HOUSE DOCKET, NO. 2478 FILED ON: 1/19/2023

HOUSE . . . . . No. 943

The Commonwealth of Massachusetts

PRESENTED BY:

Christine P. Barber and William J. Driscoll, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to reduce co-pays for people with chronic conditions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Christine P. Barber	*34th Middlesex*	*1/19/2023*
William J. Driscoll, Jr.	*7th Norfolk*	*1/19/2023*
Lindsay N. Sabadosa	*1st Hampshire*	*1/19/2023*
Mindy Domb	*3rd Hampshire*	*1/19/2023*
Carmine Lawrence Gentile	*13th Middlesex*	*1/25/2023*
Susannah M. Whipps	*2nd Franklin*	*1/27/2023*
Brian W. Murray	*10th Worcester*	*1/29/2023*
Vanna Howard	*17th Middlesex*	*2/1/2023*
Patricia A. Duffy	*5th Hampden*	*2/2/2023*
Jennifer Balinsky Armini	*8th Essex*	*2/4/2023*
Bud L. Williams	*11th Hampden*	*2/6/2023*
Jon Santiago	*9th Suffolk*	*2/6/2023*
Patrick M. O'Connor	*First Plymouth and Norfolk*	*2/8/2023*
Colleen M. Garry	*36th Middlesex*	*2/13/2023*
James B. Eldridge	*Middlesex and Worcester*	*2/16/2023*
Natalie M. Higgins	*4th Worcester*	*3/14/2023*
Tommy Vitolo	*15th Norfolk*	*3/15/2023*
Samantha Montaño	*15th Suffolk*	*3/25/2023*

Adrian C. Madaro	*1st Suffolk*	*4/20/2023*
Mike Connolly	*26th Middlesex*	*4/28/2023*

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HOUSE . . . . . No. 943

By Representatives Barber of Somerville and Driscoll of Milton, a petition (accompanied by bill, House, No. 943) of Christine P. Barber, William J. Driscoll, Jr., and others for legislation to reduce health insurance co-pays for people with chronic conditions. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to reduce co-pays for people with chronic conditions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 6A of the General Laws is hereby amended by adding the following section:-

Section 16DD. (a) The following terms shall have the following meanings, unless the context clearly requires otherwise:

"Brand name drug", a drug that is: (i) produced or distributed pursuant to an original new drug application approved under 21 U.S.C. 355(c) except for: (a) any drug approved through an application submitted under section 505(b)(2) of the federal Food, Drug, and Cosmetic Act that is pharmaceutically equivalent, as that term is defined by the United States Food and Drug Administration, to a drug approved under 21 U.S.C. 355(c); (b) an abbreviated new drug application that was approved by the United States Secretary of Health and Human Services under section 505(c) of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(c), before the 2 of 53 date of the enactment of the federal Drug Price Competition and Patent Term Restoration

Act of 1984, Public Law 98-417, 98 Stat. 1585; or (c) an authorized generic drug as defined by 42 C.F.R. 447.502; (ii) produced or distributed pursuant to a biologics license application approved under 42 U.S.C. 262(a)(2)(C); or (iii) identified by the health benefit plan as a brand name drug based on available data resources such as Medi-Span.

"Generic drug", a retail drug that is: (i) marketed or distributed pursuant to an abbreviated new drug application approved under 21 U.S.C. 355(j); (ii) an authorized generic drug as defined by 42 C.F.R. 447.502; (iii) a drug that entered the market before January 1, 1962 and was not originally marketed under a new drug application; or (iv) identified by the health benefit plan as a generic drug based on available data resources such as Medi-Span.

(b) Notwithstanding any general or special law to the contrary, there shall be a drug access program, administered by the executive office of health and human services, for the purpose of enhancing access to targeted high-value medications used to treat certain chronic conditions. To implement this program, the secretary of health and human services, in consultation with the department of public health, the center for health information and analysis, and the division of insurance, shall identify one generic drug and one brand name drug used to treat each of the following chronic conditions: (i) diabetes; (ii) asthma; and (iii) heart conditions, including, but not limited to, hypertension and coronary artery disease. In determining the one generic drug and one brand name drug used to treat each chronic condition, the secretary shall consider whether the drug is:

(1) of clear benefit and strongly supported by clinical evidence to be cost-effective;

(2) likely to reduce hospitalizations or emergency department visits, or reduce future exacerbations of illness progression, or improve quality of life;

(3) relatively low cost when compared to the cost of an acute illness or incident prevented or delayed by the use of the service, treatment or drug;

(4) at low risk for overutilization, abuse, addiction, diversion or fraud; and

(5) widely utilized as a treatment for the chronic condition.

(c) The secretary shall identify insulin as the drug used to treat diabetes under the program.

(d) The secretary, in consultation with the division of insurance, shall promulgate rules and regulations necessary to implement this section.

(e) Every two years, the secretary, in consultation with the center for health information and analysis shall evaluate the impact of the program established in this section on drug treatment adherence, incidence of related acute events, premiums and cost-sharing, overall health, long-term health costs, and any other issues that the secretary may deem relevant. The secretary may collaborate with an independent research organization to conduct such evaluation. The secretary shall file a report of its findings with the clerks of the house of representatives and senate, the chairs of the joint committee on public health, the chairs of the joint committee on health care financing and the chairs of house and senate committees on ways and means.

SECTION 2. Section 17G of chapter 32A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following sentence:-

Coverage for one brand name insulin drug per dosage and type including rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting and premixed under this section shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25

per 30-day supply, regardless of the amount or type of insulin needed to fill an insured's prescription; provided, however, that nothing in this section shall prevent the commission and its contracted health benefit plans from reducing the co-payment for insulin for a 30-day supply below the amount specified in this section.

