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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend title XVIII of the Social Security Act, and the Employee Retirement Income Security Act of 1974, to create certain requirements with respect to pharmacy benefit managers.

IN THE HOUSE OF REPRESENTATIVES

Mr. MACKENZIE introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act, and the Employee Retirement Income Security Act of 1974, to create certain requirements with respect to pharmacy benefit managers.

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 “Net Effective Cost
5 Transparency and Prescription Drug Affordability Act of
6 2026”.

1 **SEC. 2. MEDICARE PART D PHARMACY BENEFIT MANAGER**
2 **REFORMS.**

3 (a) IN GENERAL.—Section 1860D–12 of the Social
4 Security Act (42 U.S.C. 1395w–112) is amended—

5 (1) by adding at the end the following new sub-
6 sections:

7 “(i) REQUIRING STANDARDIZED PUBLIC BIDDING
8 PROCESS FOR PHARMACY BENEFIT MANAGERS.—

9 “(1) REQUIRING ANNUAL BID SOLICITATION.—
10 For plan years beginning on or after January 1,
11 2028, each contract entered into with a PDP spon-
12 sor under this part with respect to a prescription
13 drug plan offered by such sponsor shall provide that
14 such sponsor may only enter into a contract with a
15 pharmacy benefit manager to provide pharmacy ben-
16 efit management services on behalf of such sponsor
17 during such plan year if such sponsor—

18 “(A) solicits bids for such pharmacy ben-
19 efit management services in accordance with
20 the process under paragraph (2); and

21 “(B) includes in the submission to the Sec-
22 retary under section 1860D–11(b) with respect
23 to such plan—

24 “(i) information sufficient to dem-
25 onstrate that the sponsor accepted and
26 considered all bids submitted by a phar-

1 pharmacy benefit manager containing the infor-
2 mation described in paragraph (2)(B) in
3 the uniform format specified by the Sec-
4 retary;

5 “(ii) the information described in
6 paragraph (2)(B) received from each such
7 pharmacy benefit manager in connection
8 with each such bid; and

9 “(iii) in the case that the bid selected
10 at the conclusion of the process described
11 in subparagraph (A) is not the bid with
12 the lowest projected net effective cost, in-
13 formation sufficient to support a finding
14 under paragraph (3) that the selection of
15 the bid so selected is necessary to advance
16 a significant programmatic interest identi-
17 fied by such sponsor.

18 “(2) PHARMACY BENEFIT MANAGER SERVICES
19 BIDDING PROCESS.—

20 “(A) IN GENERAL.—For purposes of para-
21 graph (1)(A), a PDP sponsor solicits bids for
22 pharmacy benefit manager services in accord-
23 ance with the process described in this para-
24 graph if the sponsor—

25 “(i) requires each bid to contain—

1 “(I) the information described in
2 subparagraph (B) in a uniform for-
3 mat specified by the Secretary; and

4 “(II) an attestation of complete-
5 ness and accuracy from an officer of
6 the PDP sponsor;

7 “(ii) makes available at no cost to
8 each pharmacy benefit manager submitting
9 a bid such information, presented in a uni-
10 form format, as the Secretary determines
11 necessary to enable the pharmacy benefit
12 manager to submit a responsive bid, in-
13 cluding—

14 “(I) projected enrollment;

15 “(II) historical utilization data;

16 “(III) formulary design param-
17 eters; and

18 “(IV) benefit design parameters;

19 “(iii) accepts all bids from pharmacy
20 benefit managers containing the informa-
21 tion described in paragraph (2)(B) in the
22 uniform format specified by the Secretary,
23 without imposing any additional conditions
24 for participation in the bidding process;
25 and

1 “(iv) complies with—

2 “(I) requirements for solicitation
3 of multiple qualified bidders, evalua-
4 tion criteria, justification procedures
5 for limited competition or sole-source
6 contracting, contract duration limits,
7 enforcement mechanisms, and min-
8 imum documentation standards con-
9 sistent with part 15 of subchapter C
10 of chapter 1 of title 48, Code of Fed-
11 eral Regulations; and

12 “(II) such other requirements
13 from the relevant provisions of chap-
14 ter 33 of subtitle C of subtitle I of
15 title 41, United States Code, and the
16 regulations under chapter 1 of title
17 48, Code of Federal Regulations, as
18 the Secretary determines appropriate.

