HOUSE DOCKET, NO. 109 FILED ON: 1/10/2011

HOUSE . . . . . No. 338

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis and James B. Eldridge

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:

An Act to provide improved Medicare for all.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jason M. Lewis	*31st Middlesex*
James B. Eldridge	☐ *[District]* ☐
Kay Khan	*11th Middlesex*
Peter V. Kocot	*1st Hampshire*
Frank I. Smizik	*15th Norfolk*
William N. Brownsberger	☐ *[District]* ☐
John P. Fresolo	*16th Worcester*
Patricia D. Jehlen	☐ *[District]* ☐
Stephen Kulik	*1st Franklin*
Cory Atkins	*14th Middlesex*
Ruth B. Balser	*12th Middlesex*
Anne M. Gobi	*5th Worcester*

Paul W. Mark	*2nd Berkshire*
Sarah K. Peake	*4th Barnstable*
William Smitty Pignatelli	*4th Berkshire*
Tom Sannicandro	*7th Middlesex*
Carl M. Sciortino, Jr.	*34th Middlesex*
Christine E. Canavan	*10th Plymouth*
Jonathan Hecht	*29th Middlesex*
John W. Scibak	*2nd Hampshire*
Denise Andrews	*2nd Franklin*
Byron Rushing	*9th Suffolk*
Martha M. Walz	*8th Suffolk*
Gailanne M. Cariddi	*1st Berkshire*
James J. O'Day	*14th Worcester*
Marcos A. Devers	*16th Essex*
Christopher N. Speranzo	*3rd Berkshire*
Ellen Story	*3rd Hampshire*
Benjamin Swan	*11th Hampden*
Cleon H. Turner	*1st Barnstable*
Gloria L. Fox	*7th Suffolk*
Alice K. Wolf	*25th Middlesex*

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HOUSE . . . . . No. 338

By Representative Lewis of Winchester and Senator Eldridge, a joint petition (accompanied by bill, House, No. 338) of Jason M. Lewis, James B. Eldridge and others for legislation to establish a single-payer health insurance trust fund. Health Care Financing.

The Commonwealth of Massachusetts

An Act to provide improved Medicare for all.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

The Massachusetts General Laws are hereby amended by adding the following new chapter:–

CHAPTER ___

MASSACHUSETTS HEALTH CARE TRUST

Table of Contents

- Section 1: Preamble
- Section 2: Definitions
- Section 3: Establishment of the Massachusetts Health Care Trust
- Section 4: Powers of the Trust
- Section 5: Purposes of the Trust
- Section 6: Board of Trustees; Composition; Powers and Duties
- Section 7: Executive Director; Purpose and Duties
- Section 8: Regional Division; Director, Offices, Purposes and Duties
- Section 9: Administrative Division; Director; Purpose and Duties
- Section 10: Planning Division; Director; Purpose and Duties
- Section 11: Information Technology Division; Purpose & Duties

17 • Section 12: Quality Assurance Division; Director; Purpose and Duties

18 • Section 13: Eligible Participants

19 • Section 14: Eligible Health Care Providers and Facilities

20 • Section 15: Budgeting and Payments to Eligible Health Care Providers and
21 Facilities

22 • Section 16: Covered Benefits

23 • Section 17: Wraparound Coverage for Federal Health Programs

24 • Section 18: Establishment of the Health Care Trust Fund

25 • Section 19: Purpose of the Trust Fund

26 • Section 20: Funding Sources

27 o 20.A: Overview

28 o 20.B: Health Care Funding

29 o 20.C: Consolidating Public Health Care Spending and Collateral Sources of
30 Revenue

31 § 20.C.1: Consolidation of State and Municipal Health Care Spending

32 § 20.C.2: Federal Sources of Revenue

33 § 20.C.3: Collection of Collateral Sources of Revenue

34 § 20.C.4: Retention of Funds

35 o 20.D: Transitional Provisions

36 • Section 21: Insurance Reforms

37 • Section 22: Health Trust Regulatory Authority

38 • Section 23: Implementation of the Health Care Trust

39 Section 1: Preamble.

40 The foundation for a productive and healthy Massachusetts is a health care system that
41 provides equal access to quality health care for all its residents. Massachusetts spends more on
42 health care per capita than any other state or country in the world, causing undue hardship for the
43 state, municipalities, businesses, and residents, but without achieving universal access to quality

44 health care. The Health Care TrustMedicare for All will allow us to achieve and sustain the three
45 main pillars of a just, efficient health care system: cost control and affordability, universal
46 access, and high quality medical care.

47 (a) COST CONTROL AND AFFORDABILITY

48 Controlling costs is the most important component of establishing a sustainable health
49 care system for the Commonwealth. The Health Care Trust will control costs by establishing a
50 global budget, by achieving significant savings on administrative overhead through consolidating
51 the financing of our health care system, by bulk purchasing of pharmaceuticals and medical
52 supplies, and by more efficient use of our health care facilities. The present fragment health care
53 system also leads to a lack of prevention. By integrating services and removing barriers to
54 access, the Health Care Trust will lead to early detection and intervention, often avoiding more
55 serious illnesses and more costly treatment.

56 (b) UNIVERSAL EQUITABLE ACCESS

57 Hundreds of thousands of Massachusetts residents still lack health insurance coverage of
58 any sort. Even more residents are covered by plans requiring high deductibles and co-payments
59 that make medical care unaffordable even for the insured. The Health Care Trust will provide
60 health care access to all residents without regard to financial status, ethnicity, gender, previous
61 health problems, or geographic location. Coverage will be continuous and affordable for
62 individuals and families, since there will be no financial barriers to access such as co-pays or
63 deductibles.