SECTION 3. Chapter 32A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 17R the following section:-

Section 17S. Any carrier offering a policy, contract or certificate of health insurance under this chapter shall provide coverage for the brand name drugs and generic drugs identified by the drug access program established in section 16DD in chapter 6A. Coverage for identified generic drugs shall not be subject to any cost-sharing, including co-payments and co-insurance, and shall not be subject to any deductible. Coverage for identified brand name drugs shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply.

Notwithstanding this section or any other general or special law to the contrary, coverage for insulin shall be provided under section 17G of this chapter.

SECTION 4. Section 10C of chapter 118E of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following sentence:-

Coverage for one brand name insulin drug per dosage and type including rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting and premixed under this section shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply, regardless of the amount or type of insulin needed to fill an insured's prescription; provided, however, that nothing in this section shall prevent the division and its

contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract with the division, a Medicaid managed care organization or a primary care clinician plan, from reducing the co-payments for insulin for a 30-day supply below the amount specified in this section.

SECTION 5. Chapter 118E of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 10N the following section:-

Section 10O. Any carrier offering a policy, contract or certificate of health insurance under this chapter shall provide coverage for the brand name drugs and generic drugs identified by the drug access program established in section 16DD in chapter 6A. Coverage for identified generic drugs shall not be subject to any cost-sharing, including co-payments and co-insurance, and shall not be subject to any deductible. Coverage for identified brand name drugs shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply.

Notwithstanding this section or any other general or special law to the contrary, coverage for insulin shall be provided under section 10C of this chapter.

SECTION 6. Section 47N of chapter 175 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Coverage for one brand name insulin drug per dosage and type including rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting and premixed under this section shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply, regardless of the amount or type of insulin needed to fill an insured’s insulin prescription; provided, however, that nothing in this section shall prevent an individual policy of

accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance or a group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance that is issued or renewed within or without the commonwealth, from reducing the co-payment for insulin for a 30-day supply below the amount specified in this section.

SECTION 7. Chapter 175 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 47PP the following new section:-

Section 47QQ. Any carrier offering a policy, contract or certificate of health insurance under this chapter shall provide coverage for the brand name drugs and generic drugs identified by the drug access program established in section 16DD in chapter 6A. Coverage for identified generic drugs shall not be subject to any cost-sharing, including co-payments and co-insurance, and shall not be subject to any deductible. Coverage for identified brand name drugs shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply.

Notwithstanding this section or any other general or special law to the contrary, coverage for insulin shall be provided under section 47N of this chapter.

SECTION 8. Section 8P of chapter 176A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Coverage for one brand name insulin drug per dosage and type including rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting and premixed under this section shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply, regardless of the amount or type of insulin needed to fill an insured’s insulin

prescription; provided, however, that nothing in this section shall prevent a contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within or without the commonwealth, from reducing the co-payment for insulin for a 30-day supply below the amount specified in this section.

SECTION 9. Chapter 176A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 8QQ the following new section:-

Section 8RR. Any carrier offering a policy, contract or certificate of health insurance under this chapter shall provide coverage for the brand name drugs and generic drugs identified by the drug access program established in section 16DD in chapter 6A. Coverage for identified generic drugs shall not be subject to any cost-sharing, including co-payments and co-insurance, and shall not be subject to any deductible. Coverage for identified brand name drugs shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply.

Notwithstanding this section or any other general or special law to the contrary, coverage for insulin shall be provided under section 8P of this chapter.

SECTION 10. Section 4S of chapter 176B of the General Laws, as so appearing, is hereby amended by adding the following sentence:-

Coverage for one brand name insulin drug per dosage and type including rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting and premixed under this section shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply, regardless of the amount or type of insulin needed to fill an insured’s insulin prescription; provided, however, that nothing in this section shall prevents a subscription

certificate under an individual or group medical service agreement that is issued or renewed within or without the commonwealth, from reducing the co-payment for insulin for a 30-day supply below the amount specified in this section.

SECTION 11. Chapter 176B of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 4QQ the following new section:-

Section 4RR. Any carrier offering a policy, contract or certificate of health insurance under this chapter shall provide coverage for the brand name drugs and generic drugs identified by the drug access program established in section 16DD in chapter 6A. Coverage for identified generic drugs shall not be subject to any cost-sharing, including co-payments and co-insurance, and shall not be subject to any deductible. Coverage for identified brand name drugs shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply.

Notwithstanding this section or any other general or special law to the contrary, coverage for insulin shall be provided under section 4S of this chapter.

SECTION 12. Section 4H of chapter 176G of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Coverage for one brand name insulin drug per dosage and type including rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting and premixed under this section shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply, regardless of the amount or type of insulin needed to fill an insured’s insulin prescription; provided, however, that nothing in this section shall prevent any individual or group health maintenance contract that is issued or renewed within or without the commonwealth, from

reducing the co-payment for insulin for a 30-day supply below the amount specified in this section.

SECTION 13. Chapter 176G of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 4GG the following new section:-

Section 4HH. Any carrier offering a policy, contract or certificate of health insurance under this chapter shall provide coverage for the brand name drugs and generic drugs identified by the drug access program established in section 16DD in chapter 6A. Coverage for identified generic drugs shall not be subject to any cost-sharing, including co-payments and co-insurance, and shall not be subject to any deductible. Coverage for identified brand name drugs shall not be subject to any deductible or co-insurance and any co-payment shall not exceed $25 per 30-day supply.

Notwithstanding this section or any other general or special law to the contrary, coverage for insulin shall be provided under section 4H of this chapter.

SECTION 14. The drug access program, established in section 16DD of chapter 6A of the General Laws, shall take effect not later than 1 year after the effective date of this act.