19 “(B) STANDARDIZED BID CONTENTS.—For
20 purposes of subparagraph (A)(i)(I), the infor-
21 mation described in this subparagraph is, with
22 respect to a prescription drug plan offered by a
23 PDP sponsor, a pharmacy benefit manager,
24 and a plan year, the following:

1 “(i) The total dollar amount that the
2 pharmacy benefit manager expects to re-
3 ceive in connection with services performed
4 on behalf of the sponsor—

5 “(I) as bona fide service fees (as
6 defined in section 1860D–
7 12(h)(7)(B));

8 “(II) as incentive payments (as
9 described under section 1860D–
10 12(h)(1)(A)(ii)); and

11 “(III) as price concessions, in-
12 cluding rebates, discounts, and other
13 direct or indirect remunerations re-
14 ceived from all pharmacy and non-
15 pharmacy sources.

16 “(ii) With respect to covered part D
17 drugs proposed by the pharmacy benefit
18 manager to be included on the formulary
19 of the plan—

20 “(I) the aggregate expected utili-
21 zation of all such drugs;

22 “(II) the aggregate wholesale ac-
23 quisition cost for all such drugs;

24 “(III) the aggregate amount ex-
25 pected to be received by the pharmacy

1 benefit manager, from all pharmacy
2 and non-pharmacy sources, as price
3 concessions, including rebates, dis-
4 counts, and other direct or indirect re-
5 munerations in connection with all
6 such drugs, displayed as a percentage
7 of such aggregate wholesale acquisi-
8 tion cost;

9 “(IV) of the amount described in
10 subclause (III), the aggregate amount
11 expected to be attributable to such
12 drugs dispensed by a pharmacy that
13 is an affiliate (as defined in section
14 1860D–12(h)(7)(A)) of the pharmacy
15 benefit manager;

16 “(V) the aggregate net ingredient
17 cost for all such drugs;

18 “(VI) the average payment to a
19 pharmacy for dispensing all such
20 drugs; and

21 “(VII) the average cost sharing,
22 in dollars, for an enrollee in such plan
23 with respect to all such drugs.

24 “(iii) The projected net effective cost
25 for such year.

1 “(iv) With respect to the most recent
2 3-year period for which data is available, a
3 description of any variation between the
4 projected net effective cost and the actual
5 net effective cost.

6 “(C) PUBLIC AVAILABILITY OF DATA ON
7 PHARMACY BENEFIT MANAGER BIDS.—The Sec-
8 retary shall annually publish, in an aggregated,
9 deidentified format, the information described
10 in subparagraph (B) and submitted to the Sec-
11 retary in accordance with paragraph (1)(B)(ii).

12 “(D) REGULATIONS.—Not later than 180
13 days after the date of enactment of this para-
14 graph, the Secretary shall promulgate regula-
15 tions to carry out this paragraph.

16 “(3) FINDING OF NECESSITY TO ADVANCE SIG-
17 NIFICANT PROGRAMMATIC INTEREST.—For purposes
18 of paragraph (1)(B)(iii), in the case that the bid for
19 pharmacy benefit management services selected by a
20 PDP sponsor is not the bid with the lowest projected
21 net effective cost received by such sponsor, the Sec-
22 retary may find that selection of such bid is nec-
23 essary to advance a significant programmatic inter-
24 est identified by such sponsor (such as the protec-
25 tion of beneficiary access, continuity of care, net-

1 work adequacy, the prevention of service disruption,
2 program integrity and fraud prevention, dem-
3 onstrated operational capability, or demonstrated
4 clinical outcomes) only if—

