

SENATE No. 650

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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 relating to patient cost, benefit and coverage information, choice, and price transparency.

PETITION OF:

NAME:

Julian Cyr

DISTRICT/ADDRESS:

Cape and Islands

SENATE No. 650

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 650) of Julian Cyr for legislation relative to patient cost, benefit and coverage information, choice, and price transparency. Financial Services.

The Commonwealth of Massachusetts

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

An Act relating to patient cost, benefit and coverage information, choice, and price transparency.

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 94C of the General Laws, is hereby amended by inserting after
2 section 21C the following new section:-

3 Section 21D

4 (a) For the purposes of this section, the following terms shall have the following
5 meanings unless the context clearly requires otherwise:

6 “Cost-sharing information”, the amount an enrollee is required to pay in order to receive
7 a drug that is covered under the enrollee’s health plan.

8 “Enrollee” a person who is receiving a health care benefit and has been determined by a
9 practitioner to be prescribed a prescription drug for their own use or for the use of a dependent
10 member of their household.

11 "Health care benefit", a payment for health care services or the right under a contract or a
12 certificate or policy of insurance to have a payment made by a health plan, as defined in this
13 section, for a specified health care service.

14 "Health plan" any insurance company authorized to provide health insurance in this state
15 or any legal entity which is self-insured and providing health care benefits to its employees.

16 "Interoperability element", hardware, software, integrated technologies or related
17 licenses, technical information, privileges, rights, intellectual property, upgrades, or services that
18 may be necessary to provide the data set forth in subsection (b)(3) in the requested format and
19 consistent with subsection(b)(1).

20 "Personal Representative" a person, who has been identified by the enrollee or by the
21 commonwealth on behalf of the enrollee, to assist with decision making during their medical
22 appointment, such as a child accompanying an elderly parent.

23 "Pharmacy benefit manager" (a) For the purposes of this section, the term "pharmacy
24 benefit manager" shall mean any person or entity that administers the (i) prescription drug,
25 prescription device or pharmacist services or (ii) prescription drug and device and pharmacist
26 services portion of a health benefit plan on behalf of plan sponsors, including, but not limited to,
27 self-insured employers, insurance companies and labor unions. A health benefit plan that does
28 not contract with a pharmacy benefit manager shall be considered a pharmacy benefit manager
29 for the purposes of this section, unless specifically exempted.

30 (b) any health plan or pharmacy benefit manager shall, upon request of the enrollee, their
31 practitioner, or their personal representative, furnish the cost, benefit, and coverage data set forth
32 in subsection (3) to the enrollee, their health care practitioner, or their personal representative

33 and shall ensure that such cost, benefit, and coverage data is (i) current as of one business day
34 after any change is made; (ii) provided in real time; and (iii) in the same format that the request
35 is made by the enrollee or their health care practitioner.

36 (1) the format of the request shall use established industry content and transport standards
37 published by:

38 (i) a standards developing organization accredited by the American National Standards
39 Institute, included but not limited to, the National Council for Prescription Drug Programs, ASC
40 X12, Health Level 7; or

41 (ii) a relevant federal or state agency or government body, included but not limited to the
42 Center for Medicare & Medicaid Services or the Office of the National Coordinator for Health
43 Information Technology, The Commonwealth of Massachusetts Department of Public Health,
44 Division of Insurance, Health Policy Commission, or Center for Health Information and
45 Analysis.

46 (2) a facsimile, proprietary payor or patient portal, or other electronic form other than as
47 required by section (b) shall not be considered acceptable electronic formats pursuant to this
48 section.

49 (3) upon such request, the following data shall be provided for any prescription drug
50 covered under the enrollee's health plan:

51 (i) the enrollee's eligibility information for such prescription drug;

52 (ii) a list of any clinically-appropriate alternatives to such prescription drug covered
53 under the enrollee's health plan;

54 (iii) cost-sharing information for such prescription drug and such clinically-appropriate
55 alternatives, including a description of any variance in cost-sharing based on pharmacy, whether
56 retail or mail order, or health care provider dispensing or administering such prescription drug or
57 such alternatives;

58 (iv) any applicable utilization management requirements for such prescription drug or
59 such clinically-appropriate alternatives, including prior authorization, step therapy, quantity
60 limits, and site-of-service restrictions

61 (4) any health plan or pharmacy benefit manager shall furnish the data set forth in
62 subsection (b)(3), whether the request is made using the prescription drug's unique billing code,
63 such as a National Drug Code or Healthcare Common Procedure Coding System code or
64 descriptive term, such as the brand or generic name of the prescription drug.

65 (i) a health plan or pharmacy benefit manager shall not deny or delay a request as a
66 method of blocking the data set forth in subsection (b)(3) from being shared based on how the
67 drug was requested.

68 (c) any health plan or pharmacy benefit manager furnishing the data set forth in
69 subsection (b)(3), shall not:

70 (1) restrict, prohibit, or otherwise hinder, in any way, a health care professional or health
71 care provider from communicating or sharing:

72 (i) any of the data set forth in subsection (b)(3);

73 (ii) additional information on any lower-cost or clinically-appropriate alternatives,
74 whether or not they are covered under the enrollee's plan; or

75 (iii) additional payment or cost-sharing information that may reduce the patient's out-of-
76 pocket costs, such as cash price or patient assistance and support programs whether sponsored by
77 a manufacturer, foundation, or other entity;

78 (2) except as may be required by law, interfere with, prevent, or materially discourage
79 access, exchange, or use of the data set forth in subsection (b)(3), which may include charging
80 fees, not responding to a request at the time made where such a response is reasonably possible,
81 implementing technology in nonstandard ways or instituting enrollee consent requirements,
82 processes, policies, procedures, or renewals that are likely to substantially increase the
83 complexity or burden of accessing, exchanging, or using such data; nor

84 (3) penalize a health care practitioner or professional for disclosing such information to
85 an enrollee or their personal representative, or for prescribing, administering, or ordering a
86 clinically appropriate or lower-cost alternative.

87 (4) any health plan or pharmacy benefit manager shall treat an enrollee's identified
88 personal representative as the enrollee for purposes of this section.

89 (5) if under applicable law a person has authority to act on behalf of an enrollee in
90 making decisions related to health care, a health plan or pharmacy benefit manager, or its
91 affiliates or entities acting on its behalf, must treat such person as a personal representative under
92 this section.