

# HOUSE . . . . . No. 1036

By Mr. McCarthy of East Bridgewater, petition of Allen J. McCarthy relative to health insurance coverage for mail order prescription drugs. Financial Services.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

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 Chapter 19A of the General Laws is hereby amended by adding at
- 2 the end thereof the following new section:—
- 3 Section 41. Equity in provision of prescription drug coverage in
- 4 general — A health plan, and a health insurance issuer offering
- 5 health insurance coverage, that provides for mail-order prescription
- 6 drug coverage (as defined in paragraph (3)(A)) shall also provide
- 7 non-mail-order prescription drug coverage consistent with paragraph
- 8 (2).
- 9 (2) Equitable coverage — A plan or coverage provides non-mail-
- 10 order prescription drug coverage consistent with this paragraph only
- 11 if —
- 12 (A) benefits under the non-mail-order prescription coverage are
- 13 provided for in the case of all drugs and all circumstances under
- 14 which benefits are provided under the mail-order prescription drug
- 15 coverage;
- 16 (B) no deductible or similar cost-sharing is imposed with respect
- 17 to benefits under the non-mail-order prescription drug coverage
- 18 unless such a deductible or similar cost-sharing is imposed with
- 19 respect to benefits under the mail-order prescription drug coverage;
- 20 and
- 21 (C) the benefits for the non-mail-order coverage assures payments
- 22 consistent with either (or both) of the following clauses:

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

26 (2) The cost-sharing (including deductibles, copayments, or coin-  
27 surance) imposed with respect to non-mail-order coverage is not  
28 greater (as a percentage of charges or dollar amount, as specified  
29 under the coverage) than the cost-sharing imposed with respect to  
30 the mail-order coverage.

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

32 (A) Mail-order prescription drug coverage — The term “mail-  
33 order prescription drug coverage” means provision of benefits for  
34 prescription drugs and biologicals that are delivered directly to par-  
35 ticipants and beneficiaries through the mail or similar means.

36 (B) Non-mail-order prescription drug coverage - The term "non-  
37 mail-order prescription drug coverage" means the provision of bene-  
38 fits for prescription drugs and biologicals through one or more local  
39 pharmacies.

40 (D) Health plan — The term “health plan” means an accident and  
41 health insurance policy or certificate; a nonprofit hospital or medical  
42 service corporation contract; a health maintenance organization sub-  
43 scriber contract; a plan provided by a multiple employer welfare  
44 arrangement; a Medicare+Choice plan; Medigap and Medicare  
45 Select Policies; or a plan provided by another benefit arrangement,  
46 to the extent permitted by the Employee Retirement Income Security  
47 Act of 1974, as amended, or by any waiver of or other exception to  
48 that Act provided under federal law or regulation. Without limita-  
49 tion, “health plan” does not mean any of the following types of  
50 insurance: Accident, Credit, Disability income, Specified disease,  
51 Dental or vision, Coverage issued as a supplement to liability insur-  
52 ance, Medical payments under automobile or homeowners, Insur-  
53 ance under which benefits are payable with or without regard to fault  
54 and is statutorily required to be contained in any liability policy or  
55 equivalent self-insurance, and Hospital indemnity policy or certifi-  
56 cate.

57 (b) Prohibitions — A health plan as defined in paragraph (3)(D),  
58 may not provide monetary payments or rebates to an individual to  
59 encourage such individual to accept less than the minimum protec-  
60 tions available under this section.