5 “(A) the Secretary determines that—

6 “(i) the programmatic interest identi-
7 fied by the sponsor materially benefits en-
8 rollees under the plan, or advances statu-
9 tory program objectives;

10 “(ii) the programmatic interest is not
11 already reflected in the calculation of the
12 net effective cost of the plan;

13 “(iii) the programmatic interest can-
14 not reasonably be achieved through selec-
15 tion of the bid with the lowest projected
16 net effective cost received by the sponsor;

17 “(iv) the importance of the pro-
18 grammatic interest clearly outweighs the
19 additional cost under this part; and

20 “(v) approval of the bid represents a
21 reasonable and efficient use of Federal re-
22 sources; and

23 “(B) each determination under subpara-
24 graph (A) is supported by documentation suffi-

1 cient for congressional oversight, audit, and
2 program review purposes.

3 “(4) TREATMENT OF SPONSOR ACTING AS
4 PBM.—

5 “(A) IN GENERAL.—In the case of a PDP
6 sponsor described in subparagraph (B) that in-
7 tends to provide its own pharmacy benefit man-
8 agement services for a year, the requirements
9 under this subsection shall apply with respect to
10 such sponsor as if such sponsor were entering
11 into a contract with a pharmacy benefit man-
12 ager to provide such services.

13 “(B) PDP SPONSOR DESCRIBED.—For
14 purposes of subparagraph (A), a PDP sponsor
15 described in this subparagraph is, with respect
16 to a year, a PDP sponsor that provides phar-
17 macy benefit management services on behalf of
18 another PDP sponsor for such year.

19 “(5) NET EFFECTIVE COST DEFINED.—In this
20 subsection, the term ‘net effective cost’ means, with
21 respect to a prescription drug plan offered by a PDP
22 sponsor and a plan year, the total cost to such spon-
23 sor of all covered part D drugs included on the for-
24 mulary of the plan that are furnished to all enrollees
25 in such plan for such year.

1 “(j) ENHANCED OVERSIGHT OF PDP SPONSORS.—

2 “(1) IN GENERAL.—For plan years beginning
3 on or after January 1, 2028, each contract entered
4 into with a PDP sponsor under this part with re-
5 spect to a prescription drug plan offered by such
6 sponsor shall require such sponsor to—

7 “(A) periodically submit to the Secretary,
8 at such time and in such form as the Secretary
9 may require, information sufficient to allow the
10 Secretary to compare actual cost-sharing for
11 enrollees in the plan to the cost-sharing de-
12 scribed in the bid submitted under section
13 1860D–11(b)(2);

14 “(B) maintain a real-time cost-sharing tool
15 that reflects, with respect to each covered part
16 D drug included on the formulary of such plan,
17 the actual cost of such drug (net of any price
18 concessions, including rebates, discounts, and
19 other direct or indirect remunerations nego-
20 tiated in connection with such drug) to—

21 “(i) the sponsor;

22 “(ii) the Secretary; and

23 “(iii) the enrollee; and

24 “(C) maintain in an escrow account suffi-
25 cient funds to refund to enrollees in the plan

1 any amounts incorrectly collected for such year
2 (as required under section 423.294 of title 42,
3 Code of Federal Regulations (or a successor
4 regulation)).

5 “(2) OVERSIGHT.—For plan years beginning on
6 or after January 1, 2028, the Secretary shall carry
7 out the following oversight activities with respect to
8 PDP sponsors with a contract to offer a prescription
9 drug plan under this part:

10 “(A) ANNUAL AUDITS.—

11 “(i) IN GENERAL.—The Secretary
12 shall audit not less than one-third of all
13 PDP sponsors with a contract to offer a
14 prescription drug plan under this part to
15 verify that the prescription drug coverage
16 provided under the plan reflects the pre-
17 scription drug coverage proposed to be pro-
18 vided under the bid submitted under sec-
19 tion 1860D–11(b)(2)(A).

