

Union Calendar No. 634

119TH CONGRESS
2^D SESSION

H. R. 7895

[Report No. 119–729]

To amend section 408 of the Employee Retirement Income Security Act of 1974 to prohibit kickbacks to pharmacy benefit managers.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2026

Mr. ALLEN introduced the following bill; which was referred to the Committee on Education and Workforce

JULY 2, 2026

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 12, 2026]

A BILL

To amend section 408 of the Employee Retirement Income Security Act of 1974 to prohibit kickbacks 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 “PBM Kickback Prohibi-*
 5 *tion Act”.*

6 **SEC. 2. PROHIBITION ON PHARMACY BENEFIT MANAGER**
 7 **KICKBACKS.**

8 *(a) IN GENERAL.—Section 408(b)(2)(B) of the Em-*
 9 *ployee Retirement Income Security Act (29 U.S.C.*
 10 *1108(b)(2)(B)) is amended by adding at the end the fol-*
 11 *lowing:*

12 *“(xi)(I) In the case of a contract or arrangement*
 13 *between a covered plan and a covered service provider*
 14 *for pharmacy benefit management services, no*
 15 *amount of compensation (whether direct compensa-*
 16 *tion or indirect compensation) may be paid by such*
 17 *service provider to any individual or entity for—*

18 *“(aa) the referral, recommendation, place-*
 19 *ment, retention, or renewal of, or access to, the*
 20 *business of the covered plan or the health insur-*
 21 *ance issuer offering health insurance coverage for*
 22 *the covered plan;*

23 *“(bb) inclusion in, participation in, or the*
 24 *design of—*

25 *“(AA) a request for proposal;*

1 “(BB) a market check;

2 “(CC) an evaluation;

3 “(DD) the volume, value, or use of cov-
4 ered plan business; or

5 “(EE) any other contracting process.

6 “(II) For the purposes of this clause, the charac-
7 terization of compensation shall be based on the eco-
8 nomic substance and practical operation of the con-
9 tract or arrangement, without regard to the character-
10 ization or labeling of the compensation by the covered
11 service provider.

12 “(III) Any compensation paid by a covered serv-
13 ice provider to a brokerage firm, broker, consultant,
14 advisor, or related entity shall be presumed to be re-
15 lated to an activity described in item (aa) or (bb) of
16 subclause (I) unless the parties demonstrate through
17 contemporaneous written documentation that such
18 compensation—

19 “(aa) reflects fair market value for bona
20 fide services actually rendered; and

21 “(bb) is not related, directly or indirectly,
22 to any activity described in such items.”.

23 (b) *EFFECTIVE DATE.*—The amendment made by this
24 section shall apply for plan years beginning after the date
25 of enactment of this Act.

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