64 (c) QUALITY OF CARE

65 The World Health Organization rates health outcomes in the United States health care
66 system lower than those of almost all other industrialized countries, and a number of developing
67 countries as well. Poor health outcomes result from the lack of universal access, the lack of
68 oversight on quality due to the fragmentation and complexity of our health care system, and the
69 frequent lack of preventive and comprehensive care benefits offered under commercial health
70 plans. The Trust will reduce errors through information technology, improve medical care by
71 eliminating much of the present administrative complexity, and emphasize culturally competent
72 outreach and care. It will provide for input from patients on the functioning of the health delivery
73 system.

74 Section 2: Definitions.

75 The following words and phrases shall have the following meanings, except where the
76 context clearly requires otherwise:–

77 “Board” means the board of trustees of the Massachusetts Health Care Trust.

78 “Employer” means every person, partnership, association, corporation, trustee, receiver,
79 the legal representatives of a deceased employer and every other person, including any person or
80 corporation operating a railroad and any public service corporation, the state, county, municipal
81 corporation, township, school or road, school board, board of education, curators, managers or
82 control commission, board or any other political subdivision, corporation, or quasi-corporation,
83 or city or town under special charter, or under the commission for of government, using the
84 service of another for pay in the commonwealth.

85 “Executive Director” means the executive director of the Massachusetts Health Care
86 Trust.

87 “Health care” means care provided to a specific individual by a licensed health care
88 professional to promote physical and mental health, to treat illness and injury and to prevent
89 illness and injury.

90 “Health care facility” means any facility or institution, whether public or private,
91 proprietary or nonprofit, that is organized, maintained, and operated for health maintenance or
92 for the prevention, diagnosis, care and treatment of human illness, physical or mental, for one or
93 more persons.

94 “Health care provider” means any professional person, medical group, independent
95 practice association, organization, health care facility, or other person or institution licensed or
96 authorized by law to provide professional health care services to an individual in the
97 commonwealth.

98 “Health maintenance organization” means a provider organization that meets the
99 following criteria:

100 (1) Is fully integrated operationally and clinically to provide a broad range of health care
101 services;

102 (2) Is compensated using capitation or overall operating budget; and

103 (3) Provides health care services primarily through direct care providers who are either
104 employees or partners of the organization, or through arrangements with direct care providers or
105 one or more groups of physicians, organized on a group practice or individual practice basis.

106 “Professional advisory committee” means a committee of advisors appointed by the
107 director of the Administrative, Planning, Information, Technology, or any Regional division of
108 the Massachusetts Health Care Trust.

109 “Resident” means a person who lives in Massachusetts as evidenced by an intent to
110 continue to live in Massachusetts and to return to Massachusetts if temporarily absent, coupled

111 with an act or acts consistent with that intent. The Trust shall adopt standards and procedures for
112 determining whether a person is a resident. Such rules shall include:

113 (1) a provision requiring that the person seeking resident status has the burden of proof in
114 such determination;

115 (2) a provision requiring reasonable durational domicile requirements not to exceed 2
116 years for long term care and 90 days for all other covered services;

117 (3) a provision that a residence established for the purpose of seeking health care shall
118 not by itself establish that a person is a resident of the commonwealth; and

119 (4) a provision that, for the purposes of this chapter, the terms "domicile" and "dwelling
120 place" are not limited to any particular structure or interest in real property and specifically
121 includes homeless individuals with the intent to live and return to Massachusetts if temporarily
122 absent coupled with an act or acts consistent with that intent.

123 "Secretary" means the secretary of the executive office of health and human services.

124 "Trust" means the Massachusetts Health Care Trust established in section five of this
125 chapter.

126 "Trust Fund" means the Massachusetts Health Care Trust Fund established in section
127 eighteennineteen of this chapter.

128 Section 3. Establishment of the Massachusetts Health Care Trust.

129 There is hereby created an independent body, politic and corporate, to be known as the
130 Massachusetts Health Care Trust, hereinafter referred to as the Trust, to function as the single
131 public agency, or "single payer,", responsible for the collection and disbursement of funds
132 required to provide health care services for every resident of the Commonwealth. The Trust is
133 hereby constituted a public instrumentality of the commonwealth and the exercise by the Trust of
134 the powers conferred by this chapter shall be deemed and held the performance of an essential
135 governmental function. The Trust is hereby placed in the executive office of the health and
136 human services, but shall not be subject to the supervision or control of said office or of any
137 board, bureau, department or other agency of the commonwealth except as specifically provided
138 by this chapter.

139 The provisions of chapter two hundred sixty-eight A shall apply to all trustees, officers
140 and employees of the Trust, except that the Trust may purchase from, contract with or otherwise
141 deal with any organization in which any trustee is interested or involved: provided, however, that
142 such interest or involvement is disclosed in advance to the trustees and recorded in the minutes
143 of the proceedings of the Trust: and provided, further, that a trustee having such interest or
144 involvement may not participate in any decision relating to such organization.

145 Neither the Trust nor any of its officers, trustees, employees, consultants or advisors shall
146 be subject to the provisions of section three B of chapter seven, sections nine A, forty-five, forty-
147 six and fifty-two of chapter thirty, chapter thirty B or chapter thirty-one: provided, however, that
148 in purchasing goods and services, the corporation shall at all times follow generally accepted
149 good business practices.

150 All officers and employees of the Trust having access to its cash or negotiable securities
151 shall give bond to the Trust at its expense, in such amount and with such surety as the board of
152 trustees shall prescribe. The persons required to give bond may be included in one or more
153 blanket or scheduled bonds.

154 Trustees, officers and advisors who are not regular, compensated employees of the Trust
155 shall not be liable to the commonwealth, to the Trust or to any other person as a result of their
156 activities, whether ministerial or discretionary, as such trustees, officers or advisors except for
157 willful dishonesty or intentional violations of law. The board of the Trust may purchase liability
158 insurance for trustees, officers, advisors and employees and may indemnify said persons against
159 the claims of others.