20 “(ii) REQUIRED COMPONENTS.—Each
21 audit conducted under subparagraph (A)
22 shall include an evaluation of—

23 “(I) the cost-sharing amounts
24 paid by enrollees under the plan, ex-
25 pressed as dollar amounts, and wheth-

1 er such amounts are consistent with
2 the cost-sharing described in the bid
3 submitted under section 1860D–11(b)
4 and approved by the Secretary; and

5 “(II) in the case that such plan
6 implements tiered cost-sharing, and
7 provides for such cost-sharing to be
8 imposed as coinsurance, whether the
9 cost-sharing amounts paid by enroll-
10 ees, expressed as dollar amounts, are
11 consistent with (and do not exceed)
12 the maximum allowable cost-sharing
13 reflected in such bid (and marketed to
14 enrollees at the time of plan selec-
15 tion), as determined on the basis of
16 actual out-of-pocket costs.

17 “(iii) METHODOLOGY.—In conducting
18 the audits under subparagraph (A), the
19 Secretary may use sampling and extrapo-
20 lation methodologies to the extent that
21 such methodologies are used in connection
22 with other audits under this part.

23 “(B) BID RECONCILIATION ANALYSIS.—
24 The Secretary shall periodically compare actual
25 costs incurred in connection with the plan to

1 the projected costs included in the bid sub-
2 mitted under section 1860D–11(b)(2). Such
3 comparison shall include—

4 “(i) a quarterly analysis of any vari-
5 ation between the projected and actual net
6 effective cost (as defined in subsection
7 (i)(5)); and

8 “(ii) an analysis of the impact of any
9 mid-year formulary changes on the cost-
10 sharing of enrollees in the plan.

11 “(C) RISK-BASED MONITORING.—

12 “(i) IN GENERAL.—If, pursuant to
13 subparagraph (B)(i), the Secretary deter-
14 mines that the actual net effective cost in-
15 curred by a PDP sponsor for a calendar
16 quarter varies from the projected net effec-
17 tive cost included in the bid submitted
18 under section 1860D–11(b)(2)(C)(v) by
19 more than the percentage established
20 under clause (ii), the Secretary shall—

21 “(I) provide notice to the PDP
22 sponsor of such variation; and

23 “(II) require the PDP sponsor to
24 submit, not later than 30 calendar
25 days after such notice—

1 “(aa) a written explanation
2 of such variation; and

3 “(bb) a corrective action
4 plan to address such variation.

5 “(ii) PERCENTAGE.—For purposes of
6 clause (i), the Secretary shall establish,
7 through rulemaking, a percentage (not to
8 exceed 10 percent) that represents an ac-
9 ceptable level of variation between the pro-
10 jected and actual net effective cost for a
11 year. In establishing such percentage, the
12 Secretary shall take into account potential
13 factors affecting the variation between pro-
14 jected and actual costs, including—

15 “(I) historical variation in spend-
16 ing under this part;

17 “(II) the impact of high-cost cov-
18 ered part D drugs on overall spending
19 under this part;

20 “(III) changes in drug utiliza-
21 tion, formulary composition, and clin-
22 ical practice patterns;

23 “(IV) variability in price conces-
24 sions, including rebates, discounts,

1 and other direct or indirect remunera-
2 tions;

3 “(V) differences between pro-
4 jected and actual enrollment, and dif-
5 ferences between projected and actual
6 enrollee characteristics;

7 “(VI) plan benefit designs and
8 cost-sharing structures; and

9 “(VII) other factors beyond the
10 control of the PDP sponsor, or the
11 pharmacy benefit manager providing
12 pharmacy benefit management serv-
13 ices on behalf of such sponsor, that
14 may materially affect costs.

