

SENATE No. 2220

Senate, November 9, 2017 -- Text of Amendment #22 (Senator L'Italien) to the Senate
Committee Bill furthering health empowerment and affordability by leveraging transformative
health care (Senate, No. 2202)

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

1 by adding at the end thereof the following new section:

2 SECTION ##.

3 SECTION 1. Chapter 175 of the General Laws is hereby amended by inserting after
4 section 47II the following section:-

5 Section 47JJ.

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

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

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

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

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

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

21 (i) Any prior authorization, step edit requirements, or utilization management edits for
22 each specific drug included on the formulary.

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

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

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

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

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

36 Under \$100 – \$.

37 \$100-\$250 – \$\$.

38 \$251-\$500 – \$\$\$.

39 \$500-\$1,000 – \$\$\$\$.

40 Over \$1,000 -- \$\$\$\$\$

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

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

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

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

51 Section 8LL.

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

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

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

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

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

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

68 (i) Any prior authorization, step edit requirements, or utilization management edits for
69 each specific drug included on the formulary.

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

73 (iii) For prescription drugs covered under the plans medical benefit and typically
74 administered by a provider, plans must disclose to enrollees and potential enrollees, all covered
75 drugs and the dollar cost-sharing imposed on such drugs. This information can be provided to the

76 consumer as part of the plan's formulary pursuant to paragraph (2) or via a toll free number that
77 is staffed at least during normal business hours.

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

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

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

83 Under \$100 – \$.

84 \$100-\$250 – \$\$.

85 \$251-\$500 – \$\$\$.

86 \$500-\$1,000 – \$\$\$\$.

87 Over \$1,000 -- \$\$\$\$\$

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

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

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

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

98 Section 4LL.

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

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

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

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

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

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

114 (i) Any prior authorization, step edit requirements, or utilization management edits for
115 each specific drug included on the formulary.

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

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

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

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

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

129 Under \$100 – \$.

130 \$100-\$250 – \$\$.

131 \$251-\$500 – \$\$\$.

132 \$500-\$1,000 – \$\$\$\$.

133 Over \$1,000 -- \$\$\$\$\$

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

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

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

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

144 Section 4DD.

145 (a) Any individual or group health maintenance contract issued on or after January 1,
146 2018, shall:

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

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

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

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

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

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

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

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

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

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

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

175 Under \$100 – \$.

176 \$100-\$250 – \$\$.

177 \$251-\$500 – \$\$\$.

178 \$500-\$1,000 – \$\$\$\$.

179 Over \$1,000 -- \$\$\$\$\$

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

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

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

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 edit requirements, or utilization management edits for
208 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).