CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

April 16, 2007

S. 3
Medicare Prescription Drug Price Negotiation Act of 2007

As reported by the Senate Committee on Finance on April 13, 2007

S. 3 would revise section 1860D-11(i) of the Social Security Act, which is commonly known as the "noninterference provision" because it prohibits the Secretary of Health and Human Services from interfering in the negotiations between drug manufacturers, pharmacies, and sponsors of prescription drug plans (PDPs) involved in Part D of Medicare, or from requiring a particular formulary or price structure for covered Part D drugs. The bill also would make a number of other changes to Medicare's prescription drug program.

CBO estimates that enacting S. 3 would have a negligible effect on direct spending and would result in spending from appropriated funds of $2 million in 2008 and less than $500,000 annually in subsequent years. Enacting S. 3 would have no effect on revenues.

Section 2 of the bill would strike the clause of the noninterference provision that prohibits the Secretary from interfering in those negotiations. It would retain the clause that prohibits the Secretary from requiring a particular formulary or price structure, and it would allow PDPs to negotiate prices that are lower than those obtained by the Secretary.

CBO estimates that modifying the noninterference provision would have a negligible effect on federal spending because we anticipate that under the bill the Secretary would lack the leverage to negotiate prices across the broad range of covered Part D drugs that are more favorable than those obtained by PDPs under current law. Without the authority to establish a formulary or other tools to reduce drug prices, we believe that the Secretary would not obtain significant discounts from drug manufacturers across a broad range of drugs.

In addition, S. 3:

- Modify the rules governing access of Congressional support agencies to data on prescription drugs plans and Medicare Advantage plans,

- Authorize the disclosure of claims data for Part D to state Medicaid agencies,

- Require the Secretary to make data available to the public on the prices that enrollees in each plan are charged for covered Part D drugs,

- Require the Secretary to establish an advisory committee to assist with the development of a prioritized list of potential studies of the comparative clinical effectiveness of drugs covered under Part D,

- Require sponsors of PDPs to consider relevant studies of comparative clinical effectiveness when developing their Part D formularies, and

- Require the Congressional Budget Office, the Government Accountability Office, and the Medicare Payment Advisory Commission to prepare reports on Part D.

The bill would authorize the Secretary to charge nominal fees to offset the cost of furnishing data to the public.

CBO estimates that developing the prioritized list of comparative effectiveness studies and preparing the reports would cost $2 million in fiscal year 2008 and less than $500,000 annually in subsequent years, assuming the appropriation of the necessary amounts. Other provisions would have a negligible effect on spending.

S. 3 contains no intergovernmental or private-sector mandates, as defined in the Unfunded Mandates Reform Act. Under the bill, states could request and receive prescription drug data from the Secretary, provided that they limit disclosure and implement plans to safeguard the data. Any costs of safeguarding that data would be incurred voluntarily.

The CBO staff contacts for this estimate are Eric Rollins and Shinobu Suzuki (for federal costs), Leo Lex (for the state and local impact), and Stuart Hagen (for the private-sector impact). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.