160 Section 4: Powers of the Trust.

161 The Trust shall have the following powers:

162 (1) to make, amend and repeal by-laws, rules and regulations for the management of its
163 affairs;

164 (2) to adopt an official seal;

165 (3) to sue and be sued in its own name;

166 (4) to make contracts and execute all instruments necessary or convenient for the carrying
167 on of the purposes of this chapter;

168 (5) to acquire, own, hold, dispose of and encumber personal, real or intellectual property
169 of any nature or any interest therein;

170 (6) to enter into agreements or transactions with any federal, state or municipal agency or
171 other public institution or with any private individual, partnership, firm, corporation, association
172 or other entity;

173 (7) to appear on its own behalf before boards, commissions, departments or other
174 agencies of federal, state or municipal government;

175 (8) to appoint officers and to engage and employ employees, including legal counsel,
176 consultants, agents and advisors and prescribe their duties and fix their compensations;

177 (9) to establish advisory boards;

178 (10) to procure insurance against any losses in connection with its property in such
179 amounts, and from such insurers, as may be necessary or desirable;

180 (11) to invest any funds held in reserves or sinking funds, or any funds not required for
181 immediate disbursement, in such investments as may be lawful for fiduciaries in the
182 commonwealth pursuant to sections thirty-eight and thirty-eight A of chapter twenty nine

183 (12) to accept, hold, use, apply, and dispose of any and all donations, grants, bequests and
184 devises, conditional or otherwise, of money, property, services or other things of value which
185 may be received from the United States or any agency thereof, any governmental agency, any
186 institution, person, firm or corporation, public or private, such donations, grants, bequests and
187 devises to be held, used, applied or disposed for any or all of the purposes specified in this
188 chapter and in accordance with the terms and conditions of any such grant. Â Receipt of each
189 such donation or grant shall be detailed in the annual report of the Trust; such annual report shall
190 include the identity of the donor, lender, the nature of the transaction and any condition attaching
191 thereto;

192 (13) to do any and all other things necessary and convenient to carry out the purposes of
193 this chapters.

194 Section 5: Purposes of the Trust.

195 The purposes of the Massachusetts Health Care Trust shall include the following:

196 (1) To guarantee every Massachusetts resident access to high quality health care by:

197 (a) providing reimbursement for all medically appropriate health care services offered by
198 the eligible provider or facility of each resident's choice;

199 (b) funding capital investments for adequate health care facilities and resources statewide

200 (2) To save money by replacing the current mixture of public and private health care
201 plans with a uniform and comprehensive health care plan available to every Massachusetts
202 resident;

203 (3) To replace the redundant private and public bureaucracies required to support the
204 current system with a single administrative and payment mechanism for covered health care
205 services;

206 (4) To use administrative and other savings to:

207 (a) expand covered health care services;

208 (b) contain health care cost increases; and

209 (c) create provider incentives to innovate and compete by improving health care service
210 quality and delivery to patients;

211 (5) To fund, approve and coordinate capital improvements in excess of a threshold to be
212 determined annually by the executive director to qualified health care facilities to:

213 (a) avoid unnecessary duplication of health care facilities and resources; and

214 (b) encourage expansion or location of health care providers and health care facilities in
215 underserved communities;

216 (6) To assure the continued excellence of professional training and research at
217 Massachusetts health care facilities;

218 (7) To achieve measurable improvement in health care outcomes;

219 (8) To prevent disease and disability and maintain or improve health and functionality;

220 (9) To ensure that all Massachusetts residents receive care appropriate to their special
221 needs as well as care that is culturally and linguistically competent;

222 (10) To increase satisfaction with the health care system among health care providers,
223 consumers, and the employers and employees of the commonwealth;

224 (11) To implement policies which strengthen and improve culturally and linguistically
225 sensitive care;

226 (12) To develop an integrated population-based health care database to support health
227 care planning; and

228 (13) To fund training and re-training programs for professional and non-professional
229 workers in the health care sector displaced as a direct result of implementation of this chapter.

230 Section 6: Board of Trustees -; Composition,; Powers, and Duties.

231 The Trust shall be governed by a board of trustees with twenty-three members. The board
232 shall include the secretary of health and human services, the secretary of administration and
233 finance, and the commissioner of public health.

234 The Governor shall appoint: three trustees nominated by organizations of health care
235 professionals who deliver direct patient care; one nominated by a statewide organization of
236 health care facilities; one nominated by an organization representing non-health care employers;
237 and a health care economist.

238 The Attorney General shall appoint: one trustee nominated by a statewide labor
239 organization; two trustees nominated by statewide organizations who have a record of

240 advocating for universal single payer health care in Massachusetts; one nominated by an
241 organization representing Massachusetts senior citizens; one nominated by a statewide
242 organization defending the rights of children; and one nominated by an organization providing
243 legal services to low-income clients.

244 In addition, eight trustees, who are eligible to receive the benefits of the Massachusetts
245 Health Care Trust but who do not fall into any of the aforementioned categories, shall be elected
246 by the citizens of the Commonwealth, one from each of the Governor's Council districts.
247 Candidates shall run in accordance with Fair Campaign Financing Rules. In order to provide for
248 staggered terms, from the first eight to be elected, two shall be elected for two years, three for
249 three years, and three for four years. Afterwards, all elected trustees shall be elected for four-year
250 terms. All elected trustees shall be eligible for reelection, which would enable them to serve a
251 maximum of eight consecutive years.

252 Each appointed trustee shall serve a term of five years: provided, however, that initially
253 four appointed trustees shall serve three year terms, four appointed trustees shall serve four year
254 terms, and four appointed trustees shall serve five year terms. The initial appointed trustees shall
255 be assigned to a three, four, or five year term by lot. Any person appointed to fill a vacancy on
256 the board shall serve for the unexpired term of the predecessor trustee. Any appointed trustee
257 shall be eligible for reappointment. Any appointed trustee may be removed from his appointment
258 by the governor for just cause.

