

Medicare Drug Formulary Protection Act of 2006
Rep. Xavier Becerra (CA-31)

What the bill does:

The bill gives peace of mind to seniors who have already enrolled in an approved Medicare prescription drug plan or Medicare Advantage prescription drug plan to know that the drugs the plan covers on the date they enroll cannot be removed for that calendar year.

Approved Medicare prescription drug plans are prohibited from removing a drug from their formulary or changing the preferred or tiered cost-sharing of such a drug until the beginning of each plan year or from the point a Medicare beneficiary enrolls in their plan until the end of the year in which they enroll with certain exceptions.

If at the end of the year during the open enrollment period, a prescription drug plan wants to change its formulary, it can do that. The plan must notify its enrollees of the formulary changes and seniors can then decide whether to stick with that plan or switch to a different plan.

Exceptions when plans can change their formularies during the year:

- A generic alternative is introduced in the market and added to the formulary in place of the drug.
- A brand name drug goes off-patent.
- The FDA Commissioner removes the drug from the market or imposes a restriction on the use of the drug.
- The Pharmacy and Therapeutic Committee of the plan determines, based directly on evidence from peer-reviewed research, that drug is unsafe or ineffective.
- The Secretary of HHS removes a drug.

Why the bill is necessary?

Under current law, prescription drug plans can change their drug formulary as many times as they want but seniors are prohibited from changing drug plans except during the annual open enrollment period with very limited exceptions. So, after wading through the maze of prescription drugs plans offered in their region and enrolling in a plan, seniors currently have no guarantee that the drug they need will be covered all year.

This assures seniors that the drug plan they enrolled in will cover the drugs it said it would when the senior enrolled in that plan.