15 “(iii) ITEM-LEVEL AUDITS.—The Sec-
16 retary may conduct an item-level audit of
17 a prescription drug plan under this part,
18 including an audit on the basis of a spe-
19 cific covered part D drug, a specific phar-
20 macy, or a statistically valid sample of in-
21 dividual claims, for the purpose of—

22 “(I) identifying the cause of any
23 variation between the projected and
24 actual net effective cost for a year;

1 “(II) verifying that costs in-
2 curred under the plan are consistent
3 with the assumptions and information
4 included in the bid submitted under
5 section 1860D–11(b); and

6 “(III) assessing whether pricing,
7 reimbursement, or utilization patterns
8 result in a differential financial ben-
9 efit to a pharmacy benefit manager or
10 an affiliate (as defined in subsection
11 (h)(7)(A)) that is not reasonably re-
12 flected in the net effective cost or
13 other information submitted in such
14 bid.

15 “(D) FORMULARY MONITORING.—

16 “(i) IN GENERAL.—The Secretary
17 shall monitor changes to the formulary of
18 a prescription drug plan under this part
19 throughout the plan year to identify pat-
20 terns that may constitute beneficiary bait-
21 and-switch practices.

22 “(ii) BENEFICIARY BAIT-AND-SWITCH
23 PRACTICE DEFINED.—In this subpara-
24 graph, the term ‘beneficiary bait-and-
25 switch practice’ means a pattern of for-

1 mulary changes or related utilization man-
2 agement practices that, in the aggregate—

3 “(I) materially increase enrollee
4 cost-sharing or overall costs relative to
5 the coverage described in the bid sub-
6 mitted under section 1860D–11(b);

7 “(II) result in a systematic shift
8 in utilization toward certain covered
9 part D drugs, pharmacies, or other
10 arrangements (including through the
11 preferential placement of drugs or the
12 use of pharmacies or affiliates of a
13 pharmacy benefit manager) that were
14 not reasonably reflected in such bid;
15 or

16 “(III) otherwise have the effect
17 of materially altering the prescription
18 drug coverage offered under the plan
19 in a manner that would reasonably be
20 expected to affect an enrollee’s plan
21 selection at the time of enrollment.

22 “(3) PUBLIC REPORTING.—The Secretary shall
23 make publicly available a report comparing the ac-
24 tual costs incurred in connection with a prescription
25 drug plan under this part to the projected costs in-

1 cluded in bids submitted under section 1860D–
2 11(b)(2). Such comparison shall be aggregated
3 across all PDP sponsors, and shall describe any ag-
4 gregate savings attributable to the bidding process
5 required under subsection (i) (in relation to phar-
6 macy benefit managers).

7 “(4) ENFORCEMENT AND PENALTIES.—

8 “(A) CIVIL MONETARY PENALTIES.—

9 “(i) FALSE OR MISLEADING INFORMA-
10 TION.—A PDP sponsor that provides false
11 or misleading information (including a ma-
12 terial omission) in a bid submission under
13 section 1860D–11(b) shall be subject to a
14 civil monetary penalty of not more than
15 \$100,000 per violation.

16 “(ii) FAILURE TO PROVIDE INFORMA-
17 TION.—A PDP sponsor that fails to pro-
18 vide any information required to be pro-
19 vided under section 1860D–11(b) or sub-
20 section (i) or (j) shall be subject to a civil
21 monetary penalty of not more than
22 \$25,000 per calendar day until such failure
23 is corrected.

24 “(iii) DEVIATION FROM BID PROJEC-
25 TION.—In the case that the actual net ef-

1 fective cost (as defined in subsection (i)(5))
2 for a prescription drug plan under this
3 part and a plan year exceeds the projected
4 net effective cost for such plan included in
5 the bid submitted under section 1860D–
6 11(b) by more than the percentage estab-
7 lished under subsection (j)(2)(C)(ii), the
8 PDP sponsor offering such plan shall be
9 subject to a civil monetary penalty of not
10 more than \$10,000 per violation. In deter-
11 mining the amount of such penalty, the
12 Secretary shall take into account the mag-
13 nitude and duration of such deviation.

