SENATE DOCKET, NO. 1112 FILED ON: 1/20/2011

SENATE . . . . . No. 481

The Commonwealth of Massachusetts

PRESENTED BY:

Frederick E. Berry

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 relative to parity in assessments by the health care safety net fund.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Frederick E. Berry	☐ *[District]* ☐
Daniel A. Wolf	☐ *[District]* ☐
Katherine M. Clark	*Middlesex and Essex*

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SENATE . . . . . No. 481

By Mr. Berry, a petition (accompanied by bill, Senate, No. 481) of Frederick E. Berry, Daniel A. Wolf and Katherine M. Clark for legislation relative to parity in assessments by the health care safety net fund. Health Care Financing.

The Commonwealth of Massachusetts

An Act relative to parity in assessments by the health care safety net fund.

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

SECTION 1. Section 34 of Chapter 118G of the General Laws is hereby amended by striking it in its entirety and replacing it with the following:-

“Section 34. Definitions applicable to Secs. 34 to 39”

"Acute hospital", the teaching hospital of the University of Massachusetts medical school and any hospital licensed under section 51 of chapter 111 and which contains a majority of medical-surgical, pediatric, obstetric and maternity beds, as defined by the department of public health.

"Allowable reimbursement", payment to acute hospitals and community health centers for health services provided to uninsured or underinsured patients of the commonwealth under section 39 and any further regulations promulgated by the health safety net office.

"Ambulatory surgical center", a distinct entity that operates exclusively for the purpose of providing surg ical services to patients not requiring hospitalization and meets the requirements of the federal Health Care Financing Administration for participation in the Medicare program.

“Ambulatory surgical center services”, notwithstanding any provision of gene ral or special law or regulation to the contrary, shall be defined as services described for purposes of the Medicare program under 42 U.S.C. 1395k(a)(2)(F)(I). These services include both facility services and surgical and other related medical procedures .

"Bad debt", an account receivable based on services furnished to a patient which: (i) is regarded as uncollectible, following reasonable collection efforts consistent with regulations of

the office, which regulations shall allow third party payers to negotiate with hospitals to collect the bad debts of its enrollees; (ii) is charged as a credit loss; (iii) is not the obligation of a

22 governmental unit or the federal government or any agency thereof; and (iv) is not a
23 reimbursable health care service.

24 "Community health center", a health center operating in conformance with the
25 requirements of Section 330 of United States Public Law 95-626, including all community health
26 centers which file cost reports as requested by the division of health care finance and policy.

27 "Critical access services", those health services which are generally provided only by
28 acute hospitals, as further defined in regulations promulgated by the division.

29 "Director", the director of the health safety net office.

30 "DRG", a patient classification scheme known as diagnosis related grouping, which
31 provides a means of relating the type of patients a hospital treats, such as its case mix, to the cost
32 incurred by the hospital.

33 "Emergency bad debt", bad debt resulting from emerg ency services provided by an acute
34 hospital to an uninsured or underinsured patient or other individual who has an emergency
35 medical condition that is regarded as uncollectible, following reasonable collection efforts
36 consistent with regulations of the off ice.

37 "Emergency medical condition", a medical condition, whether physical or mental,
38 manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of
39 prompt medical attention could reasonably be expected by a prudent lay person who possesses an
40 average knowledge of health and medicine to result in placing the health of the person or another
41 person in serious jeopardy, serious impairment to body function or serious dysfunction of any
42 body organ or part or, with respect to a pregnant woman, as further defined in section
43 1867(e)(1)(B) of the Social Security Act, 42 U.S.C. 1295dd(e)(1)(B).

44 "Emergency services", medically necessary health care services provided to an individual
45 with an emergency medical condition.

46 "Financia l requirements", a hospital's requirement for revenue which shall include, but
47 not be limited to, reasonable operating, capital and working capital costs, the reasonable costs of
48 depreciation of plant and equipment and the reasonable costs associated with changes in medical
49 practice and technology.

50 "Fund", the Health Safety Net Trust Fund established under section 36.

51 "Fund fiscal year", the 12-month period starting in October and ending in September.

52 "Gross patient service revenue", the total dollar amount of a hospital's charges for
53 services rendered in a fiscal year.

54 "Health services", medically necessary inpatient and outpatient services as mandated
55 under Title XIX of the federal Social Security Act. Health services shall not include: (1)
56 nonmedical services, such as social, educational and vocational services; (2) cosmetic surgery;
57 (3) canceled or missed appointments; (4) telephone conversations and consultations; (5) court
58 testimony; (6) research or the provision of experimental or unpro ven procedures including, but
59 not limited to, treatment related to sex-reassignment surgery and pre-surgery hormone therapy;
60 and (7) the provision of whole blood, but the administrative and processing costs associated with
61 the provision of blood and its de rivatives shall be payable.

62 “Laboratory,” shall be defined for these purposes as a laboratory that is licensed by the

63 department of public health and pursuant to M.G.L. c. 111D section 1(1) that is not
64 operated by a community health center.

65 "Office", th e health safety net office established under section 35.

