

HOUSE No. 969

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer E. Benson

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 empowering health care consumers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>

<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carlos González</i>	<i>10th Hampden</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>David Biele</i>	<i>4th Suffolk</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>

HOUSE No. 969

By Ms. Benson of Lunenburg, a petition (accompanied by bill, House, No. 969) of Jennifer E. Benson and others relative to healthcare policies, contracts, agreements, plans or certificate of insurance. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act empowering health care consumers.

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 175 of the General Laws is hereby amended by inserting after
2 section 47II the following section:-

3 Section 47JJ.

4 (a) Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
5 renewed within the commonwealth on or after January 1, 2018, shall:

6 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
7 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
8 is, how the plan determines which prescription drugs are included or excluded, and how often the
9 plan reviews the contents of the formulary.

10 (2) Post the formulary or formularies for each product offered by the plan on the plan's
11 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
12 and providers.

13 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
14 formularies within 72 hours after making the change.

15 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
16 or formularies for each product offered by the plan.

17 (5) Include all of the following on any published formulary for any product offered by the
18 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

19 (i) Any prior authorization, step therapy requirements, or utilization management
20 requirements for each specific drug included on the formulary.

21 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
22 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
23 in the evidence of coverage.

24 (iii) For prescription drugs covered under the plans medical benefit and typically
25 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
26 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
27 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
28 is staffed at least during normal business hours.

29 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
30 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

31 (A) disclose the dollar amount of the enrollee's cost-sharing, or

32 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
33 each specific drug included on the formulary, as follows:

34 Under \$100 – \$.

35 \$100-\$250 – \$\$.

36 \$251-\$500 – \$\$\$.

37 \$500-\$1,000 – \$\$\$\$.

38 Over \$1,000 -- \$\$\$\$\$

39 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
40 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
41 through a mail order facility utilizing the same ranges as provided in subclause (B).

42 (vi) A description of how medications will specifically be included in or excluded from
43 the deductible, including a description of out-of-pocket costs that may not apply to the
44 deductible for a medication.

45 (b) The Division of Insurance shall develop a standard formulary template which a health
46 care service plan shall use to comply with paragraph (4).

47 SECTION 2. Chapter 176A of the General Laws is hereby amended by inserting after
48 section 8KK the following section:-

49 Section 8LL.

50 (a) Any contract between a subscriber and the corporation under an individual or group
51 hospital service plan delivered or issued or renewed within the commonwealth on or after
52 January 1, 2018, shall:

53 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
54 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
55 is, how the plan determines which prescription drugs are included or excluded, and how often the
56 plan reviews the contents of the formulary.

57 (2) Post the formulary or formularies for each product offered by the plan on the plan's
58 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
59 and providers.

60 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
61 formularies within 72 hours after making the change.

62 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
63 or formularies for each product offered by the plan.

64 (5) Include all of the following on any published formulary for any product offered by the
65 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

66 (i) Any prior authorization, step therapy requirements, or utilization management
67 requirements for each specific drug included on the formulary.

68 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
69 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
70 in the evidence of coverage.

71 (iii) For prescription drugs covered under the plans medical benefit and typically
72 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
73 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
74 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
75 is staffed at least during normal business hours.

76 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
77 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

78 (A) disclose the dollar amount of the enrollee's cost-sharing, or

79 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
80 each specific drug included on the formulary, as follows:

81 Under \$100 – \$.

82 \$100-\$250 – \$\$.

83 \$251-\$500 – \$\$\$.

84 \$500-\$1,000 – \$\$\$\$.

85 Over \$1,000 -- \$\$\$\$\$

86 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
87 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
88 through a mail order facility utilizing the same ranges as provided in subclause (B).

89 (vi) A description of how medications will specifically be included in or excluded from
90 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
91 for a medication.

92 (b) The Division of Insurance shall develop a standard formulary template which a health
93 care service plan shall use to comply with paragraph (4).

94 SECTION 3. Chapter 176B of the General Laws is hereby amended by inserting after
95 section 4KK the following section:-

96 Section 4LL.

97 (a) Any subscription certificate under an individual or group medical service agreement
98 delivered, issued or renewed within the commonwealth on or after January 1, 2018, shall:

99 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
100 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
101 is, how the plan determines which prescription drugs are included or excluded, and how often the
102 plan reviews the contents of the formulary.

103 (2) Post the formulary or formularies for each product offered by the plan on the plan's
104 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
105 and providers.

106 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
107 formularies within 72 hours after making the change.

108 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
109 or formularies for each product offered by the plan.

110 (5) Include all of the following on any published formulary for any product offered by the
111 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

112 (i) Any prior authorization, step therapy requirements, or utilization management
113 requirements for each specific drug included on the formulary.

114 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
115 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
116 in the evidence of coverage.

117 (iii) For prescription drugs covered under the plans medical benefit and typically
118 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
119 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
120 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
121 is staffed at least during normal business hours.

