY BENEFIT MANAGERS TRANSPARENCY  
13 REQUIREMENTS.—

14 (1) IN GENERAL.—Notwithstanding any other  
15 provision of law, a qualified health benefits plan  
16 shall enter into a contract with a pharmacy benefit  
17 managers (in this subsection referred to as a

1 “PBM”) to manage the prescription drug coverage  
2 provided under such plan, or to control the costs of  
3 such prescription drug coverage, only if as a condi-  
4 tion of such contract the PBM is required to provide  
5 at least annually to the Commissioner and to the  
6 QHBP offering entity offering such plan the fol-  
7 lowing information:

8 (A) Information on the volume of prescrip-  
9 tions under the contract that are filled via mail  
10 order and at retail pharmacies.

11 (B) An estimate of aggregate average pay-  
12 ments under the contract, per prescription  
13 (weighted by prescription volume), made to mail  
14 order and retail pharmacists, and and the aver-  
15 age amount, per prescription, that the PBM  
16 was paid by the plan for prescriptions filled at  
17 mail order and retail pharmacists.

18 (C) An estimate of the aggregate average  
19 payment per prescription (weighted by prescrip-  
20 tion volume) under the contract received from  
21 pharmaceutical manufacturers, including all re-  
22 bates, discounts, prices concessions, or adminis-  
23 trative, and other payments from pharma-  
24 ceutical manufacturers, and a description of the  
25 types of payments, and the amount of these

1           payments that were shared with the plan, and  
2           a description of the percentage of prescriptions  
3           for which the PBM receives such payments.

4           (D) Information on the overall percentage  
5           of generic drugs dispensed under the contract  
6           at retail and mail order pharmacies, and the  
7           percentage of cases in which a generic drug is  
8           dispensed when available.

9           (E) Information on the percentage and  
10          number of cases under the contract in which in-  
11          dividuals were switched from a prescribed drug  
12          that was less expensive to a drug that was more  
13          expensive, the rationale for these switches, and  
14          a description of the PBM policies governing  
15          such switches.

16          (2) CONFIDENTIALITY OF INFORMATION.—Not-  
17          withstanding any other provision of law, information  
18          disclosed by a PBM to the Commissioner or a  
19          QHBP offering entity under this subsection is con-  
20          fidential and shall not be disclosed by the Commis-  
21          sioner or the QHBP offering entity in a form which  
22          discloses the identity of a specific PBM or prices  
23          charged by such PBM or a specific retailer, manu-  
24          facturer, or wholesaler, except—

1 (A) as the Commissioner determines to be  
2 necessary to carry out this subsection;

3 (B) to permit the Comptroller General to  
4 review the information provided;

5 (C) to permit the Director of the Congres-  
6 sional Budget Office to review the information  
7 provided; and

8 (D) to permit the Commissioner to disclose  
9 industry-wide aggregate or average information  
10 to be used in assessing the overall impact of  
11 PBMs on prescription drug prices and spend-  
12 ing.

**[ACO in Medicaid:]**

In subtitle C of title VII of division B, insert at the  
end the following new section:

13 **SEC. 1726. ACCOUNTABLE CARE ORGANIZATION PILOT**  
14 **PROGRAM.**

15 (a) IN GENERAL.—The Secretary of Health and  
16 Human Services shall establish under this section an ac-  
17 countable care program under which a State may apply  
18 to the Secretary for approval of an accountable care orga-  
19 nization pilot program described in subsection (b) (in this  
20 section referred to as a “pilot program”) for the applica-

1 tion of the accountable care organization concept under  
2 title XIX of the Social Security Act.

3 (b) PILOT PROGRAM DESCRIBED.—

4 (1) IN GENERAL.—The pilot program described  
5 in this subsection is a program that applies one or  
6 more of the accountable care organization models  
7 described in section 1866D of the Social Security  
8 Act, as added by section 1301 of this Act.

9 (2) LIMITATION.—The pilot program shall op-  
10 erate for a period of not more than 5 years.

11 (c) ADDITIONAL INCENTIVES.—In the case of the  
12 pilot program under this section, the Secretary may

13 (1) waive the requirements of—

14 (A) section 1902(a)(1) of the Social Secu-  
15 rity Act (relating to statewideness);

16 (B) section 1902(a)(10)(B) of such Act  
17 (relating to comparability); and

18 (2) increase matching percentage for adminis-  
19 trative expenditures up to—

20 (A) 90 percent (for the first 2 years of the  
21 pilot program); and

22 (B) 75 percent (for the next 3 years).

23 (d) EVALUATION; REPORT.—

24 (1) EVALUATION.—The Secretary, using the  
25 criteria described in section 1866D(f)(1) of the So-

1       cial Security Act (as inserted by section 1301 of this  
2       Act), shall conduct an evaluation of the pilot pro-  
3       gram under this section.