14 “(B) RESTITUTION.—

15 “(i) IN GENERAL.—In the case that
16 the case that actual costs for a prescrip-
17 tion drug plan under this part and a plan
18 year (including amounts associated with
19 enrollee cost-sharing and other amounts
20 not directly charged to enrollees) materi-
21 ally exceeds the projected costs for such
22 plan included in the bid submitted under
23 section 1860D–11(b), the Secretary may
24 require the PDP sponsor offering such
25 plan to refund plan enrollees for such

1 amounts retained by the sponsor, a phar-
2 macy benefit manager providing pharmacy
3 benefit management services on behalf of
4 such sponsor, or an affiliate of such phar-
5 macy benefit manager as are attributable
6 to such disparity.

7 “(ii) COORDINATION WITH REFUNDS
8 OF AMOUNTS INCORRECTLY COLLECTED.—
9 To the extent feasible, the Secretary shall
10 coordinate the application of this subpara-
11 graph with the requirements under section
12 423.294(b) of title 42, Code of Federal
13 Regulations (or a successor regulation).

14 “(C) JUDICIAL REVIEW.—Any penalty im-
15 posed under this paragraph shall be subject to
16 judicial review in the United States district
17 court for the district in which the violation oc-
18 curred, consistent with section 1128A(e).”; and
19 (2) in subsection (h)—

20 (A) in the subsection heading, by inserting
21 “AGREEMENTS WITH” before “PHARMACY
22 BENEFIT MANAGERS”;

23 (B) in paragraph (1), by adding at the end
24 the following new subparagraph:

1 “(E) GUARANTEES WITH RESPECT TO NET
2 EFFECTIVE COST AND TRANSPARENCY.—

3 “(i) IN GENERAL.—The pharmacy
4 benefit manager—

5 “(I) guarantees that the actual
6 net effective cost (as defined in sub-
7 section (i)(5)) for the year will not ex-
8 ceed the projected net effective cost by
9 more than the percentage established
10 under subsection (j)(2)(C)(ii), with
11 periodic reconciliation requirements on
12 a frequency established by the Sec-
13 retary; and

14 “(II) agrees that, in the case that
15 such actual net effective cost does ex-
16 ceed such projected net effective cost
17 by more than such percentage—

18 “(aa) the pharmacy benefit
19 manager will pay to the PDP
20 sponsor a penalty (not to exceed
21 \$10,000 per violation); and

22 “(bb) the PDP sponsor may
23 terminate the contract without
24 penalty.

1 “(ii) TRANSPARENCY.—The pharmacy
2 benefit manager agrees—

3 “(I) to provide to the PDP spon-
4 sor with such information as the spon-
5 sor requires to comply with the re-
6 quirements under subsection (j); and

7 “(II) that, if the pharmacy ben-
8 efit manager fails to provide such in-
9 formation to the PDP sponsor, the
10 PDP sponsor may terminate the con-
11 tract without penalty.”; and

12 (C) in paragraph (2)(A)—

13 (i) in clause (ii), by striking “and” at
14 the end;

15 (ii) in clause (iii), by striking the pe-
16 riod at the end and inserting a semicolon;
17 and

18 (iii) by adding at the end the fol-
19 lowing new clauses:

20 “(iv) submit to the Secretary a copy
21 of each such written agreement not later
22 than the date that is 30 days after the ef-
23 fective date of such agreement;

24 “(v) certify to the Secretary on a
25 quarterly basis that each pharmacy benefit

1 manager that has entered into such an
2 agreement is meeting all the obligations
3 under such agreement; and

4 “(vi) in the case that any pharmacy
5 benefit manager that has entered into such
6 an agreement fails to meet all the obliga-
7 tions under such agreement, immediately
8 report such failure to the Secretary;”.

9 (b) CONFORMING AMENDMENT.—Section 1860D–
10 11(b)(2)(C) of the Social Security Act (42 U.S.C. 1395w–
11 111(b)(2)(C)) is amended—

12 (1) in clause (iii), by striking “and” at the end;

13 (2) in clause (iv), by striking the period at the
14 end and inserting “; and”; and

15 (3) by adding at the end the following new
16 clause:

17 “(v) for plan years beginning on or
18 after January 1, 2028, the information de-
19 scribed in section 1860D–12(i)(1)(B) (with
20 respect to bids for pharmacy benefit man-
21 ager services).”.

