

2012 -- H 7573

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO INSURANCE - PRESCRIPTION DRUG BENEFITS

Introduced By: Representatives Keable, Naughton, Blazejewski, Morrison, and Tanzi

Date Introduced: February 15, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

- 1 SECTION 1. Legislative findings.-- (1) The cost-sharing, deductibles and co-insurance
2 obligations for certain drugs are becoming more cost prohibitive for persons trying to overcome
3 serious and often life-threatening diseases and conditions, such as cancer, multiple sclerosis,
4 rheumatoid arthritis, hepatitis C, hemophilia and psoriasis.
- 5 (2) These drugs are typically new, produced in lesser quantities than other drugs, and not
6 available as less expensive brand name or generic prescription drugs. Some health insurance
7 plans and policies in other states as well as some self-insured plans have established unique
8 categories or specialty tiers for these drugs, sometimes referred to as Tier IV or Tier V.
- 9 (3) Patients under these plans are required to pay a percentage of the costs of these high-
10 priced drugs, rather than the traditional co-payment amounts for generic, preferred brand and
11 non-preferred brand prescription drugs, often covered by Tier I, Tier II and Tier III plans and
12 policies, respectively. As a result, patients covered under plans with specialty tiers must pay
13 thousands of dollars in out-of-pocket costs for drugs critical to their treatment.
- 14 (4) It is in the public interest to help patients to afford necessary prescription drugs by
15 prohibiting cost-sharing, deductibles and co-insurance obligations by patients that exceed
16 payments for non-preferred brand prescription drugs or the equivalent thereof. It is not the intent
17 of this legislation to preclude plans or policies from categorizing drugs used in the treatment of
18 these common diseases as brand name prescription drugs or generic prescription drug
19 equivalents. The extraordinary disparity in cost-sharing, deductible and co-insurance burdens

1 imposed on patients whose life and health depend on these drugs constitutes serious and
2 unjustified discrimination based on their disease or disability.

3 (5) This legislation is intended to provide patients more affordable access to prescription
4 drugs essential for their treatment of cancer, multiple sclerosis, rheumatoid arthritis, hepatitis C,
5 hemophilia, psoriasis and other diseases.

6 SECTION 2. Chapter 27-20.8 of the General Laws entitled "Prescription Drug Benefits"
7 is hereby amended by adding thereto the following section:

8 **27-20.8-3. Specialty tiers prohibited.** -- (a) No health plan, which provides coverage for
9 prescription drugs and for which cost-sharing, deductibles or co-insurance obligations are
10 determined by category of prescription drugs, shall establish tiers of prescription drug co-pays in
11 which the maximum prescription drug co-pay exceeds by more than five hundred percent (500%)
12 the lowest prescription drug co-pay charged under the health plan. If the health plan provides a
13 limit for out-of-pocket expenses for benefits other than prescription drugs, the insurer shall
14 include one of the following provisions in the plan that would result in the lowest out-of- pocket
15 prescription drug cost to the enrollee or subscriber:

16 (1) Out-of-pocket expenses for prescription drugs shall be included under the health
17 plan's total limit for out-of-pocket expenses for all benefits provided under the plan: or

18 (2) Out-of-pocket expenses for prescription drugs per contract year shall not exceed one
19 thousand dollars (\$1,000) per enrollee or subscriber, or two thousand dollars (\$2,000) per insured
20 family, adjusted for inflation.

21 (b) This section shall not apply to insurance coverage providing benefits for:

22 (1) Hospital confinement indemnity;

23 (2) Disability income;

24 (3) Accident only;

25 (4) Long-term care;

26 (5) Medicare supplement;

27 (6) Limited benefit health;

28 (7) Specified disease indemnity;

29 (8) Sickness or bodily injury or death by accident or both; and

30 (9) Other limited benefit policies.

31 (c) It shall be an unlawful discriminatory practice for any employer, labor organization,
32 insurer, health maintenance organization or other entity to limit health care coverage such that
33 cost-sharing, deductibles or co-insurance obligations for any prescription drug exceeds by more
34 than five hundred percent (500%) the lowest prescription drug co-pay charged under the health

1 plan; provided however, this subdivision shall not apply to any self-insured employee welfare
2 benefit plan, as established in the employee retirement income security act of 1974, as amended.

3 (d) Nothing in this section shall apply to the title XIX state plan pursuant to title XIX of
4 the Social Security Act to provide Medicaid coverage or title XXI state plan pursuant to Title
5 XXI of the Social Security Act to provide medical assistance coverage. The services provided
6 shall be in accord with title XIX [42 U.S.C. 1396 et seq.] and title XXI [42 U.S.C. 1397 et seq.]
7 of the Social Security Act.

8 **27-20.8-4. Severability. --** If any provision of this chapter or the application thereof to
9 any person or circumstances is held invalid, such invalidity shall not affect other provisions or
10 applications of the chapter, which can be given effect without the invalid provision or application,
11 and to this end the provisions of this chapter are declared to be severable.

12 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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- 1 This act would control costs to consumers of newly released, non-generic prescription
- 2 drugs.
- 3 This act would take effect upon passage.

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