

Massachusetts anti-opioid law bans manufacturer copay assistance

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State also takes other steps to combat addiction

On Thursday, August 9, 2018, Massachusetts Gov. Charlie Baker (R) signed [H.4742](#), “An Act for prevention and access to appropriate care and treatment of addiction,” which takes effect immediately. The new law includes various measures aiming to combat opioid use disorder, and notably forbids manufacturers of Schedule II opioid products from offering assistance with insurance copayments or any other discount, rebate, or other reduction in a patient’s out-of-pocket expenses for such drugs.

As we summarized [here](#), Massachusetts in 2012 amended its [anti-kickback law](#) to permit pharmaceutical and biological product manufacturers to provide copay coupons and other discounts on out-of-pocket expenses to consumers in the state, so long as specified conditions are met. However, the 2012 law prohibited manufacturers from offering “any discount, rebate, product voucher or other reduction in an individual’s out-of-pocket expenses, including copayments and deductibles” for any prescription drug that has an AB-rated generic. Section 85 of H.4742 extends the prohibition to “any prescription drug that is an opiate, as defined in Section 1 of Chapter 94C, [or] placed by the commissioner of public health on Schedule II.”

Other provisions of the newly-enacted law include:

- Allowing patients to partially fill opioid prescriptions at separate times, without paying additional copays
- Requiring healthcare providers to check the state’s Prescription Monitoring Program (PMP) before issuing any prescription for a benzodiazepine
- Establishing statewide remote consultation programs for substance use disorder
- Expanding access to the opioid-reversing drug naloxone
- Creating prison pilot programs for Medication-Assisted Treatment (MAT), including methadone and buprenorphine
- Adding privacy protections for students age 15 and older who are screened for drug use.
- Establishing a commission to study addiction treatment

Questions regarding these changes to the law? Please contact any of the authors of this alert or the Hogan Lovells lawyer whom you regularly work with.

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