

**SENATE . . . . . No. 519**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Barbara A. L'Italien***

*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 ensuring transparency of health plan formularies.

PETITION OF:

| NAME:                       | DISTRICT/ADDRESS:                  |
|-----------------------------|------------------------------------|
| <i>Barbara A. L'Italien</i> | <i>Second Essex and Middlesex</i>  |
| <i>Jason M. Lewis</i>       | <i>Fifth Middlesex</i>             |
| <i>Colleen M. Garry</i>     | <i>36th Middlesex</i>              |
| <i>Marcos A. Devers</i>     | <i>16th Essex</i>                  |
| <i>James Arciero</i>        | <i>2nd Middlesex</i>               |
| <i>Robert L. Hedlund</i>    | <i>Plymouth and Norfolk</i>        |
| <i>Mark C. Montigny</i>     | <i>Second Bristol and Plymouth</i> |

**SENATE . . . . . No. 519**

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By Mrs. L'Italien, a petition (accompanied by bill, Senate, No. 519) of Barbara L'Italien, Jason M. Lewis, Colleen M. Garry, Marcos A. Devers and other members of the General Court for legislation relative to ensuring transparency of health plan formularies. Financial Services.

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The Commonwealth of Massachusetts

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act relative to ensuring transparency of health plan formularies.

*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 175 of the General Laws is hereby amended by inserting after  
2 section 110M the following section:-

3 Section 110N. Any policy, contract, agreement, plan or certificate of insurance issued,  
4 delivered or renewed within the commonwealth on or after January 1, 2017, shall:

5 (a) Post the formulary for the health plan on the carrier's web site in a manner that is  
6 accessible and searchable by enrollees, potential enrollees, and providers;

7 (b) Update the formulary posted pursuant to subsection (1)(a) of this section no later than  
8 twenty-four hours after making a change to the formulary; and

9 (c) Include on any published formulary for the plan, including but not limited to the  
10 formulary posted pursuant to subsection (1)(a) of this section, the following:

11 (i) Any utilization management edits -- including prior authorization, step therapy edits,  
12 quantity limits, or other requirements -- for each specific drug included in the formulary; and

13 (ii) For each drug included on the formulary and subject to a coinsurance, the range of  
14 cost sharing for a potential enrollee if the potential enrollee purchases the drug in person at an in-  
15 network pharmacy, as follows:

16 (A) Under one hundred dollars: \$;

17 (B) One hundred dollars to two hundred fifty dollars: \$\$;

18 (C) Two hundred fifty-one dollars to five hundred dollars: \$\$\$; and

19 (D) Over five hundred dollars: \$\$\$\$.

20 (iii) If the carrier allows the option for mail order pharmacy, the carrier separately must  
21 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug  
22 through a mail order facility utilizing the same ranges as provided in section (1)(c)(2).

23 (2) The formulary posted pursuant to subsection (1)(a) of this section must use a template  
24 that:

25 (a) Is standardized across all health plans offered by the carrier;

26 (b) Uses the United States pharmacopeia classification system;

27 (c) Organizes drugs by therapeutic class, listing drugs alphabetically; and

28 (d) Provides a separate list for drugs used to treat a serious illness covered under the  
29 plan's medical benefit.

30 (3) Each carrier offering or renewing a health plan on or after January 1, 2017, must  
31 make available to current and potential enrollees the information mandated under section (1) and  
32 (2). The information must be available prior to the beginning of the open enrollment period and  
33 must be done via a public website and through a toll free number that is posted on the carrier's  
34 website.

35 (4) Each carrier offering or renewing a health plan on or after January 1, 2017, must, no  
36 later than thirty days after the offer or renewal date, attest to the office of the insurance  
37 commissioner that the carrier has satisfied the requirements of this section.

38 (5) The Commissioner of the Division of Insurance may adopt rules to implement this  
39 section.

40 (6) For purposes of this section, "formulary" means the complete list of drugs preferred  
41 for use and eligible for coverage under the health plan, including drugs covered under the plan's  
42 pharmacy benefit and medical benefit.

43 SECTION 2. Chapter 176A of the General Laws is hereby amended by inserting after  
44 section 8AA the following section:-

45 Section 8BB. Any contract between a subscriber and the corporation under an individual  
46 or group hospital service plan delivered or issued or renewed within the commonwealth on or  
47 after January 1, 2017, shall:

48 (a) Post the formulary for the health plan on the carrier's web site in a manner that is  
49 accessible and searchable by enrollees, potential enrollees, and providers;

50 (b) Update the formulary posted pursuant to subsection (1)(a) of this section no later than  
51 twenty-four hours after making a change to the formulary; and

52 (c) Include on any published formulary for the plan, including but not limited to the  
53 formulary posted pursuant to subsection (1)(a) of this section, the following:

54 (i) Any utilization management edits -- including prior authorization, step therapy edits,  
55 quantity limits, or other requirements -- for each specific drug included in the formulary; and

56 (ii) For each drug included on the formulary and subject to a coinsurance, the range of  
57 cost sharing for a potential enrollee if the potential enrollee purchases the drug in person at an in-  
58 network pharmacy, as follows:

59 (A) Under one hundred dollars: \$;

60 (B) One hundred dollars to two hundred fifty dollars: \$\$;

61 (C) Two hundred fifty-one dollars to five hundred dollars: \$\$\$; and

62 (D) Over five hundred dollars: \$\$\$\$.

