

SENATE NO. 413

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. SECTION 1. Said chapter 175 of the acts of 2005, as so amended, is hereby
2 amended by striking out sections 7A and 7B and inserting in place thereof the following
3 sections:-

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

13 pharmacist cannot bill a Medicare prescription drug plan at the time the prescription is
14 presented. Any co-pay or deductible that would have been charged to the enrollee under section
15 39 of chapter 19A shall apply to the annual 1-time 30 day supply.

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

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

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

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

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

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

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

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

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