HOUSE DOCKET, NO. 110   FILED ON: 1/12/2021

HOUSE . . . . No.

The Commonwealth of Massachusetts

PRESENTED BY:

William J. Driscoll, Jr.

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 empowering health care consumers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
William J. Driscoll, Jr.	*7th Norfolk*	*1/12/2021*
Elizabeth A. Malia	*11th Suffolk*	*2/26/2021*
Patrick M. O'Connor	*Plymouth and Norfolk*	*2/26/2021*
David Paul Linsky	*5th Middlesex*	*2/26/2021*
Jack Patrick Lewis	*7th Middlesex*	*2/26/2021*
Patrick Joseph Kearney	*4th Plymouth*	*2/26/2021*
Carmine Lawrence Gentile	*13th Middlesex*	*3/8/2021*
John Barrett, III	*1st Berkshire*	*3/8/2021*
Joseph W. McGonagle, Jr.	*28th Middlesex*	*3/8/2021*
David M. Rogers	*24th Middlesex*	*3/19/2021*
Carol A. Doherty	*3rd Bristol*	*3/30/2021*
Thomas M. Stanley	*9th Middlesex*	*3/31/2021*

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HOUSE . . . . No.

[Pin Slip]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act empowering health care consumers.

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 47II the following section:-

3 Section 47JJ.

4 (a) Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
5 renewed within the Commonwealth on or after January 1, 2018, shall:

6 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
7 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
8 is, how the plan determines which prescription drugs are included or excluded, and how often the
9 plan reviews the contents of the formulary.

10 (2) Post the formulary or formularies for each product offered by the plan on the plan's
11 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
12 and providers.

13 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
14 formularies within 72 hours after making the change.

15 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
16 or formularies for each product offered by the plan.

17 (5) Include all of the following on any published formulary for any product offered by the
18 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

19 (i) Any prior authorization, step therapy requirements, or utilization management
20 requirements for each specific drug included on the formulary.

21 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
22 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
23 in the evidence of coverage.

24 (iii) For prescription drugs covered under the plans medical benefit and typically
25 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
26 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
27 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
28 is staffed at least during normal business hours.

29 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
30 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

31 (A) disclose the dollar amount of the enrollee's cost-sharing, or

32 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
33 each specific drug included on the formulary, as follows:

34 Under $100 – $.

35 $100-$250 – $$.

36 $251-$500 – $$$.

37 $500-$1,000 – $$$$.

38 Over $1,000 -- $$$$$

39 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
40 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
41 through a mail order facility utilizing the same ranges as provided in subclause (B).

42 (vi) A description of how medications will specifically be included in or excluded from
43 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
44 for a medication.

45 (b) The Division of Insurance shall develop a standard formulary template which a health
46 care service plan shall use to comply with paragraph (4).

47 SECTION 2. Chapter 176A of the General Laws is hereby amended by inserting after
48 section 8KK the following section:-

49 Section 8LL.

50 (a) Any contract between a subscriber and the corporation under an individual or group
51 hospital service plan delivered or issued or renewed within the commonwealth on or after
52 January 1, 2018, shall:

53 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
54 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
55 is, how the plan determines which prescription drugs are included or excluded, and how often the
56 plan reviews the contents of the formulary.

57 (2) Post the formulary or formularies for each product offered by the plan on the plan's
58 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
59 and providers.

60 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
61 formularies within 72 hours after making the change.

62 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
63 or formularies for each product offered by the plan.

64 (5) Include all of the following on any published formulary for any product offered by the
65 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

66 (i) Any prior authorization, step therapy requirements, or utilization management
67 requirements for each specific drug included on the formulary.

68 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
69 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
70 in the evidence of coverage.

71 (iii) For prescription drugs covered under the plans medical benefit and typically
72 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
73 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the

74 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that

75 is staffed at least during normal business hours.

76 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is

77 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

78 (A) disclose the dollar amount of the enrollee's cost-sharing, or

79 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of

80 each specific drug included on the formulary, as follows:

81 Under $100 – $.

82 $100-$250 – $$.

83 $251-$500 – $$$.

84 $500-$1,000 – $$$$.

85 Over $1,000 -- $$$$$

86 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must

87 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug

88 through a mail order facility utilizing the same ranges as provided in subclause (B).

89 (vi) A description of how medications will specifically be included in or excluded from

90 the deductible, including a description of out-of-pocket costs that may not apply to the deductible

91 for a medication.

92 (b) The Division of Insurance shall develop a standard formulary template which a health
93 care service plan shall use to comply with paragraph (4).