259 The board shall elect a chair from among its members every two years. Ten trustees shall
260 constitute a quorum and the affirmative vote of a majority of the trustees present and eligible to
261 vote at a meeting shall be necessary for any action to be taken by the board. The board of trustees
262 shall meet at least ten times each year and will have final authority over the activities of the
263 Trust.

264 The trustees shall be reimbursed for actual and necessary expenses and loss of income
265 incurred for each full day serving in the performance of their duties to the extent that
266 reimbursement of those expenses is not otherwise provided or payable by another public agency
267 or agencies. For purposes of this section, "full day of attending a meeting" shall mean presence
268 at, and participation in, not less than 75 percent of the total meeting time of the board during any
269 particular 24-hour period.

270 No member of the board of trustees shall make, participate in making, or in any way
271 attempt to use his or her official position to influence a governmental decision in which he or she
272 knows or has reason to know that he or she, or a family member or a business partner or
273 colleague has a financial interest.

274 In general, the board is responsible for ensuring universal access to high quality,
275 affordable health care for every resident of the Commonwealth. The Board shall specifically
276 address all of the following:

277 (1) Establish policy on medical issues, population-based public health issues, research
278 priorities, scope of services, expanding access to care, and evaluation of the performance of the
279 system;

280 (2) Evaluate proposals from the executive director and others for innovative approaches
281 to health promotion, disease and injury prevention, health education and research, and health
282 care delivery.

283 (3) Establish standards and criteria by which requests by health facilities for capital
284 improvements shall be evaluated.

285 Section 7: Executive Director -; Purpose and Duties.

286 The board of trustees shall hire an executive director who shall be the executive and
287 administrative head of the Trust and shall be responsible for administering and enforcing the
288 provisions of law relative to the Trust.

289 The executive director may, as s/he deems necessary or suitable for the effective
290 administration and proper performance of the duties of the Trust and subject to the approval of
291 the board of trustees, do the following:

292 (1) adopt, amend, alter, repeal and enforce, all such reasonable rules, regulations and
293 orders as may be necessary;

294 (2) appoint and remove employees and consultants: provided, however, that, subject to
295 the availability of funds in the Trust, at least one employee shall be hired to serve as director of
296 each of the divisions created in sections eight through twelve, inclusive, of this chapter.

297 The executive director shall:

298 (1) establish an enrollment system that will ensure that all eligible Massachusetts
299 residents are formally enrolled;

300 (2) use the purchasing power of the state to negotiate price discounts for prescription
301 drugs and all needed durable and nondurable medical equipment and supplies;

302 (3) negotiate or establish terms and conditions for the provision of high quality health
303 care services and rates of reimbursement for such services on behalf of the residents of the
304 commonwealth;

305 (4) develop prospective and retrospective payment systems for covered services to
306 provide prompt and fair payment to eligible providers and facilities;

307 (5) oversee preparation of annual operating and capital budgets for the statewide delivery
308 of health care services;

309 (6) oversee preparation of annual benefits reviews to determine the adequacy of covered
310 services; and

311 (7) prepare an annual report to be submitted to the governor, the president of the senate
312 and speaker of the house of representatives and to be easily accessible to every Massachusetts
313 resident.

314 The executive director of the trust may utilize and shall coordinate with the offices, staff
315 and resources of any agencies of the executive branch including, but not limited to, the executive
316 office of health and human services and all line agencies under its jurisdiction, the division of
317 health care finance and policy, the department of revenue, the insurance division, the group
318 insurance commission, the department of employment and training, the industrial accidents
319 board, the health and educational finance authority, and all other executive agencies.

320 Section 8: Regional Division -; Director, Offices, Purposes, and Duties.

321 There shall be a regional division within the Trust which shall be under the supervision
322 and control of a director. The powers and duties given the director in this chapter and in any
323 other general or special law shall be exercised and discharged subject to the control and
324 supervision of the executive director of the Trust. The director of the regional division shall be
325 appointed by the executive director of the Trust, with the approval of the board of trustees, and
326 may, with like approval, be removed. The director may, at his/her discretion, establish a
327 professional advisory committee to provide expert advice: provided, however, that such
328 committee shall have at least 25% consumer representation.

329 The Trust shall have a reasonable number of regional offices located throughout the state.
330 The number and location of these offices shall be proposed to the executive director and board of
331 trustees by the director of the regional division after consultation with the directors of the
332 planning, administration, quality assurance and information technology divisions and
333 consideration of convenience and equity. The adequacy and appropriateness of the number and
334 location of regional offices shall be reviewed by the board at least once every three years.

335 Each regional office shall be professionally staffed to perform local outreach and
336 informational functions and to respond to questions, complaints, and suggestions from health
337 care consumers and providers. Each regional office shall hold hearings annually to determine
338 unmet health care needs and for other relevant reasons. Regional office staff shall immediately
339 refer evidence of unmet needs or of poor quality care to the director of the regional division who
340 will plan and implement remedies in consultation with the directors of the administrative,
341 planning, quality assurance, and information technology divisions.

342 Section 9: Administrative Division; Director; Purpose and Duties.

343 There shall be an administrative division within the Trust which shall be under the
344 supervision and control of a director. The powers and duties given the director in this chapter and
345 in any other general or special law shall be exercised and discharged subject to the direction,
346 control and supervision of the executive director of the Trust. The director of the administrative
347 division shall be appointed by the executive director of the Trust, with the approval of the board
348 of trustees, and may, with like approval, be removed. The director may, at his/her discretion,
349 establish a professional advisory committee to provide expert advice: provided, however, that
350 such committee shall have at least 25% consumer representation.

