

HOUSE No. 1081

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to patient health care costs..

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. The General Court finds that consumers without health care coverage are
2 sometimes charged more for needed health care services and often cannot afford to pay for these
3 services. This Act requires health care facilities to establish self-pay patient programs and
4 provide information on the self-pay program, and provides a venue for billing disputes.

5 SECTION 2. Chapter 118G of the General Laws is hereby amended by inserting after
6 section 40 the following new section:

7 Section 41. Self-Pay Patient Health Care Costs

8 (A) For purposes of this section, the following words shall, unless the context clearly
9 requires otherwise, have the following meanings: –

10 “Alternative payment arrangement,” a method of compensation that allows payment of
11 billed charges on other than a lump sum or a delayed basis.

12 “Division," the division of Health Care Finance and Policy

13 "Health facility," any hospital or ambulatory surgical center as defined in section 1 of
14 Chapter 118G of the General Laws.

15 "Self-pay patient," a patient who is a resident of the commonwealth and who does not
16 have coverage under a health insurance plan, Medicare, Medicaid, or other government program,
17 and is not eligible for free care or partial free care in the Uncompensated Care Pool under
18 Chapter 118G. For the purpose of this section, "Self-pay patient" hereon will be referred to as
19 "patient".

20 "Reduced charges," a charge established by the division of Health Care Finance and
21 Policy which is no more than the maximum allowable charge for a particular health care service
22 for the category of self-pay patients.

23 "Self-pay program," a program administered by a health facility which at minimum
24 includes, reduced charges for self-pay patients and alternative payment arrangements for self-pay
25 individuals.

26 (B) Self-pay patient program

27 (1) Each health facility shall develop a self-pay program and shall provide each patient
28 with information on its self-pay patient program as a condition of admission for the provision of
29 non-emergency health care services and as soon as reasonably practicable for the provision of
30 emergency health care services.

31 (2) A health facility shall develop and implement procedures for self-pay patients to
32 apply for reduced charges or an alternative payment arrangement. The health care facility shall

33 design the application form and procedures in a manner calculated to encourage participation in
34 the program by eligible self-pay patients.

35 (C)Publication of self-pay program; reports

36 (1) A health facility shall make available to the public on its Internet website, in a format
37 that can be downloaded, a copy of its self-pay program. It shall post a clear and conspicuous
38 notice in its (a) reception areas open to the public, in its admissions office, if applicable, and (b)
39 in its billing office informing patients of the health facility's self-pay program and the ability to
40 obtain a copy of educational materials regarding the program upon request.

41 (2) Each health facility shall, on a quarterly basis, report to the division the number of
42 patients applying for the self-pay program and the number of patients accepted for reduced
43 charges under the self-pay program.

44 (D)Charges for Services

45 (1) A health facility shall not, as a condition of admission or the provision of non-
46 emergency services, require a patient or a patient's representative to sign any form that requires
47 or binds the patient or the patient's representative to make an unspecified or unlimited financial
48 payment to the health facility or to waive the patient's right to appeal charges billed.

49 (2) A health facility may require a financial commitment from a patient or a patient's
50 representative for non-emergency services only if it provides a prior written estimate of charges
51 for the health facility, its contractors, and facility-based physicians for the items and services
52 generally required to treat the patient's condition. The health facility shall notify the patient or
53 the ay patient's representative of any revision to the estimate in a timely manner. If the health

54 facility makes a revision to the estimate that exceeds the lesser of either 20% of the original
55 estimate or \$1,000.00, any financial commitment made by the self-pay patient or the self-pay
56 patient's representative shall be null and void.

57 (3) In the event of any unanticipated complications or unforeseen circumstances in
58 providing non-emergency services to a self-pay patient, the health facility may charge the patient
59 for additional treatment, services, or supplies rendered in connection with the complication or
60 unforeseen circumstance, if such charges are itemized on the patient's billing statement.

61 (4) Each health facility shall provide a patient with an itemized bill for the medical
62 service or item rendered to the patient detailing the following:

63 (a) the original full charge for each medical service or item rendered

64 (b) the reduced charge to be paid by the patient for each medical service or item rendered;

65 and

66 (c) the expected amount that would be paid under the Medicare program for that item or
67 service, including the amount of any required cost-sharing, and excluding the amount of any add-
68 on or supplemental Medicare payments, such as for graduate medical education or the
69 disproportionate share or critical access hospital adjustment.

70 (5) A health facility shall not condition the provision of health care services to a self-pay
71 patient based upon the patient waiving any provision of this Act.

72 (E) Right to contest billings

73 (1) A patient or a patient's representative shall have the right to appeal any charges in
74 their health facility bill, including charges for any of the health facility's contractors or facility-

75 based medical providers. All health facility bills shall conspicuously display at the bottom of
76 each bill in at least twelve-point boldface capital letters a prominent notice of the patient or
77 patient's representative right to appeal any of the charges in the bill.

78 (2) A patient or a patient's representative with appropriate authorization shall have
79 unlimited access to the patient's complete medical record and all health facility billing records
80 relating to the patient's bill to enable the patient or the patient's representative to determine the
81 appropriateness and correctness of all charges. A health facility may not charge any fee for this
82 access, but may charge reasonable fee for copies of these records.

83 (3) A health facility shall establish an impartial method for reviewing billing complains
84 that includes, at a minimum:

85 (a) review by an individual who was not involved in the initial billing; and

86 (b) the provision of a written decision with a clear explanation of the grounds for the
87 decision to (i) the patient or patient's representative making the appeal and (ii) the division
88 within thirty (30) days of the receipt of the appeal.

89 (4) A health facility shall maintain a complete and accurate log of all appeals that
90 includes, at a minimum, the name of the patient or patient's representative making the appeal, the
91 basis for the appeal, the charges and the amount of the charges under appeal, and the disposition
92 of the appeal.

93 (5) A health facility shall annually report to the division the number of appeals, the total
94 of the charges subject to appeal, and a summary of the dispositions of the appeals.

95 (F)Investigations and penalties

96 (1) The division may fine a health facility up to five thousand dollars (\$5,000) per
97 violation of this section.

98 (2) Actions taken by the division pursuant to this section shall not preclude any other
99 remedy by an individual, a health insurance plan, or other party that is available under contract or
100 any other provision of law.

101 (3) Any person may file a claim with the division alleging a violation of Act. The
102 division shall investigate and inform the complaining person of its determination of whether a
103 violation has occurred and what action it will take.

104 (G)Division reports

105 (1) The division shall make public and post on its Internet website, information regarding
106 the reports submitted by each health facility under sections (C) and (D).

107 (2) Upon enactment, on or before March 1 of each year, the division shall issue a report
108 to the general court and the governor that includes all of the following:

109 (a) the total number of patients applying for reduced charges under a health facility's self-
110 pay program;

111 (b) the total number receiving reduced charges under a health facility's self-pay program;

112 (c) the number of investigations it has conducted for alleged violations of this Act;

113 (d) the number of violations the division determined occurred; and

114 (e) the name of each health facility that has violated this article and

115 (f) the actions it has taken against these facilities.

116 (3) Copies of reports prepared pursuant to this section shall be made available free of
117 charge to the public upon request.

118 (H)Privacy

119 Any patient data collected or reported pursuant to this Act must be consistent with state
120 and federal law, including, but not limited to, the Gramm-Leach-Bliley Act (12 U.S.C. §1811 et.
121 seq.) and the Health Insurance Portability and Accountability Act privacy regulations (45 C.F.R.
122 Part 164).