

AMENDMENT TO H.R. 5613
OFFERED BY MR. DEAL OF GEORGIA

[Amendment is to Committee Print of Bill as Forwarded by
the Subcommittee on Health]

Add at the end the following:

1 **SEC. 7. MEDICAID PAYMENT FOR COVERED OUTPATIENT**
2 **DRUGS.**

3 (a) DISPENSING FEE.—Section 1927(e) of the Social
4 Security Act (42 U.S.C. 1396r–8(e)) is amended by add-
5 ing at the end the following new paragraph:

6 “(6) DISPENSING FEES.—

7 “(A) IN GENERAL.—A State which pro-
8 vides medical assistance for covered outpatient
9 drugs shall pay a dispensing fee for each cov-
10 ered outpatient drug that is dispensed, in ac-
11 cordance with this paragraph. A State may vary
12 the amount of such dispensing fees, including
13 taking into account the special circumstances of
14 pharmacies that are serving rural or under-
15 served areas or that are sole community phar-
16 macies, so long as such variation is consistent
17 with subparagraph (B).

1 “(B) MINIMUM DISPENSING FEE PAYMENT
2 FOR MULTIPLE SOURCE DRUGS.—A State shall
3 establish a dispensing fee under this title for a
4 covered outpatient drug that is a multiple
5 source drug described in paragraph (4) (wheth-
6 er or not it may be an innovator multiple source
7 drug) in an amount that is not less than \$9 per
8 prescription unit. The Secretary shall define
9 what constitutes a prescription unit for pur-
10 poses of the previous sentence.”.

11 (b) USE OF AMP AND STATE FLEXIBILITY IN
12 UPPER PAYMENT LIMITS.—Paragraph (5) of such section
13 is amended to read as follows:

14 “(5) USE OF AMP IN UPPER PAYMENT LIM-
15 ITS.—The Secretary shall calculate the Federal
16 upper reimbursement limit established under para-
17 graph (4) as no less than 300 percent of the weight-
18 ed average (determined on the basis of utilization) of
19 the most recent average manufacturer prices for
20 pharmaceutically and therapeutically equivalent mul-
21 tiple source drug products. ‘Nothing in this para-
22 graph shall be construed as preventing a State from
23 varying the amount paid different pharmacies for
24 such a product, including taking into account the
25 special circumstances of pharmacies that are serving

1 rural or underserved areas or that are sole commu-
2 nity pharmacies.’”.

3 (c) EXCLUSION OF MAIL ORDER PHARMACY DIS-
4 COUNTS IN COMPUTATION.—Section 1927(k)(1)(B) of
5 such Act (42 U.S.C. 1396r-8(k)(1)(B)) is amended—

6 (1) in the subparagraph heading, by striking
7 “EXTENDED TO WHOLESALERS” and inserting “AND
8 OTHER PAYMENTS”; and

9 (2) by striking “regard to” and all that follows
10 through the period and inserting the following: “re-
11 gard to—

12 “(i) customary prompt pay discounts ex-
13 tended to wholesalers; and

14 “(ii) payments received from, and rebates
15 or discounts provided to, mail order phar-
16 macies.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on October 1, 2008.