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SENATE . . . . No. 568

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to Contain 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. Chapter 118G of the General Laws, as so appearing in the 2008 Official
2 Edition, is hereby amended by adding at the end thereof the following two new sections-

3 Section 23. Self-Pay Patient Health Care Costs

4 (a) Definitions. For purposes of this section, the following words shall, unless the context
5 clearly requires otherwise, have the following meanings: –

6 "Alternative payment arrangement," a method of compensation that allows payment of
7 billed charges on other than a lump sum or a delayed basis.

8 "Division," the division of Health Care Finance and Policy

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

11 "Self-pay patient," a patient who is a resident of the commonwealth and who does not
12 have coverage under a health insurance plan, Medicare, Medicaid, or other government program,

13 and is not eligible for free care or partial free care in the Uncompensated Care Pool under
14 Chapter 118G. For the purpose of this section, "Self-pay patient" hereon will be referred to as
15 "patient".

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

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

22 (b) Self-pay patient program. (1) Each health facility shall develop a self-pay program
23 and shall provide each patient with information on its self-pay patient program as a condition of
24 admission for the provision of non-emergency health care services and as soon as reasonably
25 practicable for the provision of emergency health care services.

26 (2) A health facility shall develop and implement procedures for self-pay patients to
27 apply for reduced charges or an alternative payment arrangement. The healthcare facility shall
28 design the application form and procedures in a manner calculated to encourage participation in
29 the program by eligible self-pay patients.

30 (c) Publication of self-pay program; reports (1) A health facility shall make available to
31 the public on its Internet website, in a format that can be downloaded, a copy of its self-pay
32 program. It shall post a clear and conspicuous notice in its (a) reception areas open to the public,
33 in its admissions office, if applicable, and (b) in its billing office informing patients of the health

34 facility's self-pay program and the ability to obtain a copy of educational materials regarding the
35 program upon request.

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

39 (d) Charges for Service. (1) A health facility shall not, as a condition of admission or
40 the provision of non-emergency services, require a patient or a patient's representative to sign
41 any form that requires or binds the patient or the patient's representative to make an unspecified
42 or unlimited financial payment to the health facility or to waive the patient's right to appeal
43 charges billed.

44 (2) A health facility may require a financial commitment from a patient or a patient's
45 representative for non-emergency services only if it provides a prior written estimate of charges
46 for the health facility, its contractors, and facility-based physicians for the items and services
47 generally required to treat the patient's condition. The health facility shall notify the patient or
48 the ay patient's representative of any revision to the estimate in a timely manner. If the health
49 facility makes a revision to the estimate that exceeds the lesser of either 20% of the original
50 estimate or $1,000.00, any financial commitment made by the self-pay patient or the self-pay
51 patient's representative shall be null and void.

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

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

58 (i) the original full charge for each medical service or item rendered

59 (ii) the reduced charge to be paid by the patient for each medical service or item
60 rendered; and

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

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

67 (e) Right to contest billings. (1) A patient or a patient's representative shall have the
68 right to appeal any charges in their health facility bill, including charges for any of the health
69 facility's contractors or facility-based medical providers. All health facility bills shall
70 conspicuously display at the bottom of each bill in at least twelve-point boldface capital letters a
71 prominent notice of the patient or patient's representative right to appeal any of the charges in
72 the bill.

73 (2) A patient or a patient's representative with appropriate authorization shall have
74 unlimited access to the patient's complete medical record and all health facility billing records
75 relating to the patient's bill to enable the patient or the patient's representative to determine the

76 appropriateness and correctness of all charges. A health facility may not charge any fee for this
77 access, but may charge reasonable fee for copies of these records.

78 (3) A health facility shall establish an impartial method for reviewing billing complains
79 that includes, at a minimum: (a) review by an individual who was not involved in the initial
80 billing; and (b) the provision of a written decision with a clear explanation of the grounds for the
81 decision to (i) the patient or patient's representative making the appeal and (ii) the division
82 within thirty (30) days of the receipt of the appeal.

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

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

89 (f) Investigations and penalties. (1) The division may fine a health facility up to five
90 thousand dollars ($5,000) per violation of this section. (2) Actions taken by the division
91 pursuant to this section shall not preclude any other remedy by an individual, a health insurance
92 plan, or other party that is available under contract or any other provision of law. (3) Any person
93 may file a claim with the division alleging a violation of Act. The division shall investigate and
94 inform the complaining person of its determination of whether a violation has occurred and what
95 action it will take.

96 (g) Division reports. (1) The division shall make public and post on its Internet
97 website, information regarding the reports submitted by each health facility under sections (c)
98 and (d).

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

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

103 (ii) the total number receiving reduced charges under a health facility's self-pay
104 program;

105 (iii) the number of investigations it has conducted for alleged violations of this
106 Act;

107 (iv) the number of violations the division determined occurred; and

108 (v) the name of each health facility that has violated this article and

109 (vi) the actions it has taken against these facilities.

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

112 (h) Privacy. Any patient data collected or reported pursuant to this Act must be
113 consistent with state and federal law, including, but not limited to, the Gramm-Leach-Bliley Act
114 (12 U.S.C. §1811 et. seq.) and the Health Insurance Portability and Accountability Act privacy
115 regulations (45 C.F.R. Part 164).

116 Section 24. The division, in consultation with other relevant state agencies, shall
117 conduct a review and evaluation of all existing mandated health benefits and shall report its
118 findings to the joint committees on health care and insurance on or before December 1, 2010. For
119 the purpose of this section, "existing mandated health benefits" shall have the same meaning as a
120 "mandated health benefit proposal" in paragraph (a) of section 38C of chapter 3 of the General
121 Laws.

122 The division shall enter into interagency agreements as necessary with the
123 division of medical assistance, the group insurance commission, the department of public health,
124 the division of insurance, and other state agencies holding utilization and cost data relevant to the
125 division's review. Such interagency agreements shall require that the data shared under the
126 agreements is used solely in connection with the division's review under this section, and that the
127 confidentiality of any personal data is protected. The division may also require data from
128 insurers licensed or otherwise authorized to transact accident or health insurance under chapter
129 175, nonprofit hospital service organizations organized under chapter 176A, nonprofit medical
130 service corporations organized under chapter 176B, health maintenance organizations organized
131 under chapter 176G and their industry organizations to complete its analysis. The division may
132 contract with an actuary, or economist as necessary to complete its analysis. The division shall
133 reference all information pertaining to cost, utilization and outcomes that it examines in
134 conducting its review and make it available upon request.

135 The report shall include an evaluation of the medical efficacy of mandating the benefit,
136 including the impact of the benefit to the quality of the patient care and health status of the
137 population and the results of any research demonstrating the medical efficacy of the treatment or
138 service compared to alternative treatments or services, or not providing the service or treatment;

139 and the increase in insurance premiums, if any, resulting from mandating the coverage of this

140 service or treatment and any other relevant information that would be useful in evaluating the

141 mandated health benefit. Costs associated with the mandate shall be evaluated based on the

142 experience of the prior five years, or from the date the mandate is passed, if in existence less than

143 five years. The report may include a recommendation to repeal any mandate that is no longer

144 justified as to cost effectiveness, medical efficacy or safety. This process shall be repeated every

145 five (5) years.