351 The administrative division shall have day-to-day responsibility for:

352 (1) making prompt payments to providers and facilities for covered services;

353 (2) collecting reimbursement from private and public third party payers and individuals
354 for services not covered by this chapter or covered services rendered to non-eligible patients;

355 (3) developing information management systems needed for provider payment, rebate
356 collection and utilization review;

357 (4) investing trust fund assets consistent with state law and section nineteen of this
358 chapter;

359 (5) developing operational budgets for the Trust; and

360 (6) assisting the planning division to develop capital budgets for the Trust.

361 Section 10: Planning Division -; Director,; Purpose, and Duties.

362 There shall be a planning division within the Trust which shall be under the supervision
363 and control of a director. The powers and duties given the director in this chapter and in any
364 other general or special law shall be exercised and discharged subject to the direction, control
365 and supervision of the executive director of the Trust. The director of the planning division shall
366 be appointed by the executive director of the Trust, with the approval of the board of trustees,
367 and may, with like approval, be removed. The director may, at his/her discretion, establish a
368 professional advisory committee to provide expert advice: provided, however, that such
369 committee shall have at least 25% consumer representation.

370 The planning division shall have responsibility for coordinating health care resources and
371 capital expenditures to ensure all eligible participants reasonable access to covered services. The
372 responsibilities shall include but are not limited to:

373 (1) An annual review of the adequacy of health care resources throughout the
374 commonwealth and recommendations for changes. Specific areas to be evaluated include but are
375 not limited to the resources needed for underserved populations and geographic areas, for

376 culturally and linguistically competent care, and for emergency and trauma care. The director
377 will develop short term and long term plans to meet health care needs.

378 (2) An annual review of capital health care needs. Included in this evaluation, but not
379 limited to it are recommendations for a budget for all health care facilities, evaluating all capital
380 expenses in excess of a threshold amount to be determined annually by the executive director ,
381 and collaborating with local and statewide government and health care institutions to coordinate
382 capital health planning and investment. The director will develop short term and long term plans
383 to meet capital expenditure needs.

384 In making its review, the planning division shall consult with the regional offices of the
385 Trust and shall hold hearings throughout the state on proposed recommendations. The division
386 shall submit to the board of trustees its final review and recommendations by October 1 of each
387 year. Subject to board approval, the Trust shall adopt the recommendations.

388 Section 11: Information Technology Division -; Purpose and& Duties.

389 There shall be an information technology division within the Trust which shall be under
390 the supervision and control of a director. The powers and duties given the director in this chapter
391 and in any other general or special law shall be exercised and discharged subject to the direction,
392 control and supervision of the executive director of the Trust. The director of the information
393 technology division shall be appointed by the executive director of the Trust, with the approval
394 of the board of trustees, and may, with like approval, be removed. The director may, at his/her
395 discretion, establish a professional advisory committee to provide expert advice: provided,
396 however, that such committee shall have at least 25% consumer representation.

397 The responsibilities of the information technology division shall include but are not
398 limited to:

399 (1) maintaining a confidential electronic medical records system and prescription system
400 in accordance with laws and regulations to maintain accurate patient records and to simplify the
401 billing process, thereby reducing medical errors and bureaucracy;

402 (2) developing a tracking system to monitor quality of care, establish a patient data base
403 and promote preventive care guidelines and medical alerts to avoid errors.

404 Notwithstanding that all billing shall be performed electronically, patients shall have the
405 option of keeping any portion of their medical records separate from their electronic medical
406 record. The information technology director shall work closely with the directors of the regional,
407 administrative, planning and quality assurance divisions. The information technology division
408 shall make an annual report to the board of trustees by October 1 of each year. Subject to board
409 approval, the Trust shall adopt the recommendations.

410 Section 12: Quality Assurance Division -; Director,; Purpose, and Duties.

411 There shall be a quality assurance division within the Trust which shall be under the
412 supervision and control of a director. The powers and duties given the director in this chapter and
413 in any other general or special law shall be exercised and discharged subject to the direction,
414 control and supervision of the executive director of the Trust. The director of the quality
415 assurance division shall be appointed by the executive director of the Trust, with the approval of
416 the board of trustees, and may, with like approval, be removed. The director may, at his/her
417 discretion, establish a professional advisory committee to provide expert advice: provided,
418 however, that such committee shall have at least 25% consumer representation.

419 The quality assurance division shall support the establishment of a universal, best quality
420 of standard of care with respect to:

421 (a) appropriate staffing levels;

422 (b) appropriate medical technology;

423 (c) design and scope of work in the health workplace; and

424 (d) evidence-based best clinical practices.

425 The director shall conduct a comprehensive annual review of the quality of health care
426 services and outcomes throughout the commonwealth and submit such recommendations to the
427 board of trustees as may be required to maintain and improve the quality of health care service
428 delivery and the overall health of Massachusetts residents. In making its reviews, the quality
429 assurance division shall consult with the regional, administrative, and planning divisions and
430 hold hearings throughout the state on quality of care issues. The division shall submit to the
431 board of trustees its final review and recommendations on how to ensure the highest quality
432 health care service delivery by October 1 of each year. Subject to board approval, the Trust shall
433 adopt the recommendations.

434 Section 13: Eligible Participants.

435 Those persons who shall be recognized as eligible participants in the Massachusetts
436 Health Care Trust shall include:

437 (1) all Massachusetts residents,

438 (2) all non-residents who:

439 (a) work 20 hours or more per week in Massachusetts;

440 (b) pay all applicable Massachusetts personal income and payroll taxes;

441 (c) pay any additional premiums established by the Trust to cover non-residents; and

442 (d) have complied with requirements (a) through (c) inclusive for at least 90 days

443 (3) All non-resident patients requiring emergency treatment for illness or injury:
444 provided, however, that the trust shall recoup expenses for such patients wherever possible.

