

HOUSE No. 4320

The Commonwealth of Massachusetts

By Ms. Stanley of West Newburyport, for the committee on Health Care Financing, on House, No. 1080, a Bill relative to manufacturer rebates and discount programs (House, No. 4320) November 5, 2009.

An Act RELATIVE TO MANUFACTURER REBATES AND DISCOUNT PROGRAMS.

FOR THE COMMITTEE:

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| NAME: | DISTRICT/ADDRESS: |
| Harriett L. Stanley | 2nd Essex |

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act RELATIVE TO MANUFACTURER REBATES AND DISCOUNT PROGRAMS.

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 3 of chapter 175H of the General Laws, as appearing in the 2008 Official
2 Edition, is hereby amended by inserting at the end thereof the following two paragraphs: -

3 This section shall not apply to a discount, rebate, free product voucher or other reduction in out
4 of pocket expenses, including but not limited to co-payments and deductibles on a prescription drug,
5 biologic or vaccine provided by a pharmaceutical manufacturing company, as defined in section 1 of
6 chapter 111N, that is made available to an individual, if such is provided directly or electronically to the
7 individual or through a so-called "point of sale" or "mail-in" rebate, or through similar means; provided
8 however, that a pharmaceutical manufacturing company shall neither exclude nor favor any individual
9 pharmacy or restricted network of pharmacies in the design of such discount, rebate, free product voucher
10 or other expense reduction offer to an individual; provided further, that this section does not negate the
11 need for a written prescription as otherwise required by law, nor is it intended to constrain a carrier or a
12 health maintenance organization, as defined in chapter 118G, with regard to how its plan design will treat
13 such discounts, rebates, free product voucher or other reduction in out of pocket expenses, including but
14 not limited to co-payments and deductibles.

15 For purposes of the federal Health Insurance Portability and Accountability Act of 1996 and
16 regulations issued thereunder, nothing in this section shall be deemed to require or allow the use or
17 disclosure of health information in any manner that does not otherwise comply with such Act or such
18 regulations.