

SENATE NO. 614

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 SECTION 1. Chapter 19A of the General Laws is hereby amended by adding at the end thereof
2 the following new section: -

3 Section 41. EQUITY IN PROVISION OF PRESCRIPTION DRUG COVERAGE IN GENERAL -

4 A health plan, and a health insurance issuer offering health insurance coverage, that provides for
5 mail-order prescription drug coverage (as defined in paragraph (3)(A)) shall also provide non-mail-
6 order prescription drug coverage consistent with paragraph (2).

7 (2) EQUITABLE COVERAGE - A plan or coverage provides non-mail-order prescription drug
8 coverage consistent with this paragraph only if-

9 (A) benefits under the non-mail-order prescription coverage are provided for in the case of all
10 drugs and all circumstances under which benefits are provided under the mail-order prescription
11 drug coverage,

12 (B) no deductible or similar cost-sharing is imposed with respect to benefits under the non-mail-
13 order prescription drug coverage unless such a deductible or similar cost-sharing is imposed with
14 respect to benefits under the mail-order prescription drug coverage; and

15 (C) the benefits for the non-mail-order coverage assures payments consistent with either (or both)
16 of the following clauses:

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

19 2) The cost-sharing (including deductibles, copayments, or coinsurance) imposed with respect to
20 non-mail-order coverage is not greater (as a percentage of charges or dollar amount, as specified
21 under the coverage) than the cost-sharing imposed with respect to the mail-order coverage.

22 (3) DEFINITIONS - For purposes of this subsection:

23 (A) MAIL-ORDER PRESCRIPTION DRUG COVERAGE - The term "mail-order prescription
24 drug coverage" means provision of benefits for prescription drugs and biologicals that are delivered
25 directly to participants and beneficiaries through the mail or similar means.

26 (B) NON-MAIL-ORDER PRESCRIPTION DRUG COVERAGE - The term "non-mail-order
27 prescription drug coverage" means the provision of benefits for prescription drugs and biologicals
28 through one or more local pharmacies.

29 (D) HEALTH PLAN - The term "health plan" means an accident and health insurance policy or
30 certificate; a nonprofit hospital or medical service corporation contract; a health maintenance
31 organization subscriber contract; a plan provided by a multiple employer welfare arrangement; a
32 Medicare+Choice plan; Medigap and Medicare Select Policies; or a plan provided by another
33 benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of
34 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or
35 regulation. Without limitation, "health plan" does not mean any of the following types of insurance:
36 Accident, Credit, Disability income, Specified disease, Dental or vision, Coverage issued as a
37 supplement to liability insurance, Medical payments under automobile or homeowners, Insurance

38 under which benefits are payable with or without regard to fault and is statutorily required to be
39 contained in any liability policy or equivalent self-insurance, and Hospital indemnity policy or
40 certificate.

41 (b) PROHIBITIONS - A health plan as defined in paragraph (3)(D), may not provide monetary
42 payments or rebates to an individual to encourage such individual to accept less than the minimum
43 protections available under this section.

44 (c) CONSTRUCTION - Nothing in this section shall be construed as preventing a plan or issuer
45 from -

46 (1) restricting the drugs for which benefits are provided under the plan of health insurance
47 coverage, or

48 (2) imposing a limitation on the amount of benefits provided with respect to such coverage or the
49 cost-sharing that may be imposed with respect to such coverage, so long as such restrictions and
50 limitations are consistent with subsection (a).

51 (d) NOTICE. - A health plan under this part shall comply with the notice requirement under the
52 Employee Retirement Income Security Act of 1974 with respect to the requirements of this section
53 as it such section applied to such plan.