

HOUSE No. 4689

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to manufacturer rebates and discount programs..

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. Section 3 of chapter 175H of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting before the word “Any”, in line 1, the following:-

3 (a).

4 SECTION 2. Said section 3 of said chapter 175H, as so appearing, is hereby further
5 amended by inserting after word “rebate”, in line 7, the following words:- except as provided in
6 subsection (b),.

7 SECTION 3. Said section 3 of said chapter 175H, as so appearing, is hereby further
8 amended by adding the following subsection:-

9 (b) This section shall not apply to a discount, rebate, product voucher or other reduction
10 in an individual’s out-of-pocket expenses, including co-payments and deductibles on a
11 prescription drug, biologic or vaccine provided by a pharmaceutical manufacturing company, as
12 defined in section 1 of chapter 111N, that is made available to an individual if the discount,
13 rebate, product voucher or other reduction is provided directly or electronically to the individual

14 or through a point of sale or mail-in rebate, or through similar means; provided, however, that a
15 pharmaceutical manufacturing company shall not exclude nor favor any pharmacy in the
16 redemption of such discount, rebate, product voucher or other expense reduction offer to an
17 individual.

18 This subsection shall not: (i) restrict a pharmaceutical manufacturing company with
19 regard to how it distributes a prescription drug, biologic or vaccine; or (ii) restrict a carrier or a
20 health maintenance organization, as defined in section 1 of chapter 118G, with regard to how its
21 plan design will treat such discounts, rebates, product voucher or other reduction in out-of-
22 pocket expenses.

23 For purposes of the federal Health Insurance Portability and Accountability Act of 1996,
24 hereinafter HIPAA, and regulations promulgated under HIPAA, nothing in this subsection shall
25 be deemed to require or allow the use or disclosure of health information in any manner that does
26 not otherwise comply with HIPAA or regulations promulgated under HIPAA.