66 “Payments subject to surcharge”, notwithstanding any provision of general or special law
67 or regulation to the contrary, shall be defined as all amounts paid, directly or indirectly, by
68 surcharge pa yors to acute hospitals for health care services, to ambulatory surgical centers for
69 ambulatory surgical center services, to specialty health care providers for specialty health care
70 services, and to laboratories as defined in this section; and provided, h owever, that “payments
71 subject to surcharge” shall not include: (i) payments, settlements and property or casualty
72 insurance policies; (ii) payments made on behalf of Medicaid recipients, Medicare beneficiaries
73 or persons enrolled in policies issued under chapter 176K or similar policies issued on a group
74 basis; and provided further, that “payments subject to surcharge” may exclude amounts
75 established by regulations promulgated by the division for which the costs and efficiency of
76 billing a surcharge payor or enforcing collection of the surcharge from a surcharge payor would
77 not be cost effective.

78 "Pediatric hospital", an acute care hospital which limits services primarily to children and
79 which qualifies as exempt from the Medicare Prospective Payment sys tem regulations.

80 "Pediatric specialty unit", a pediatric unit of an acute care hospital in which the ratio of
81 licensed pediatric beds to total licensed hospital beds as of July 1, 1994 exceeded 0.20. In
82 calculating that ratio, licensed pediatric beds sh all include the total of all pediatric service beds,
83 and the total of all licensed hospital beds shall include the total of all licensed acute care hospital
84 beds, consistent with Medicare's acute care hospital reimbursement methodology as put forth in
85 the Provider Reimbursement Manual Part 1, Section 2405.3G.

86 "Private sector charges", gross patient service revenue attributable to all patients less
87 gross patient service revenue attributable to Titles XVIII and XIX, other public-aided patients,
88 reimbursabl e health services and bad debt.

89 "Reimbursable health services", health services provided to uninsured and underinsured
90 patients who are determined to be financially unable to pay for their care, in whole or part, under
91 applicable regulations of the offi ce; provided that the health services are emergency, urgent and
92 critical access services provided by acute hospitals or services provided by community health
93 centers; and provided further, that such services shall not be eligible for reimbursement by any o
94 ther public or private third-party payer.

95 "Resident", a person living in the commonwealth, as defined by the office by regulation;
96 provided, however, that such regulation shall not define as a resident a person who moved into
97 the commonwealth for the so le purpose of securing health insurance under this chapter.
98 Confinement of a person in a nursing home, hospital or other medical institution shall not in and
99 of itself, suffice to qualify such person as a resident.

100 “Specialty health care provider”, shall b e defined as any entity including a physician
101 practice providing outpatient services typically provided in a hospital setting, including but not
102 limited to: (1) an entity providing anesthesia, conscious sedation and/or diagnostic injection
103 services (includ ing endoscopy services and excluding dental facilities); (ii) an entity employing
104 major medical, diagnostic and/or therapeutic equipment, including but not limited to equipment
105 defined as new technology or as providing an innovative service, pursuant to ch apter 111,
106 section 25B and excluding x-ray equipment; and (iii) which is not a hospital, ambulatory surgical
107 center or community health center. The department shall promulgate regulations with respect to
108 the classification of specialty health care providers.

109 “Surcharge payor”, notwithstanding any provision of general or special law or regulation
110 to the contrary, shall be defined as an individual or entity that pays for or arranges for the
111 purchase of health care services provided by acute hospitals, ambulatory surgical center services
112 provided by ambulatory surgical centers, specialty health care services provided by specialty
113 health care providers, and laboratory services provided by laboratories, as defined in this section;
114 provided, however, that the term “surcharge payor” shall not include Title XVIII and Title XIX
115 programs and their beneficiaries or recipients, other governmental programs of public assistance
116 and their beneficiaries or recipients and the workers’ compensation program established by
117 chapter 152.

118 "Underinsured patient", a patient whose health insurance plan or self-insurance health
119 plan does not pay, in whole or in part, for health services that are eligible for reimbursement
120 from the health safety net trust fund, provided that such patient meets income eligibility
121 standards set by the office.

122 "Uninsured patient", a patient who is a resident of the commonwealth, who is not covered
123 by a health insurance plan or a self-insurance health plan and who is not eligible for a medical
124 assista nce program.

125 SECTION 2. Section 35 of Chapter 118G of the General Laws is hereby amended by
126 inserting after the phrase “acute hospitals” the following :- “, ambulatory surgical centers,
127 specialty health care providers, laboratories,”.

128 SECTION 3. Section 36 of Chapter 118G of the General Laws is hereby amended by
129 inserting after the phrase “all amounts paid by acute hospitals” the following :- “, ambulatory
130 surgical centers, specialty health care providers, laboratories,”.

131 SECTION 4. Section 37 of Chapter 118G of the General Laws is hereby amended by
132 adding the following subsection prior to subsection (a):-

133 “(a) Ambulatory surgical centers, specialty health care providers, and
134 laboratories, notwithstanding any provision of general or special law or regulat ion to the
135 contrary, shall be liable to the health care safety net trust fund in the same manner as acute care
136 hospitals. The division of health care finance and policy, in consultation with the office of
137 Medicaid, shall establish through implementing regu lations the mechanism by which the
138 liability of said providers is to be assessed, paid, monitored, and enforced.”

139 SECTION 5. The General Laws are hereby amended, after each appearance of the term
140 “acute hospital”, by inserting the following phrase :- “and ambulatory surgical center, specialty
141 health care provider, and laboratory”.

142 SECTION 6. The General Laws are hereby amended, after each appearance of the term
143 “ambulatory surgical center”, by inserting the following phrase :- “, specialty health care
144 provider, and laboratory”.