



AMENDMENT NO. 3, as modified Calendar No. _____

Purpose: To clarify the requirement to disclose direct and indirect compensation from entities providing pharmacy benefit management services or third party administration services.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 1339

To provide for increased oversight of entities that provide pharmacy benefit management services on behalf of group health plans and health insurance coverage.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. Marshall

Viz:

Mr. Braun

1 At the appropriate place, insert the following:
2 **SEC. ____ . CLARIFICATION OF REQUIREMENT TO DISCLOSE**
3 **DIRECT AND INDIRECT COMPENSATION FOR**
4 **BROKERS AND CONSULTANTS TO EMPLOYER-**
5 **SPONSORED HEALTH PLANS.**

6 (a) IN GENERAL.—Section 408(b)(2)(B)(ii)(I)(bb) of
7 the Employee Retirement Income Security Act of 1974
8 (29 U.S.C. 1108(b)(2)(B)(ii)(I)(bb)) is amended by add-
9 ing at the end the following:

1 “(CC) Pharmacy benefit management services
2 provided by pharmacy benefit managers or other
3 service providers and related services provided by
4 third party administrators (or other entities pro-
5 viding such services) for which the covered service
6 provider, an affiliate, or a subcontractor reasonably
7 expects to receive indirect compensation or direct
8 compensation described in item (dd).”.

9 (b) REGULATIONS.—Not later than 18 months after
10 the date of enactment of this Act, the Secretary of Labor
11 shall promulgate regulations, through notice and comment
12 rulemaking, clarifying the requirements of section
13 408(b)(2)(B) of the Employee Retirement Income Secu-
14 rity Act of 1974 (29 U.S.C. 1108(b)(2)(B)) with respect
15 to covered service providers providing services described
16 in subitem (CC) of subclause (I)(bb) of such section, as
17 amended by subsection (a). Such regulations shall apply
18 with respect to any plan year that begins on or after the
19 date that is 6 months after such regulations are promul-
20 gated.

21 (c) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that the amendment made by subsection (a) clarifies
23 the existing requirement of covered service providers with
24 respect to services described in section
25 408(b)(2)(B)(ii)(I)(bb)(BB) of the Employee Retirement

1 Income Security Act of 1974 (29 U.S.C.
2 1108(b)(2)(B)(ii)(I)(bb)(BB)) that were in effect since the
3 application date described in section 202(e) of the No Sur-
4 prises Act (Public Law 116–260; 29 U.S.C. 1108 note),
5 and does not impose any additional requirement under
6 section 408(b)(2)(B) of such Act.