94 SECTION 3. Chapter 176B of the General Laws is hereby amended by inserting after
95 section 4KK the following section:-

96 Section 4LL.

97 (a) Any subscription certificate under an individual or group medical service agreement
98 delivered, issued or renewed within the commonwealth on or after January 1, 2018, shall:

99 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
100 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
101 is, how the plan determines which prescription drugs are included or excluded, and how often the
102 plan reviews the contents of the formulary.

103 (2) Post the formulary or formularies for each product offered by the plan on the plan's
104 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
105 and providers.

106 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
107 formularies within 72 hours after making the change.

108 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
109 or formularies for each product offered by the plan.

110 (5) Include all of the following on any published formulary for any product offered by the
111 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

112 (i) Any prior authorization, step therapy requirements, or utilization management
113 requirements for each specific drug included on the formulary.

114 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
115 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
116 in the evidence of coverage.

117 (iii) For prescription drugs covered under the plans medical benefit and typically
118 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
119 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
120 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
121 is staffed at least during normal business hours.

122 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
123 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

124 (A) disclose the dollar amount of the enrollee's cost-sharing, or

125 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
126 each specific drug included on the formulary, as follows:

127 Under $100 – $.

128 $100-$250 – $$.

129 $251-$500 – $$$.

130 $500-$1,000 – $$$$.

131 Over $1,000 -- $$$$$

132 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
133 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
134 through a mail order facility utilizing the same ranges as provided in subclause (B).

135 (vi) A description of how medications will specifically be included in or excluded from
136 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
137 for a medication.

138 (b) The Division of Insurance shall develop a standard formulary template which a health
139 care service plan shall use to comply with paragraph (4).

140 SECTION 4. Chapter 176G of the General Laws is hereby amended by inserting after
141 section 4CC the following section:-

142 Section 4DD.

143 (a) Any individual or group health maintenance contract issued on or after January 1,
144 2018, shall:

145 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
146 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
147 is, how the plan determines which prescription drugs are included or excluded, and how often the
148 plan reviews the contents of the formulary.

149 (2) Post the formulary or formularies for each product offered by the plan on the plan's
150 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
151 and providers.

152 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
153 formularies within 72 hours after making the change.

154 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
155 or formularies for each product offered by the plan.

156 (5) Include all of the following on any published formulary for any product offered by the
157 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

158 (i) Any prior authorization, step therapy requirements, or utilization management
159 requirements for each specific drug included on the formulary.

160 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
161 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
162 in the evidence of coverage.

163 (iii) For prescription drugs covered under the plans medical benefit and typically
164 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
165 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
166 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
167 is staffed at least during normal business hours.

168 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
169 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

170 (A) disclose the dollar amount of the enrollee's cost-sharing, or

171 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
172 each specific drug included on the formulary, as follows:

173 Under $100 – $.

174 $100-$250 – $$.

175 $251-$500 – $$$.

176 $500-$1,000 – $$$$.

177 Over $1,000 -- $$$$$

178 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
179 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
180 through a mail order facility utilizing the same ranges as provided in subclause (B).

181 (vi) A description of how medications will specifically be included in or excluded from
182 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
183 for a medication.

184 (b) The Division of Insurance shall develop a standard formulary template which a health
185 care service plan shall use to comply with paragraph (4).

186 SECTION 5. Chapter 32A of the General Laws is hereby amended by inserting after
187 section 27 the following section:-

188 Section 28.

189 (a) Any coverage offered by the commission to any active or retired employee of the
190 commonwealth who is insured under the group insurance commission on or after January 1,
191 2018, shall:

192 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
193 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
194 is, how the plan determines which prescription drugs are included or excluded, and how often the
195 plan reviews the contents of the formulary.

196 (2) Post the formulary or formularies for each product offered by the plan on the plan's
197 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
198 and providers.

199 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
200 formularies within 72 hours after making the change.

201 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
202 or formularies for each product offered by the plan.

203 (5) Include all of the following on any published formulary for any product offered by the
204 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

205 (i) Any prior authorization, step therapy requirements, or utilization management
206 requirements for each specific drug included on the formulary.

207 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
208 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
209 in the evidence of coverage.

210 (iii) For prescription drugs covered under the plans medical benefit and typically
211 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
212 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the

213 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
214 is staffed at least during normal business hours.

215 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
216 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

217 (A) disclose the dollar amount of the enrollee's cost-sharing, or

218 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
219 each specific drug included on the formulary, as follows:

220 Under $100 – $.

221 $100-$250 – $$.

222 $251-$500 – $$$.

223 $500-$1,000 – $$$$.

224 Over $1,000 -- $$$$$

225 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
226 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
227 through a mail order facility utilizing the same ranges as provided in subclause (B).

228 (vi) A description of how medications will specifically be included in or excluded from
229 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
230 for a medication.

231 (b) The Division of Insurance shall develop a standard formulary template which a health

232 care service plan shall use to comply with paragraph (4).