22 **SEC. 3. MEDICARE ADVANTAGE PHARMACY BENEFIT MAN-**
23 **AGER REQUIREMENTS.**

24 (a) MA–PD COMPLIANCE.—Section 1857(f)(3)(G) of
25 the Social Security Act (42 U.S.C. 1395w–27(f)(3)(G)) is

1 amended by inserting “and section 1860D–12(i)” before
2 the period at the end.

3 (b) QUALITY RATING SYSTEM FOR MA–PD
4 PLANS.—Section 1853(o) of the Social Security Act (42
5 U.S.C. 1395w–23(o)) is amended—

6 (1) in paragraph (4)(A), by inserting “and, be-
7 ginning January 1, 2028, with respect to an MA–
8 PD plan, incorporating the pharmacy benefit man-
9 agement services performance measure described in
10 paragraph (8)” before the period at the end; and

11 (2) by adding at the end the following new
12 paragraph:

13 “(8) PRESCRIPTION DRUG COST PERFORMANCE
14 MEASURE.—

15 “(A) IN GENERAL.—For purposes of para-
16 graph (4), the Secretary shall establish a per-
17 formance measure for MA–PD plans for pur-
18 poses of evaluating prescription drug cost vari-
19 ations.

20 “(B) MEASUREMENT CRITERIA.—The per-
21 formance measure established under subpara-
22 graph (A) shall evaluate—

23 “(i) the percentage variation between
24 the projected and actual net effective cost

1 (as defined in section 1860D–12(i)(5)) for
2 a year;

3 “(ii) the timeliness and adequacy of
4 any corrective action plans submitted in
5 connection with such a variation (as re-
6 quired under section 1860D–
7 12(j)(2)(C)(i)(II)(bb));

8 “(iii) the extent to which imple-
9 menting such corrective actions success-
10 fully reduced such variations in subsequent
11 quarters;

12 “(iv) the frequency and magnitude of
13 beneficiary cost-sharing increases attrib-
14 utable to such a variation or a formulary
15 change; and

16 “(v) the plan’s compliance with the
17 reconciliation and transparency reporting
18 requirements under section 1860D–12(j).

19 “(C) RATING SCALE.—The Secretary shall
20 establish a 5-star rating scale for the perform-
21 ance measure under this paragraph, where—

22 “(i) 5 stars indicates actual costs
23 within 2 percent of bid projections with no
24 required corrective actions;

1 “(ii) 4 stars indicates actual costs
2 within 5 percent of bid projections with
3 timely and effective corrective actions;

4 “(iii) 3 stars indicates actual costs
5 within 10 percent of bid projections with
6 adequate corrective actions;

7 “(iv) 2 stars indicates actual costs ex-
8 ceeding 10 percent of bid projections or in-
9 adequate corrective actions; and

10 “(v) 1 star indicates actual costs ex-
11 ceeding 15 percent of bid projections, fail-
12 ure to submit corrective action plans, or
13 repeated noncompliance.

14 “(D) INTEGRATION WITH OVERALL STAR
15 RATINGS.—

16 “(i) WEIGHTING.—The performance
17 measure established under this paragraph
18 shall be weighted at not less than the me-
19 dian weight of all other measures used in
20 calculating the overall star rating under
21 this subsection.

22 “(ii) BONUS PAYMENT IMPACT.—Per-
23 formance on this measure shall be fully in-
24 tegrated into the overall star ratings cal-

1 culation for purposes of quality bonus pay-
2 ments under paragraph (4).

3 “(E) PUBLIC REPORTING.—The Secretary
4 shall publicly report each MA–PD plan’s per-
5 formance on this measure as part of the annual
6 star ratings release under paragraph (3), in-
7 cluding—

8 “(i) specific percentage variation be-
9 tween projected and actual net effective
10 costs;

11 “(ii) corrective action outcomes; and

12 “(iii) comparison to national and re-
13 gional benchmarks.