4           (2) REPORT.—Not later than 60 days after the  
5       date of completion of the evaluation under para-  
6       graph (1), the Secretary shall submit to Congress  
7       and make available to the public a report on the  
8       findings of the evaluation under such paragraph.

**[Administrative simplification:]**

      In section 137, insert after “Social Security Act”  
the following: “and the operating rules under section  
1173B of such Act”.

      In part C of title XI of the Social Security Act, as  
added by section 163(a)(1), insert after section 1173A  
the following new section:

9       **“SEC. 1173B. OPERATING RULES.**

10       “(a) IN GENERAL.—The Secretary shall adopt oper-  
11       ating rules for each transaction described in section  
12       1173(a)(2) of the Social Security Act (42 U.S.C. 1320d-  
13       2(a))

14       “(b) OPERATING RULES DEVELOPMENT.—In adopt-  
15       ing such rules, the Secretary shall take into account the  
16       development of operating rules that have been developed  
17       by a nonprofit entity that meets the following criteria:



1           “(1) The entity focuses its mission on adminis-  
2           trative simplification.

3           “(2) The entity demonstrates a established  
4           multi-stakeholder process that creates consensus  
5           based operating rules using a voting policy with bal-  
6           anced representation by the critical stakeholders (in-  
7           cluding health plans and health care providers) so  
8           that no one group dominates the entity and shall in-  
9           clude others such as standards development organi-  
10          zations, and relevant Federal agencies.

11          “(3) The entity has in place a public set of  
12          guiding principles that ensure the operating rules  
13          and process are open and transparent.

14          “(4) The entity shall coordinate its activities  
15          with the HIT Policy Committee and the HIT Stand-  
16          ards Committee (established under title XXX of the  
17          Public Health Service Act) and complements the ef-  
18          forts of the Office of the National Healthcare Coor-  
19          dinator and its related health information exchange  
20          goals.

21          “(5) The entity incorporates national stand-  
22          ards, including the transaction standards issued  
23          under Health Insurance Portability and Account-  
24          ability Act of 1996.

1           “(6) The entity uses existing market research  
2           and proven best practices.

3           “(7) The entity has a set of measures that  
4           allow for the evaluation of their market impact and  
5           public reporting of aggregate stakeholder impact.

6           “(8) The entity supports nondiscrimination and  
7           conflict of interest policies that demonstrate a com-  
8           mitment to open, fair, and nondiscriminatory prac-  
9           tices.

10          “(9) The entity allows for public reviews and  
11          updates of the operating rules.

12          “(c) IMPLEMENTATION.—The Secretary shall adopt  
13          operating rules under this section, by regulation or other-  
14          wise, only after taking into account the rules developed  
15          by the entity under subsection (b) and having ensured con-  
16          sultation with providers. The first set of operating rules  
17          for the transactions for eligibility for health plan and  
18          health claims status under this section shall be adopted  
19          not later than October 1, 2011, in a manner such that  
20          such set of rules is effective beginning not later than Jan-  
21          uary 1, 2013. The second set of operating rules for the  
22          remainder of the transactions described in section  
23          1173(a)(2) of the Social Security Act (42 U.S.C. 1320d-  
24          2(a)) shall be adopted not later than October 1, 2012, in

1 a manner such that such set of rules is effective beginning  
2 not later than January 1, 2014.”.

At the end of section 163 insert the following:

3 (c) UNIQUE HEALTH PLAN IDENTIFIER.—Not later  
4 than 2 years after the date of the enactment of this Act,  
5 the Secretary of Health and Human Services shall promul-  
6 gate a final rule to establish a unique health plan identifier  
7 described in section 1173(b) of the Social Security Act (42  
8 U.S.C. 1320d-2(b)) based on the input of the National  
9 Committee of Vital and Health Statistics and consultation  
10 with health plans. The Secretary may do so on an interim  
11 final basis and effective not later than October 1, 2012.

At the end of section 163 insert the following new  
section (and redesignate the succeeding sections accord-  
ingly):

12 **SEC. 164. EXPANSION OF ELECTRONIC TRANSACTIONS IN**  
13 **MEDICARE.**

14 (a) IN GENERAL.—Section 1862(a) of the Social Se-  
15 curity Act (42 U.S.C. 1395y(a)) is amended

16 (1) in paragraph (23), by striking the “or” at  
17 the end;

18 (2) in paragraph (24), by striking the period  
19 and inserting “; or”; and

1           (3) by inserting after paragraph (24) the fol-  
2           lowing new paragraph:

3           “(25) subject to subsection (h), not later than  
4           January 1, 2015, for which the payment is other  
5           than by electronic funds transfer (EFT) or an elec-  
6           tronic remittance in a form as specified in ASC X12  
7           835 Health Care Payment and Remittance Advice or  
8           subsequent standard.”.

9           (b) EFFECTIVE DATE.—The amendments made by  
10          subsection (a) shall take effect upon the date of the enact-  
11          ment of this Act.

