

119TH CONGRESS
2^D SESSION

S. _____

To amend title 10, United States Code, to improve access to certain medications under the TRICARE program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON (for himself and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 10, United States Code, to improve access to certain medications under the TRICARE program, and for other purposes.

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 “Rx Access, Choice,
5 Cost Equity, and Supply Stability Act” or the “Rx AC-
6 CESS Act”.

1 **SEC. 2. IMPROVEMENTS RELATING TO ACCESS, FAIRNESS,**
2 **AND TRANSPARENCY UNDER TRICARE PHAR-**
3 **MACY BENEFITS PROGRAM.**

4 (a) **BENEFICIARY ELECTION OF PRESCRIPTION RE-**
5 **FILL MEANS.**—Section 1074g(a)(9) of title 10, United
6 States Code, is amended—

7 (1) in subparagraph (A), by inserting “, and
8 ending on October 1, 2026” after “Beginning on Oc-
9 tober 1, 2015”; and

10 (2) by adding at the end the following new sub-
11 paragraph:

12 “(D) Beginning on October 1, 2026, an eligible cov-
13 ered beneficiary may elect to receive non-generic prescrip-
14 tion maintenance medications through any means de-
15 scribed in paragraph (2)(E).”.

16 (b) **PHARMACY BENEFIT MANAGER REIMBURSE-**
17 **MENT STANDARDS; INDEPENDENT AUDITS.**—Section
18 1074g of title 10, United States Code, as amended by sub-
19 section (a), is further amended—

20 (1) by redesignating subsections (i) and (j) as
21 subsections (j) and (k), respectively; and

22 (2) by inserting after subsection (h) the fol-
23 lowing new subsection:

24 “(i) **PHARMACY BENEFIT MANAGER REIMBURSE-**
25 **MENT STANDARDS.**—(1) The Secretary of Defense shall
26 ensure that, as a condition of any contract entered into

1 for the administration of the pharmacy benefits program,
2 reimbursement to a retail pharmacy described in sub-
3 section (a)(2)(E)(ii) for a pharmaceutical agent provided
4 under such program shall be an amount that is equal to
5 not less than the sum of—

6 “(A) either—

7 “(i) the actual cost to the pharmacy of ac-
8 quiring such pharmaceutical agent from a
9 wholesaler, or

10 “(ii) in the case of a pharmaceutical agent
11 included on the national average drug acquisi-
12 tion cost index published by the Administrator
13 of the Centers for Medicare & Medicaid Serv-
14 ices, a proxy amount calculated at a rate that
15 is not lower than the national average acquisi-
16 tion cost for such pharmaceutical agent, as
17 identified on such cost index as of the date of
18 the adjudication of the claim for such reim-
19 bursement, and

20 “(B) a professional dispensing fee that is equal
21 to the professional dispensing fee paid by the State
22 in which the pharmacy is located under title XIX of
23 the Social Security Act (42 U.S.C. 1396 et seq.) for
24 dispensing a prescription drug.

1 “(2) The contractor administering the pharmacy ben-
2 efits program may not impose any fees on a retail phar-
3 macy described in subsection (a)(2)(E)(ii), including
4 point-of-sale fees, retroactive fees, or other indirect or hid-
5 den fees.

6 “(3)(A) Not less frequently than annually, the Comp-
7 troller General of the United States shall—

8 “(i) conduct an audit of—

9 “(I) data reported by the contractor re-
10 sponsible for the administration of the phar-
11 macy benefits program relating to the rates of
12 reimbursement under paragraph (1) and any
13 price concessions; and

14 “(II) the adequacy of the retail pharmacy
15 network under the TRICARE program and ac-
16 cess by eligible covered beneficiaries to such
17 network, including with respect to continuity of
18 care, geographic accessibility (taking into ac-
19 count factors in addition to travel time to and
20 from a pharmacy, with special consideration for
21 rural and underserved areas), and the extent to
22 which elections by such beneficiaries under sub-
23 section (a)(9) reflect personal preference; and

24 “(ii) submit the results of such audit to the
25 Committee on Armed Services of the Senate and the

1 Committee on Armed Services of the House of Rep-
2 resentatives.

3 “(B) The Secretary shall ensure that, as a condition
4 of any contract entered into for the administration of the
5 pharmacy benefits program, the contractor provides the
6 Comptroller General information required to conduct the
7 audit under subparagraph (A).”.

8 (c) REPORT.—Not later than 90 days after the date
9 of the enactment of this Act, the Secretary of Defense
10 shall submit to the congressional defense committees (as
11 defined in section 101(a)(16) of title 10, United States
12 Code) a plan for the implementation of this section.