14 “(F) BENEFICIARY NOTIFICATION.—

15 “(i) LOW PERFORMANCE NOTIFICA-
16 TION.—MA–PD plans receiving ratings of
17 2 stars or below on the measure estab-
18 lished under this paragraph shall notify en-
19 rollees of their performance and provide in-
20 formation on alternative plan options dur-
21 ing the annual enrollment period.

22 “(ii) NOTIFICATION FORMAT.—The
23 Secretary shall establish standardized for-
24 mats for beneficiary notifications that
25 clearly explain the implications of low rat-

1 ings on such measure, including enrollee
2 costs for premiums, deductibles, cost shar-
3 ing, and overall taxpayer burden.

4 “(G) IMPLEMENTATION TIMELINE.—

5 “(i) INITIAL MEASUREMENT.—The
6 Secretary shall begin collecting data for
7 the performance measure established under
8 this paragraph beginning with the first
9 plan year beginning after the date that is
10 1 year after the date of enactment of the
11 Net Effective Cost Transparency and Pre-
12 scription Drug Affordability Act of 2026.

13 “(ii) FIRST RATINGS.—The Secretary
14 shall publish the first star ratings under
15 this paragraph not later than the second
16 plan year following the initial data collec-
17 tion.

18 “(iii) BONUS PAYMENT INTEGRA-
19 TION.—Performance on this measure shall
20 affect quality bonus payments beginning
21 with the third plan year following initial
22 data collection.

23 “(H) APPLICATION TO STANDALONE PART
24 D PLANS.—The Secretary shall establish a com-
25 parable performance measurement and public

1 reporting system for prescription drug plans
2 under part D, using the same measurement cri-
3 teria and rating scale established under this
4 paragraph.”.

5 **SEC. 4. COMMERCIAL HEALTH PLAN TRANSPARENCY RE-**
6 **QUIREMENTS.**

7 (a) NET EFFECTIVE COSTS.—

8 (1) REQUIREMENT.—Section 408(b)(2)(B)(iii)
9 of the Employee Retirement Income Security Act of
10 1974 (29 U.S.C. 1108(b)(2)(B)(iii)) is amended by
11 adding at the end the following:

12 “(VII) A description, in a uniform format,
13 of the projected net effective cost for the appli-
14 cable plan year for each bid received by the cov-
15 ered service provider on behalf of the covered
16 plan from an entity providing pharmacy benefit
17 management services.”.

18 (2) DEFINITION.—Section 3 of the Employee
19 Retirement Income Security Act of 1974 (29 U.S.C.
20 1002) is amended by inserting after paragraph (45)
21 the following:

22 “(46) NET EFFECTIVE COST.—The term ‘net
23 effective cost’ means, in relation to a bid provided to
24 a covered plan (as defined in section
25 408(b)(2)(B)(ii)) by an entity providing pharmacy

1 benefit management services, the total annual cost
2 to the covered plan of all covered drugs in the for-
3 mulary that would be furnished to all enrollees in
4 such plan for such year if such bid were accepted.”.

5 (b) BONA FIDE SERVICE FEES DEFINED.—Section
6 3 of the Employee Retirement Income Security Act of
7 1974 (29 U.S.C. 1002), as amended by subsection (a)(2),
8 is further amended by adding at the end the following:

9 “(47) BONA FIDE SERVICE FEES.—The term
10 ‘bona fide service fees’ means fees charged that rep-
11 resent fair-market value for bona fide, itemized serv-
12 ices performed on behalf of a drug manufacturer or
13 a covered plan (as defined in section
14 408(b)(2)(B)(ii)) and that the manufacturer would
15 otherwise perform, or the covered plan would other-
16 wise contract for in the absence of a service arrange-
17 ment, and that are not passed on in whole or in part
18 to the covered plan, whether or not an entity offer-
19 ing pharmacy benefit management services takes
20 possession of the drug.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to plan years begin-
23 ning after calendar year 2027.