

HOUSE No. 988

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to providing equity in the provision of prescription drug coverage..

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. Chapter 19A of the General Laws is hereby amended by adding at the end
2 thereof the following new section:—

3 Section 41. Equity in provision of prescription drug coverage in general — A health plan,
4 and a health insurance issuer offering health insurance coverage, that provides for mail-order
5 prescription drug coverage (as defined in paragraph (3)(A)) shall also provide non-mail-order
6 prescription drug coverage consistent with paragraph (2).

7 (2) Equitable coverage — A plan or coverage provides non-mail-order prescription drug
8 coverage consistent with this paragraph only if—

9 (A) benefits under the non-mail-order prescription coverage are provided for in the case
10 of all drugs and all circumstances under which benefits are provided under the mail-order
11 prescription drug coverage;

12 (B) no deductible or similar cost-sharing is imposed with respect to benefits under the
13 non-mail-order prescription drug coverage unless such a deductible or similar cost-sharing is
14 imposed with respect to benefits under the mail-order prescription drug coverage; and

15 (C) the benefits for the non-mail-order coverage assures payments consistent with either
16 (or both) of the following clauses:

17 (1) The dollar amount of payment for prescription drug coverage is not less than the
18 dollar amount of benefits provided with respect to the mail-order coverage for that same
19 coverage.

20 (2) The cost-sharing (including deductibles, copayments, or coinsurance) imposed with
21 respect to non-mail-order coverage is not greater (as a percentage of charges or dollar amount, as
22 specified under the coverage) than the cost-sharing imposed with respect to the mail-order
23 coverage.

24 (3) Definitions — For purposes of this subsection:

25 (A) Mail-order prescription drug coverage — The term “mail-order prescription drug
26 coverage” means provision of benefits for prescription drugs and biologicals that are delivered
27 directly to participants and beneficiaries through the mail or similar means.

28 (B) Non-mail-order prescription drug coverage — The term “non-mail-order prescription
29 drug coverage” means the provision of benefits for prescription drugs and biologicals through
30 one or more local pharmacies.

31 (D) Health plan — The term “health plan” means an accident and health insurance policy
32 or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance

33 organization subscriber contract; a plan provided by a multiple employer welfare arrangement; a
34 Medicare+Choice plan; Medigap and Medicare Select Policies; or a plan provided by another
35 benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of
36 1974, as amended, or by any waiver of or other exception to that Act provided under federal law
37 or regulation. Without limitation, “health plan” does not mean any of the following types of
38 insurance: Accident, Credit, Disability income, Specified disease, Dental or vision, Coverage
39 issued as a supplement to liability insurance, Medical payments under automobile or
40 homeowners, Insurance under which benefits are payable with or without regard to fault and is
41 statutorily required to be contained in any liability policy or equivalent self-insurance, and
42 Hospital indemnity policy or certificate.

43 (b) Prohibitions — A health plan as defined in paragraph (3)(D), may not provide
44 monetary payments or rebates to an individual to encourage such individual to accept less than
45 the minimum protections available under this section.