445 Payment for emergency care of Massachusetts residents obtained out of state shall be at
446 prevailing local rates. Payment for non-emergency care of Massachusetts residents obtained out
447 of state shall be according to rates and conditions established by the executive director. The
448 executive director may require that a resident be transported back to Massachusetts when
449 prolonged treatment of an emergency condition is necessary.

450 Visitors to Massachusetts shall be billed for all services received under the system. The
451 executive director of the Trust may establish intergovernmental arrangements with other states
452 and countries to provide reciprocal coverage for temporary visitors.

453 Section 14: Eligible Health Care Providers and Facilities.

454 Eligible health care providers and facilities shall include an agency, facility, corporation,
455 individual, or other entity directly rendering any covered benefit to an eligible patient: provided,
456 however, that the provider or facility:

457 (1) is licensed to operate or practice in the commonwealth;

458 (2) does not provide health care services covered by, but not paid for, by the trust;

459 (3) furnishes a signed agreement that:

460 (a) all health care services will be provided without discrimination on the basis of factors
461 including, but not limited to age, sex, race, national origin, sexual orientation, income status or
462 preexisting condition;

463 (b) the provider or facility will comply with all state and federal laws regarding the
464 confidentiality of patient records and information; (c) no balance billing or out-of-pocket charges
465 will be made for covered services unless otherwise provided in this chapter; and

466 (d) the provider or facility will furnish such information as may be reasonably required
467 by the Trust for making payment, verifying reimbursement and rebate information, utilization
468 review analyses, statistical and fiscal studies of operations and compliance with state and federal
469 law;

470 (4) meets state and federal quality guidelines including guidance for safe staffing, quality
471 of care, and efficient use of funds for direct patient care;

472 (5) is a non-profit health maintenance organization that actually delivers care in its
473 facilities and employs clinicians on a salaried basis; and

474 (6) meets whatever additional requirements that may be established by the Trust.

475 Section 15: Budgeting and Payments to Eligible Health Care Providers and Facilities.

476 To carry out this Act there are established on an annual basis:

477 (1) an operating budget;

478 (2) a capital expenditures budget; and

479 (3) reimbursement levels for providers consistent with subtitle BSection 20;

480 The operating budget shall be used for:

481 (a) payment for services rendered by physicians and other clinicians;

482 (b) global budgets for institutional providers;

483 (c) capitation payments for capitated groups; and

484 (d) administration of the Trust.

485 Payments for operating expenses shall not be used to finance capital expenditures;
486 payment of exorbitant salaries; or for activities to assist, promote, deter or discourage union
487 organizing. Any prospective payments made in excess of actual costs for covered services shall
488 be returned to the Trust. Prospective payment rates and schedules shall be adjusted annually to
489 incorporate retrospective adjustments. Except as provided in section sixteen of this chapter,
490 reimbursement for covered services by the Trust shall constitute full payment for the services
491 rendered.

492 The Trust shall provide for retrospective adjustment of payments to eligible health care
493 facilities and providers to:

494 (a) assure that payments to such providers and facilities reflect the difference
495 between actual and projected utilization and expenditures for covered services; and

496 (b) protect health care providers and facilities who serve a disproportionate share of
497 eligible participants whose expected utilization of covered health care services and expected
498 health care expenditures for such services are greater than the average utilization and expenditure
499 rates for eligible participants statewide.

500 The capital expenditures budget shall be used for funds needed for--

501 (a) the construction or renovation of health facilities; and

502 (b) for major equipment purchases.

503 Payment provided under this section can be used only to pay for the operating costs of
504 eligible health care providers or facilities, including reasonable expenditures, as determined

505 through budget negotiations with the Trust, for the maintenance, replacement and purchase of
506 equipment.

507 The Trust shall provide funding for payment of debt service on outstanding bonds as of
508 the effective date of this Act and shall be the sole source of future funding, whether directly or
509 indirectly, through the payment of debt service, for capital expenditures by health care providers
510 and facilities covered by the Trust in excess of a threshold amount to be determined annually by
511 the executive director.

512 Section 16: Covered Benefits.

513 The Trust shall pay for all professional services provided by eligible providers and
514 facilities to eligible participants needed to:

515 (1) provide high quality, appropriate and medically necessary health care services;

516 (2) encourage reductions in health risks and increase use of preventive and primary care
517 services; and

518 (3) integrate physical health, mental and behavioral health and substance abuse services.

519 Covered benefits shall include all high quality health care determined to be medically
520 necessary or appropriate by the Trust, including, but not limited to, the following:

521 (1) prevention, diagnosis and treatment of illness and injury, including laboratory,
522 diagnostic imaging, inpatient, ambulatory and emergency medical care, blood and blood
523 products, dialysis, mental health services, dental care, acupuncture, physical therapy, chiropractic
524 and podiatric services;

525 (2) promotion and maintenance of individual health through appropriate screening,
526 counseling and health education;

527 (3) the rehabilitation of sick and disabled persons, including physical, psychological, and
528 other specialized therapies;

529 (4) prenatal, perinatal and maternity care, family planning, fertility and reproductive
530 health care;

531 (5) home health care including personal care;

532 (6) long term care in institutional and community-based settings;

533 (7) hospice care;

534 (8) language interpretation and such other medical or remedial services as the Trust shall
535 determine;

536 (9) emergency and other medically necessary transportation;

537 (10) the full scale of dental services, other than cosmetic dentistry;

538 (11) basic vision care and correction, other than laser vision correction for cosmetic
539 purposes;

540 (12) hearing evaluation and treatment including hearing aids;

541 (13) prescription drugs; and

542 (14) durable and non-durable medical equipment, supplies and appliances.

543 No deductibles, co-payments, co-insurance, or other cost sharing shall be imposed with
544 respect to covered benefits. Patients shall have free choice of participating physicians and other
545 clinicians, hospitals, inpatient care facilities and other providers and facilities.

