

SENATE No. 625

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 relative to out-of-pocket expenses for covid-19 therapeutics.

PETITION OF:

NAME:

Sal N. DiDomenico

DISTRICT/ADDRESS:

Middlesex and Suffolk

SENATE No. 625

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 625) of Sal N. DiDomenico for legislation relative to out-of-pocket expenses for covid-19 therapeutics. Financial Services.

The Commonwealth of Massachusetts

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

An Act relative to out-of-pocket expenses for covid-19 therapeutics.

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

1 SECTION 1. Notwithstanding any other law, Sections 1-8 shall refer to a health care
2 service plan contract issued, amended, or renewed on or after the operative date of this
3 subdivision that covers medical, surgical, and hospital benefits, excluding a specialized health
4 care service plan contract, with respect to therapeutics for COVID-19 covered under the contract,
5 which shall include therapeutics approved or granted emergency use authorization by the federal
6 Food and Drug Administration for treatment of COVID-19 when prescribed or furnished by a
7 licensed health care provider acting within their scope of practice and the standard of care.

8 (a) A health care service plan contract that covers medical, surgical, and hospital
9 benefits, excluding a specialized health care service plan contract, shall cover, without cost
10 sharing and without prior authorization or other utilization management, the costs of therapeutics
11 for COVID-19 covered under the contract, which shall include therapeutics approved or granted
12 emergency use authorization by the federal Food and Drug Administration for treatment of

13 COVID-19 when prescribed or furnished by a licensed health care provider acting within their
14 scope of practice and the standard of care.

15 SECTION 2. A health care service plan shall reimburse a provider for the therapeutics
16 described in paragraph (1) at the specifically negotiated rate for those therapeutics, if the plan
17 and provider have negotiated a rate. If the plan does not have a negotiated rate with a provider,
18 the plan may negotiate a rate with the provider.

19 SECTION 3. For an out-of-network provider with whom a health care service plan does
20 not have a negotiated rate for the therapeutics described in paragraph (1), a health care service
21 plan shall reimburse the provider for the therapeutics in an amount that is reasonable, as
22 determined in comparison to prevailing market rates for the therapeutics in the geographic region
23 in which the therapeutic was delivered. An out-of-network provider shall accept this payment as
24 payment in full, shall not seek additional remuneration from an enrollee, and shall not report
25 adverse information to a consumer credit reporting agency or commence civil action against the
26 enrollee for therapeutics described in this subdivision.

27 SECTION 4. A health care service plan shall cover COVID-19 therapeutics without cost
28 sharing, regardless of whether the therapeutics are provided by an in-network or out-of-network
29 provider, and without utilization management. If a provider would have been entitled to receive
30 cost sharing but for this section, the health care service plan shall reimburse the provider for the
31 lost cost sharing. A provider shall accept this payment as payment in full, shall not seek
32 additional remuneration from an enrollee, and shall not report adverse information to a consumer
33 credit reporting agency or commence civil action against the enrollee for therapeutics pursuant to
34 this subdivision.

35 SECTION 5. Beginning six months after the federal public health emergency expires, a
36 health care service plan shall no longer be required to cover the cost sharing for COVID-19
37 therapeutics delivered by an out-of-network provider, unless otherwise required by law.

38 SECTION 6. For purposes of this section, “health care service plan” includes a health
39 plan service plan offered on the Massachusetts Health Connector that provides coverage for
40 hospital, medical, surgical, or prescription drug benefits, excluding a specialized health insurance
41 policy that provides coverage only for dental or vision benefits.

42 SECTION 7. For purposes of this section, “health care service plan” includes a
43 MassHealth managed care plan that contracts with Massachusetts Department of Health and
44 Human Services. MassHealth shall seek any federal approvals it deems necessary to implement
45 this section. This section applies to a MassHealth managed care plan contract only to the extent
46 that MassHealth obtains any necessary federal approvals, and federal financial participation
47 under the Medicaid program is available and not otherwise jeopardized.

48 SECTION 8. This section applies to a disability insurance policy that provides coverage
49 for hospital, medical, surgical, or prescription drug benefits, excluding a specialized health
50 insurance policy that provides coverage only for dental or vision benefits.

51 (a) A disability insurance policy shall cover, without cost sharing and without prior
52 authorization or other utilization management requirements, the costs of COVID-19 therapeutics
53 approved or granted emergency use authorization by the federal Food and Drug Administration.