

SENATE No. 315

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act restoring the Medicare Part D safety net prescription drug coverage for seniors and the disabled.

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. Said chapter 175 of the acts of 2005, as so amended, is hereby amended by
2 striking out sections 7A and 7B and inserting in place thereof the following sections:-

3 Section 7A. Notwithstanding any general or special law to the contrary, the subsidized
4 catastrophic prescription drug insurance program established in section 39 of chapter 19A of the
5 General Laws shall provide coverage each calendar year for a 1-time supply of prescribed
6 medications in the amount prescribed, up to a 30-day supply, to enrollees who are also eligible
7 for Medicare prescription drug coverage and who have not already received during the current
8 calendar year a 1-time supply under this section. After an enrollee exhausts the availability of
9 the annual 1-time 30-day supply of a medication under this section, the program shall provide
10 coverage, free of charge, for a 1-time, 72-hour supply of the medication each calendar year.

11 Both the 30-day supply and the 72-hour supply shall be available in all instances in which the
12 pharmacist cannot bill a Medicare prescription drug plan at the time the prescription is presented.

13 Any co-pay or deductible that would have been charged to the enrollee under section 39 of
14 chapter 19A shall not apply to the annual 1-time 30 day supply.

15 Section 7B. Notwithstanding any general or special law to the contrary, the secretary of
16 health and human services, in consultation with the director of Medicaid, shall authorize
17 MassHealth payment each calendar year for a 1-time supply of prescribed medications in the
18 amount prescribed, up to a 30-day supply, to beneficiaries under chapter 118E of the General
19 Laws who are also eligible for Medicare prescription drug coverage and who have not already
20 received during the current calendar year a 1-time supply under this section. After a beneficiary
21 exhausts the availability of the annual 1-time, 30-day supply of a medication under this section,
22 MassHealth shall provide coverage, free of charge, for a 1-time, 72-hour supply of the
23 medication each calendar year. Both the 30-day supply and the 72-hour supply shall be available
24 in all instances in which the pharmacist cannot bill a Medicare prescription drug plan at the time
25 the prescription is presented. Any co-pay or deductible that would have been charged to the
26 beneficiary under MassHealth shall apply to the annual 1-time, 30-day supply.

27 SECTION 2. Said chapter 175 of the acts of 2005, as so amended, is hereby amended by
28 inserting after section 7B the following 2 sections:-

29 Section 7C. Notwithstanding section 7D or any general or special law to the contrary,
30 between January 1, 2007 and December 31, 2007, in the event that the Medicare prescription
31 drug plan covers the prescribed medication at the time the prescription is presented, but charges a
32 co-pay or deductible to a MassHealth member that exceeds the amount federal Medicare law
33 permits the plan to charge a non-institutionalized full benefit dual eligible member with income

34 less than or equal to 100% of the federal poverty line, MassHealth shall pay the amount of such
35 excess and the beneficiary shall pay the balance.

36 Section 7D. Notwithstanding any general or special law to the contrary, in the event that
37 the Medicare prescription drug plan covers the prescribed medication at the time the prescription
38 is presented, but charges a co- pay or deductible to a MassHealth member whose MassHealth co-
39 pay would be zero, MassHealth shall pay the entire amount of that co-pay or deductible. In the
40 event that the Medicare prescription drug plan covers the prescribed medication at the time the
41 prescription is presented, but charges a co-pay or deductible to a MassHealth member in excess
42 of what would have been charged to the beneficiary under MassHealth, MassHealth shall pay the
43 excess amount and the beneficiary shall pay what would be payable under MassHealth.

44 SECTION 3. Said chapter 175 of the acts of 2005, as so amended, is hereby amended by
45 inserting after section 8 the following 2 sections:-

46 Section 9. Notwithstanding any general or special law to the contrary, the secretary of
47 health and human services, in consultation with the director of Medicaid, shall authorize
48 MassHealth coverage for beneficiaries under chapter 118E of the General Laws who are also
49 eligible for Medicare prescription drug coverage for all medications which are excluded from
50 coverage under Medicare under 42 U.S.C. 1395w-102(e)(2) but would be covered for that
51 beneficiary under MassHealth, or appropriate regulations, were he not eligible for Medicare
52 prescription drug coverage. Any co-pay or deductible that would have been charged to the
53 beneficiary under MassHealth shall apply thereto.

54 Section 10. Notwithstanding any general or special law to the contrary, the subsidized
55 catastrophic prescription drug insurance program established in section 39 of chapter 19A of the

56 General Laws shall provide coverage for all medications which are excluded from coverage
57 under Medicare under 42 U.S.C. 1395w-102(e)(2) but would be covered for that beneficiary
58 under said section 39, or appropriate regulations, were he not eligible for Medicare prescription
59 drug coverage. Any co-pay or deductible that would have been charged to the enrollee under
60 said section 39 shall apply thereto.