546 Section 17. Wraparound Coverage for Federal Health Programs.

547 Prior to obtaining any federal program'swaivers to receive federal matching funds
548 financing through the Health Care Trust, the Trust will seek to ensure that participants eligible
549 for federal program coverage receive access to care and coverage equal to that of all other
550 Massachusetts participants. It shall do so by (a) paying for all services enumerated under Section
551 16 not covered by the relevant federal plans; (b) paying for all such services during any federally
552 mandated gaps in participants' coverage; and (c) paying for any deductibles, co-payments, co-
553 insurance, or other cost sharing incurred by such participants.

554 Section 18: Establishment of the Health Care Trust Fund.

555 In order to support the Trust effectively, there is hereby established the health care trust
556 fund, hereinafter the Trust Fund, which shall be administered and expended by the executive
557 director of the Trust subject to the approval of the board. The Fund shall consist of all revenue
558 sources defined in Section 20, and all property and securities acquired by and through the use of
559 monies deposited to the Trust Fund and all interest thereon less payments therefrom to meet
560 liabilities incurred by the Trust in the exercise of its powers and the performance of its duties.

561 All claims for health care services rendered shall be made to the Trust Fund and all
562 payments made for health care services shall be disbursed from the Trust Fund.

563 Section 19: Purpose of the Trust Fund.

564 Amounts credited to the Trust Fund shall be used for the following purposes:

565 (1) to pay eligible health care providers and health care facilities for covered services
566 rendered to eligible individuals;

567 (2) to fund capital expenditures for eligible health care providers and health care facilities
568 for approved capital investments in excess of a threshold amount to be determined annually by
569 the executive director;

570 (3) to pay for preventive care, education, outreach, and public health risk reduction
571 initiatives, not to exceed 5% of Trust income in any fiscal year;

572 (4) to supplement other sources of financing for education and training of the health care
573 workforce, not to exceed 2% of Trust income in any fiscal year;

574 (5) to supplement other sources of financing for medical research and innovation, not to
575 exceed 1% of Trust income in any fiscal year;

576 (6) to supplement other sources of financing for training and retraining programs for
577 workers displaced as a result of administrative streamlining gained by moving from a multi-
578 payer to a single payer health care system, not to exceed 2% of Trust income in any fiscal year:
579 provided, however, that eligible workers must have enrolled by June 20 of the third year
580 following full implementation of this chapter;

581 (7) to fund a reserve account to finance anticipated long-term cost increases due to
582 demographic changes, inflation or other foreseeable trends that would increase Trust Fund
583 liabilities, and for budgetary shortfall, epidemics, and other extraordinary events, not to exceed
584 1% of Trust income in any fiscal year: provided, however, that the Trust reserve account shall at
585 no time constitute more than 5% of total Trust assets;

586 (8) to pay the administrative costs of the Trust which, within two years of full
587 implementation of this chapter shall not exceed 5% of Trust income in any fiscal year.

588 Unexpended Trust assets shall not be deemed to be "surplus" funds as defined by chapter
589 twenty-nine of the general laws.

590 Section 20: Funding Sources.

591 20.A: Overview

592 The Trust shall be the repository for all health care funds and related administrative
593 funds. A fairly apportioned, dedicated health care tax on employers, workers, and citizens will
594 replace spending on insurance premiums and out-of-pocket spending for services covered by the
595 Trust. The Trust will enable the state to pass lower health care costs on to residents and
596 businesses through savings from administrative simplification, bulk purchasing discounts on
597 pharmaceuticals and medical supplies, and through early detection and intervention by
598 universally available primary and preventive care. Additionally, collateral sources of revenue –
599 such as from the federal government, non-residents receiving care in the state, or from personal

600 liability – will be recovered by the Trust. Lastly, the Trust shall enact provisions ensuring a
601 smooth transition to a universal health care system for employers and residents.

602 20.B: Health Care Funding

603 The following dedicated health care taxes will replace spending on insurance premiums
604 and out-of-pocket spending for services covered by the Trust. Prior to each state fiscal year of
605 operation, the Trust will prepare for the Legislature a projected budget for the coming fiscal year,
606 with recommendations for rising or declining revenue needs.

607 • An employer payroll tax of 7.5 percent will be assessed, exempting the first
608 $30,000 of payroll per establishment, replacing previous spending by employers on health
609 premiums. An additional employer payroll tax of 0.44% will be assessed on establishments with
610 100 or more employees;

611 • An employee payroll tax of 2.5 percent will be assessed, replacing previous
612 spending by employees on health premiums and out-of-pocket expenses;

613 • A payroll tax on the self-employed of 10 percent will be assessed, exempting the
614 first $30,000 of payroll per self-employed resident.

615 • A tax on unearned income of 12.5 percent will be assessed to fairly distribute the
616 costs of health care across various sources of income.

617 An employer, private or public, may agree to pay all or part of an employee's payroll tax
618 obligation. Such payment shall not be considered income for Massachusetts income tax
619 purposes.

620 Default, underpayment, or late payment of any tax or other obligation imposed by the
621 Trust shall result in the remedies and penalties provided by law, except as provided in this
622 section.

623 Eligibility for benefits shall not be impaired by any default, underpayment, or late
624 payment of any tax or other obligation imposed by the Trust.

625 20.C: Consolidating Public Health Care Spending and Collateral Sources of Revenue

626 It is the intent of this act to establish a single public payer for all health care in the
627 commonwealth. Towards this end, public spending on health insurance will be consolidated into
628 the Trust to the greatest extent possible. Until such time as the role of all other payers for health
629 care has been terminated, health care costs shall be collected from collateral sources whenever
630 medical services provided to an individual are, or may be, covered services under a policy of
631 insurance, health care service plan, or other collateral source available to that individual, or for
632 which the individual has a right of action for compensation to the extent permitted by law.

