

AMENDMENT TO RULES
COMMITTEE PRINT 116–41
OFFERED BY MR. KENNEDY OF MASSACHUSETTS

In section 1192 of the Social Security Act, as proposed to be added by section 101(a)—

(1) in subsection (a), strike “the Secretary shall” and insert “subject to subsection (h), the Secretary shall”; and

(2) by adding at the end the following new subsection:

1 “(h) CONFLICT OF INTEREST.—

2 “(1) IN GENERAL.—In the case the General
3 Counsel of the Department of Health and
4 Human Services determines the Secretary has a
5 conflict, with respect to a matter described in
6 paragraph (2), the individual described in
7 paragraph (3) shall carry out the duties of the
8 Secretary under this part, with respect to a
9 negotiation-eligible drug, that would otherwise be
10 such a conflict.

11 “(2) MATTER DESCRIBED.—A matter described
12 in this paragraph is—

13 “(A) a financial interest (as described in
14 section 2635.402 of title 5, Code of Federal

1 Regulations (except for an interest described in
2 subsection (b)(2)(iv) of such section)) on the
3 date of the selected drug publication date, with
4 respect the price applicability year (as applica-
5 ble);

6 “(B) a personal or business relationship
7 (as described in section 2635.502 of such title)
8 on the date of the selected drug publication
9 date, with respect the price applicability year;

10 “(C) employment by a manufacturer of a
11 negotiation-eligible drug during the preceding
12 10-year period beginning on the date of the se-
13 lected drug publication date, with respect to
14 each price applicability year; and

15 “(D) any other matter the General Counsel
16 determines appropriate.

17 “(3) INDIVIDUAL DESCRIBED.—An individual
18 described in this paragraph is—

19 “(A) the highest-ranking officer or em-
20 ployee of the Department of Health and
21 Human Services (as determined by the organi-
22 zational chart of the Department) that does not
23 have a conflict under this subsection; and

1 “(B) is nominated by the President and
2 confirmed by the Senate with respect to the po-
3 sition;”.

