

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Montigny, Mark (SEN)**

*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 passage of the accompanying bill:

An Act restoring the Medicare Part D safety net prescription drug coverage for seniors and the disabled

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Montigny, Mark (SEN)	Second Bristol and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00413 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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**AN ACT RESTORING THE MEDICARE PART D SAFETY NET PRESCRIPTION DRUG  
COVERAGE FOR SENIORS AND THE DISABLED.**

*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. Said chapter 175 of the acts of 2005, as so amended, is hereby amended by  
2 striking out sections 7A and 7B and inserting in place thereof the following sections:-

3           Section 7A. Notwithstanding any general or special law to the contrary, the subsidized  
4 catastrophic prescription drug insurance program established in section 39 of chapter 19A of the  
5 General Laws shall provide coverage each calendar year for a 1-time supply of prescribed  
6 medications in the amount prescribed, up to a 30-day supply, to enrollees who are also eligible  
7 for Medicare prescription drug coverage and who have not already received during the current  
8 calendar year a 1-time supply under this section. After an enrollee exhausts the availability of  
9 the annual 1-time 30-day supply of a medication under this section, the program shall provide  
10 coverage, free of charge, for a 1-time, 72-hour supply of the medication each calendar year.  
11 Both the 30-day supply and the 72-hour supply shall be available in all instances in which the

12 pharmacist cannot bill a Medicare prescription drug plan at the time the prescription is  
13 presented. Any co-pay or deductible that would have been charged to the enrollee under  
14 section 39 of chapter 19A shall not apply to the annual 1-time 30 day supply.

15 Section 7B. Notwithstanding any general or special law to the contrary, the secretary of  
16 health and human services, in consultation with the director of Medicaid, shall authorize  
17 MassHealth payment each calendar year for a 1-time supply of prescribed medications in the  
18 amount prescribed, up to a 30-day supply, to beneficiaries under chapter 118E of the General  
19 Laws who are also eligible for Medicare prescription drug coverage and who have not already  
20 received during the current calendar year a 1-time supply under this section. After a beneficiary  
21 exhausts the availability of the annual 1-time, 30-day supply of a medication under this section,  
22 MassHealth shall provide coverage, free of charge, for a 1-time, 72-hour supply of the  
23 medication each calendar year. Both the 30-day supply and the 72-hour supply shall be  
24 available in all instances in which the pharmacist cannot bill a Medicare prescription drug plan at  
25 the time the prescription is presented. Any co-pay or deductible that would have been charged  
26 to the beneficiary under MassHealth shall apply to the annual 1-time, 30-day supply.

27 SECTION 2. Said chapter 175 of the acts of 2005, as so amended, is hereby amended by inserting  
28 after section 7B the following 2 sections:-

29 Section 7C. Notwithstanding section 7D or any general or special law to the contrary,  
30 between January 1, 2007 and December 31, 2007, in the event that the Medicare prescription  
31 drug plan covers the prescribed medication at the time the prescription is presented, but  
32 charges a co-pay or deductible to a MassHealth member that exceeds the amount federal  
33 Medicare law permits the plan to charge a non-institutionalized full benefit dual eligible

34 member with income less than or equal to 100% of the federal poverty line, MassHealth shall  
35 pay the amount of such excess and the beneficiary shall pay the balance.

36 Section 7D. Notwithstanding any general or special law to the contrary, in the event  
37 that the Medicare prescription drug plan covers the prescribed medication at the time the  
38 prescription is presented, but charges a co-pay or deductible to a MassHealth member whose  
39 MassHealth co-pay would be zero, MassHealth shall pay the entire amount of that co-pay or  
40 deductible. In the event that the Medicare prescription drug plan covers the prescribed  
41 medication at the time the prescription is presented, but charges a co-pay or deductible to a  
42 MassHealth member in excess of what would have been charged to the beneficiary under  
43 MassHealth, MassHealth shall pay the excess amount and the beneficiary shall pay what would  
44 be payable under MassHealth.

45 SECTION 3. Said chapter 175 of the acts of 2005, as so amended, is hereby amended by  
46 inserting after section 8 the following 2 sections:-

47 Section 9. Notwithstanding any general or special law to the contrary, the secretary of  
48 health and human services, in consultation with the director of Medicaid, shall authorize  
49 MassHealth coverage for beneficiaries under chapter 118E of the General Laws who are also  
50 eligible for Medicare prescription drug coverage for all medications which are excluded from  
51 coverage under Medicare under 42 U.S.C. 1395w-102(e)(2) but would be covered for that  
52 beneficiary under MassHealth, or appropriate regulations, were he not eligible for Medicare  
53 prescription drug coverage. Any co-pay or deductible that would have been charged to the  
54 beneficiary under MassHealth shall apply thereto.

55 Section 10. Notwithstanding any general or special law to the contrary, the subsidized  
56 catastrophic prescription drug insurance program established in section 39 of chapter 19A of the

57 General Laws shall provide coverage for all medications which are excluded from coverage  
58 under Medicare under 42 U.S.C. 1395w-102(e)(2) but would be covered for that beneficiary  
59 under said section 39, or appropriate regulations, were he not eligible for Medicare prescription  
60 drug coverage. Any co-pay or deductible that would have been charged to the enrollee under  
61 said section 39 shall apply thereto.