633 20.C.1: Consolidation of State and Municipal Health Care Spending

634 The Legislature will be empowered to transfer funds from the General Fund sufficient to
635 meet the Trust's projected expenses beyond projected income from dedicated tax revenues. This
636 lump transfer will replace current General Fund spending on health benefits for state employees,
637 services for patients at public in-patient facilities, and all means- or needs-tested health benefit
638 programs. Additionally, the Legislature will reduce local aid to municipalities commensurate
639 with the reduced burden of health insurance premiums for municipal employees and contractors.

640 20.C.2: Federal Sources of Revenue

641 The Trust shall receive all monies paid to the commonwealth by the federal government
642 for health care services covered by the Trust. The Trust shall seek to maximize all sources of
643 federal financial support for health care services in Massachusetts. Accordingly, the executive
644 director shall seek all necessary waivers, exemptions, agreements, or legislation, if needed, so
645 that all current federal payments for health care shall, consistent with the federal law, be paid
646 directly to the Trust Fund. In obtaining the waivers, exemptions, agreements, or legislation, the
647 executive director shall seek from the federal government a contribution for health care services
648 in Massachusetts that shall not decrease in relation to the contribution to other states as a result
649 of the waivers, exemptions, agreements, or legislation.

650 20.C.3: Collection of Collateral Sources of Revenue

651 As used in this section, collateral source includes all of the following:

652 • insurance policies written by insurers, including the medical components of
653 automobile, homeowners, workers' compensation, and other forms of insurance;

654 • health care service plans and pension plans;

655 • employee benefit contracts;

656 • government benefit programs;

657 • a judgment for damages for personal injury;

658 • any third party who is or may be liable to an individual for health care services or
659 costs;

660 As used in this section, collateral sources do not include either of the following:

661 • a contract or plan that is subject to federal preemption;

662 • any governmental unit, agency, or service, to the extent that subrogation is
663 prohibited by law.

664 An entity described as a collateral source is not excluded from the obligations imposed by
665 this section by virtue of a contract or relationship with a governmental unit, agency, or service.

666 Whenever an individual receives health care services under the system Trust and s/he is
667 entitled to coverage, reimbursement, indemnity, or other compensation from a collateral source,
668 s/he shall notify the health care provider or facility and provide information identifying the
669 collateral source other than federal sources, the nature and extent of coverage or entitlement, and
670 other relevant information. The health care provider or facility shall forward this information to
671 the executive director. The individual entitled to coverage, reimbursement, indemnity, or other
672 compensation from a collateral source shall provide additional information as requested by the
673 executive director.

674 The Trust shall seek reimbursement from the collateral source for services provided to
675 the individual, and may institute appropriate action, including suit, to recover the costs to the
676 Trust. Upon demand, the collateral source shall pay to the Trust Fund the sums it would have
677 paid or expended on behalf of the individuals for the health care services provided by the Trust.

678 If a collateral source is exempt from subrogation or the obligation to reimburse the Trust
679 as provided in this section, the executive director may require that an individual who is entitled
680 to medical services from the collateral source first seek those services from that source before
681 seeking those services from the Trust.

682 To the extent permitted by federal law, contractual retiree health benefits provided by
683 employers shall be subject to the same subrogation as other contracts, allowing the Trust to
684 recover the cost of services provided to individuals covered by the retiree benefits, unless and
685 until arrangements are made to transfer the revenues of the benefits directly to the Trust.

686 20.C.4: Retention of Funds

687 The Trust shall retain:

688 • all charitable donations, gifts, grants or bequests made to it from whatever source
689 consistent with state and federal law;

690 • payments from third party payers for covered services rendered by eligible
691 providers to non-eligible patients but paid for by the Trust;

692 • income from the investment of Trust assets, consistent with state and federal law.

693 20.D: Transitional Provisions

694 Any employer which has a contract with an insurer, health services corporation or health
695 maintenance organization to provide health care services or benefits for its employees, which is
696 in effect on the effective date of this section, shall be entitled to an income tax credit against

697 premiums otherwise due in an amount equal to the Trust fund premium due pursuant to this
698 section.

699 Any insurer, health services corporation, or health maintenance organization which
700 provides health care services or benefits under a contract with an employer which is in effect on
701 the effective date of this act shall pay to the Trust Fund an amount equal to the Health Trust
702 premium which would have been paid by the employer if the contract with the insurer, health
703 services corporation or health maintenance organizations were not in effect. For purposes of this
704 section, the term "insurer" includes union health and welfare funds and self-insured employers.

705 Six months prior to the establishment of a single payer system, all laws and regulations
706 requiring health insurance carriers to maintain cash reserves for purposes of commercial stability
707 (such as under Chapter 176G, Section 25 of the General Laws) shall be repealed. In their place,
708 the Executive Director of the Trust shall assess an annual health care stabilization fee upon the
709 same carriers, amounting to the same sum previously required to be held in reserves, which shall
710 be credited to the Health Care Trust Fund.

711 Section 21: Insurance Reforms.

712 Insurers regulated by the division of insurance are prohibited from charging premiums to
713 eligible participants for coverage of services already covered by the Trust. The commissioner of
714 insurance shall adopt, amend, alter, repeal and enforce all such reasonable rules and regulations
715 and orders as may be necessary to implement this section.

716 Section 22: Health Trust Regulatory Authority.

717 The Trust shall adopt and promulgate regulations to implement the provisions of this
718 chapter. The initial regulations may be adopted as emergency regulations but those emergency
719 regulations shall be in effect only from the effective date of this chapter until the conclusion of
720 the transition period.

721 Section 23: Implementation of the Health Care Trust.

722 Not later than thirty days after enactment of this legislation, the governor shall make the
723 initial appointments to the board of the Massachusetts Health Care Trust. The first meeting of the
724 trustees shall take place within 60 days of the election of trustees to the board.