63 (iii) If the carrier allows the option for mail order pharmacy, the carrier separately must  
64 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug  
65 through a mail order facility utilizing the same ranges as provided in section (1)(c)(2).

66 (2) The formulary posted pursuant to subsection (1)(a) of this section must use a template  
67 that:

68 (a) Is standardized across all health plans offered by the carrier;

69 (b) Uses the United States pharmacopeia classification system;  
70 (c) Organizes drugs by therapeutic class, listing drugs alphabetically; and  
71 (d) Provides a separate list for drugs used to treat a serious illness covered under the  
72 plan's medical benefit.

73 (3) Each carrier offering or renewing a health plan on or after January 1, 2017, must  
74 make available to current and potential enrollees the information mandated under section (1) and  
75 (2). The information must be available prior to the beginning of the open enrollment period and  
76 must be done via a public website and through a toll free number that is posted on the carrier's  
77 website.

78 (4) Each carrier offering or renewing a health plan on or after January 1, 2017, must, no  
79 later than thirty days after the offer or renewal date, attest to the office of the insurance  
80 commissioner that the carrier has satisfied the requirements of this section.

81 (5) The Commissioner of the Division of Insurance may adopt rules to implement this  
82 section.

83 (6) For purposes of this section, "formulary" means the complete list of drugs preferred  
84 for use and eligible for coverage under the health plan, including drugs covered under the plan's  
85 pharmacy benefit and medical benefit.

86 SECTION 3. Chapter 176B of the General Laws is hereby amended by inserting after  
87 section 4AA the following section:-

88 Section 4BB. Any subscription certificate under an individual or group medical service  
89 agreement delivered, issued or renewed within the commonwealth on or after January 1, 2017,  
90 shall:

91 (a) Post the formulary for the health plan on the carrier's web site in a manner that is  
92 accessible and searchable by enrollees, potential enrollees, and providers;

93 (b) Update the formulary posted pursuant to subsection (1)(a) of this section no later than  
94 twenty-four hours after making a change to the formulary; and

95 (c) Include on any published formulary for the plan, including but not limited to the  
96 formulary posted pursuant to subsection (1)(a) of this section, the following:

97 (i) Any utilization management edits -- including prior authorization, step therapy edits,  
98 quantity limits, or other requirements -- for each specific drug included in the formulary; and

99 (ii) For each drug included on the formulary and subject to a coinsurance, the range of  
100 cost sharing for a potential enrollee if the potential enrollee purchases the drug in person at an in-  
101 network pharmacy, as follows:

102 (A) Under one hundred dollars: \$;

103 (B) One hundred dollars to two hundred fifty dollars: \$\$;

104 (C) Two hundred fifty-one dollars to five hundred dollars: \$\$\$; and

105 (D) Over five hundred dollars: \$\$\$\$.

106 (iii) If the carrier allows the option for mail order pharmacy, the carrier separately must  
107 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug  
108 through a mail order facility utilizing the same ranges as provided in section (1)(c)(2).

109 (2) The formulary posted pursuant to subsection (1)(a) of this section must use a template  
110 that:

111 (a) Is standardized across all health plans offered by the carrier;

112 (b) Uses the United States pharmacopeia classification system;

113 (c) Organizes drugs by therapeutic class, listing drugs alphabetically; and

114 (d) Provides a separate list for drugs used to treat a serious illness covered under the  
115 plan's medical benefit.

116 (3) Each carrier offering or renewing a health plan on or after January 1, 2017, must  
117 make available to current and potential enrollees the information mandated under section (1) and  
118 (2). The information must be available prior to the beginning of the open enrollment period and  
119 must be done via a public website and through a toll free number that is posted on the carrier's  
120 website.

121 (4) Each carrier offering or renewing a health plan on or after January 1, 2017, must, no  
122 later than thirty days after the offer or renewal date, attest to the office of the insurance  
123 commissioner that the carrier has satisfied the requirements of this section.

124 (5) The Commissioner of the Division of Insurance may adopt rules to implement this  
125 section.



126 (6) For purposes of this section, "formulary" means the complete list of drugs preferred  
127 for use and eligible for coverage under the health plan, including drugs covered under the plan's  
128 pharmacy benefit and medical benefit.