122 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
123 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

124 (A) disclose the dollar amount of the enrollee's cost-sharing, or

125 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
126 each specific drug included on the formulary, as follows:

127 Under \$100 – \$.

128 \$100-\$250 – \$\$.

129 \$251-\$500 – \$\$\$.

130 \$500-\$1,000 – \$\$\$\$.

131 Over \$1,000 -- \$\$\$\$\$

132 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
133 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
134 through a mail order facility utilizing the same ranges as provided in subclause (B).

135 (vi) A description of how medications will specifically be included in or excluded from
136 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
137 for a medication.

138 (b) The Division of Insurance shall develop a standard formulary template which a health
139 care service plan shall use to comply with paragraph (4).

140

141 SECTION 4. Chapter 176G of the General Laws is hereby amended by inserting after
142 section 4CC the following section:-

143 Section 4DD.

144 (a) Any individual or group health maintenance contract issued on or after January 1,
145 2018, shall:

146 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
147 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
148 is, how the plan determines which prescription drugs are included or excluded, and how often the
149 plan reviews the contents of the formulary.

150 (2) Post the formulary or formularies for each product offered by the plan on the plan's
151 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
152 and providers.

153 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
154 formularies within 72 hours after making the change.

155 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
156 or formularies for each product offered by the plan.

157 (5) Include all of the following on any published formulary for any product offered by the
158 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

159 (i) Any prior authorization, step therapy requirements, or utilization management
160 requirements for each specific drug included on the formulary.

161 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
162 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
163 in the evidence of coverage.

164 (iii) For prescription drugs covered under the plans medical benefit and typically
165 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
166 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
167 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
168 is staffed at least during normal business hours.

169 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
170 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

171 (A) disclose the dollar amount of the enrollee's cost-sharing, or

172 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
173 each specific drug included on the formulary, as follows:

174 Under \$100 – \$.

175 \$100-\$250 – \$\$.

176 \$251-\$500 – \$\$\$.

177 \$500-\$1,000 – \$\$\$\$.

178 Over \$1,000 -- \$\$\$\$\$

179 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
180 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
181 through a mail order facility utilizing the same ranges as provided in subclause (B).

182 (vi) A description of how medications will specifically be included in or excluded from
183 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
184 for a medication.

185 (b) The Division of Insurance shall develop a standard formulary template which a health
186 care service plan shall use to comply with paragraph (4).

187

188 SECTION 5. Chapter 32A of the General Laws is hereby amended by inserting after
189 section 27 the following section:-

190 Section 28.

191 (a) Any coverage offered by the commission to any active or retired employee of the
192 commonwealth who is insured under the group insurance commission on or after January 1,
193 2018, shall:

194 (1) Provide notice in the evidence of coverage and disclosure form to enrollees regarding
195 whether the plan uses a formulary. The notice shall include an explanation of what a formulary
196 is, how the plan determines which prescription drugs are included or excluded, and how often the
197 plan reviews the contents of the formulary.

198 (2) Post the formulary or formularies for each product offered by the plan on the plan's
199 internet web site in a manner that is accessible and searchable by potential enrollees, enrollees,
200 and providers.

201 (3) Update the formularies posted pursuant to paragraph (2) with any change to those
202 formularies within 72 hours after making the change.

203 (4) Use a standard template developed pursuant to subsection (b) to display the formulary
204 or formularies for each product offered by the plan.

205 (5) Include all of the following on any published formulary for any product offered by the
206 plan, including, but not limited to, the formulary or formularies posted pursuant to paragraph (2):

207 (i) Any prior authorization, step therapy requirements, or utilization management
208 requirements for each specific drug included on the formulary.

209 (ii) If the plan uses a Tier-based formulary, the plan shall specify for each drug listed on
210 the formulary the specific Tier the drug occupies and list the specific co-payments for each Tier
211 in the evidence of coverage.

212 (iii) For prescription drugs covered under the plans medical benefit and typically
213 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
214 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the
215 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
216 is staffed at least during normal business hours.

217 (iv) For each prescription drug included on the formulary under clauses (ii) or (iii) that is
218 subject to a coinsurance and dispensed at an in-network pharmacy the plan must:

219 (A) disclose the dollar amount of the enrollee's cost-sharing, or

220 (B) the plan can provide a dollar amount range of cost sharing for a potential enrollee of
221 each specific drug included on the formulary, as follows:

222 Under \$100 – \$.

223 \$100-\$250 – \$\$.

224 \$251-\$500 – \$\$\$.

225 \$500-\$1,000 – \$\$\$\$.

226 Over \$1,000 -- \$\$\$\$\$

227 (v) If the carrier allows the option for mail order pharmacy, the carrier separately must
228 list the range of cost-sharing for a potential enrollee if the potential enrollee purchases the drug
229 through a mail order facility utilizing the same ranges as provided in subclause (B).

230 (vi) A description of how medications will specifically be included in or excluded from
231 the deductible, including a description of out-of-pocket costs that may not apply to the deductible
232 for a medication.

233 (b) The Division of Insurance shall develop a standard formulary template which a health
234 care service plan shall use to comply with paragraph (4).

235