

**Amendment to the Amendment in the Nature of a Substitute to H.R. 3
Offered by Rep. Reed of New York**

The amendment would expand the cap on PDP offerings from three to four and allow plans that passthrough a portion of rebates at the point of sale to offer six PDPs.

AMENDMENT

OFFERED BY M .

Add at the end of title II the following (and conform the table of contents accordingly):

1 SEC. 203. ALLOWING THE OFFERING OF ADDITIONAL PRE-
2 SCRIPTON DRUG PLANS UNDER MEDICARE
3 PART D.

4 (a) RESCINDING AND ISSUANCE OF NEW GUID-
5 ANCE.—Not later than one year after the date of the en-
6 actment of this Act, the Secretary of Health and Human
7 Services (in this section referred to as the “Secretary”)
8 shall—

9 (1) rescind sections of any sub-regulatory guid-
10 ance that limit the number of prescription drug
11 plans in each PDP region that may be offered by a
12 PDP sponsor under part D of title XVIII of the So-
13 cial Security Act (42 U.S.C. 1395w–101 et seq.);
14 and

15 (2) issue new guidance specifying that a PDP
16 sponsor may offer up to 4 (or a greater number if
17 determined appropriate by the Secretary) prescrip-
18 tion drug plans in each PDP region, except in cases
19 where the PDP sponsor may offer up to 2 additional

1 plans in a PDP region pursuant to section 1860D–
2 11(d)(4) of the Social Security Act (42 U.S.C.
3 1395w–111(d)(4)), as added by subsection (b).

4 (b) OFFERING OF ADDITIONAL PLANS.—Section
5 1860D–11(d) of the Social Security Act (42 U.S.C.
6 1395w–111(d)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(4) OFFERING OF ADDITIONAL PLANS.—

9 “(A) IN GENERAL.—For plan year 2022
10 and each subsequent plan year, a PDP sponsor
11 may offer up to 2 additional prescription drug
12 plans in a PDP region (in addition to any limit
13 established by the Secretary under this part)
14 provided that the PDP sponsor complies with
15 subparagraph (B) with respect to at least one
16 such prescription drug plan.

17 “(B) REQUIREMENTS.—In order to be eli-
18 gible to offer up to 2 additional plans in a PDP
19 region pursuant to subparagraph (A), a PDP
20 sponsor must ensure that, with respect to at
21 least one such prescription drug plan, the spon-
22 sor or any entity that provides pharmacy bene-
23 fits management services under a contract with
24 any such sponsor or plan does not receive direct
25 or indirect remuneration, as defined in section

1 423.308 of title 42, Code of Federal Regula-
2 tions (or any successor regulation), unless at
3 least 25 percent of the aggregate reductions in
4 price or other remuneration received by the
5 PDP sponsor or entity from drug manufactur-
6 ers with respect to the plan and plan year—

7 “(i) are reflected at the point-of-sale
8 to the enrollee; or

9 “(ii) are used to reduce total bene-
10 ficiary cost-sharing estimated by the PDP
11 sponsor for prescription drug coverage
12 under the plan in the annual bid submitted
13 by the PDP sponsor under section 1860D-
14 11(b).

15 “(C) DEFINITION OF REDUCTIONS IN
16 PRICE.—For purposes of subparagraph (B), the
17 term ‘reductions in price’ refers only to collect-
18 ible amounts, as determined by the Secretary,
19 which excludes amounts which after adjudica-
20 tion and reconciliation with pharmacies and
21 manufacturers are duplicate in nature, contrary
22 to other contractual clauses, or otherwise ineli-
23 gible (such as due to beneficiary disenrollment
24 or coordination of benefits).”.

1 (c) RULE OF CONSTRUCTION.—Nothing in the provi-
2 sions of, or amendments made by, this section shall be
3 construed as limiting the ability of the Secretary to in-
4 crease any limit otherwise applicable on the number of
5 prescription drug plans that a PDP sponsor may offer,
6 at the discretion of the PDP sponsor, in a PDP region
7 under part D of title XVIII of the Social Security Act (42
8 U.S.C. 1395w–101 et seq.).