129 SECTION 4. Chapter 176G of the General Laws is hereby amended by inserting after  
130 section 4S the following section:-

131 Section 4T. Any individual or group health maintenance contract issued on or after  
132 January 1, 2017, shall:

133 (a) Post the formulary for the health plan on the carrier's web site in a manner that is  
134 accessible and searchable by enrollees, potential enrollees, and providers;

135 (b) Update the formulary posted pursuant to subsection (1)(a) of this section no later than  
136 twenty-four hours after making a change to the formulary; and

137 (c) Include on any published formulary for the plan, including but not limited to the  
138 formulary posted pursuant to subsection (1)(a) of this section, the following:

139 (i) Any utilization management edits -- including prior authorization, step therapy edits,  
140 quantity limits, or other requirements -- for each specific drug included in the formulary; and

141 (ii) For each drug included on the formulary and subject to a coinsurance, the range of  
142 cost sharing for a potential enrollee if the potential enrollee purchases the drug in person at an in-  
143 network pharmacy, as follows:

144 (A) Under one hundred dollars: \$;

145 (B) One hundred dollars to two hundred fifty dollars: \$\$;

146 (C) Two hundred fifty-one dollars to five hundred dollars: \$\$\$; and

147 (D) Over five hundred dollars: \$\$\$\$.

148 (iii) If the carrier allows the option for mail order pharmacy, the carrier separately must  
149 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug  
150 through a mail order facility utilizing the same ranges as provided in section (1)(c)(2).

151 (2) The formulary posted pursuant to subsection (1)(a) of this section must use a template  
152 that:

153 (a) Is standardized across all health plans offered by the carrier;

154 (b) Uses the United States pharmacopeia classification system;

155 (c) Organizes drugs by therapeutic class, listing drugs alphabetically; and

156 (d) Provides a separate list for drugs used to treat a serious illness covered under the  
157 plan's medical benefit.

158 (3) Each carrier offering or renewing a health plan on or after January 1, 2017, must  
159 make available to current and potential enrollees the information mandated under section (1) and  
160 (2). The information must be available prior to the beginning of the open enrollment period and  
161 must be done via a public website and through a toll free number that is posted on the carrier's  
162 website.

163 (4) Each carrier offering or renewing a health plan on or after January 1, 2017, must, no  
164 later than thirty days after the offer or renewal date, attest to the office of the insurance  
165 commissioner that the carrier has satisfied the requirements of this section.

166 (5) The Commissioner of the Division of Insurance may adopt rules to implement this  
167 section.

168 (6) For purposes of this section, "formulary" means the complete list of drugs preferred  
169 for use and eligible for coverage under the health plan, including drugs covered under the plan's  
170 pharmacy benefit and medical benefit.

171 SECTION 5. Chapter 32A of the General Laws is hereby amended by inserting after  
172 section 23 the following section:-

173 Section 24. Any coverage offered by the commission to any active or retired employee of  
174 the commonwealth who is insured under the group insurance commission on or after January 1,  
175 2017, shall:

176 (a) Post the formulary for the health plan on the carrier's web site in a manner that is  
177 accessible and searchable by enrollees, potential enrollees, and providers;

178 (b) Update the formulary posted pursuant to subsection (1)(a) of this section no later than  
179 twenty-four hours after making a change to the formulary; and

180 (c) Include on any published formulary for the plan, including but not limited to the  
181 formulary posted pursuant to subsection (1)(a) of this section, the following:

182 (i) Any utilization management edits — including prior authorization, step therapy edits,  
183 quantity limits, or other requirements -- for each specific drug included in the formulary; and

184 (ii) For each drug included on the formulary and subject to a coinsurance, the range of  
185 cost sharing for a potential enrollee if the potential enrollee purchases the drug in person at an in-  
186 network pharmacy, as follows:

187 (A) Under one hundred dollars: \$;

188 (B) One hundred dollars to two hundred fifty dollars: \$\$;

189 (C) Two hundred fifty-one dollars to five hundred dollars: \$\$\$; and

190 (D) Over five hundred dollars: \$\$\$\$.

191 (iii) If the carrier allows the option for mail order pharmacy, the carrier separately must  
192 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug  
193 through a mail order facility utilizing the same ranges as provided in section (1)(c)(2).

194 (2) The formulary posted pursuant to subsection (1)(a) of this section must use a template  
195 that:

196 (a) Is standardized across all health plans offered by the carrier;

197 (b) Uses the United States pharmacopeia classification system;

198 (c) Organizes drugs by therapeutic class, listing drugs alphabetically; and

199 (d) Provides a separate list for drugs used to treat a serious illness covered under the  
200 plan's medical benefit.

201 (3) Each carrier offering or renewing a health plan on or after January 1, 2017, must  
202 make available to current and potential enrollees the information mandated under section (1) and  
203 (2). The information must be available prior to the beginning of the open enrollment period and  
204 must be done via a public website and through a toll free number that is posted on the carrier's  
205 website.

206           (4) Each carrier offering or renewing a health plan on or after January 1, 2017, must, no  
207 later than thirty days after the offer or renewal date, attest to the office of the insurance  
208 commissioner that the carrier has satisfied the requirements of this section.

209           (5) The Commissioner of the Division of Insurance may adopt rules to implement this  
210 section.

211           (6) For purposes of this section, "formulary" means the complete list of drugs preferred  
212 for use and eligible for coverage under the health plan, including drugs covered under the plan's  
213 pharmacy benefit and medical benefit.