

**SENATE . . . . . No. 852**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act Making Technical Corrections Ensuring Access to Medically Necessary Post-Acute Care Services.

*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: Section 13A of chapter 118E of the Massachusetts General Laws, as  
2 appearing in the 2006 official edition, is hereby amended by striking out the third paragraph and  
3 inserting in place thereof the following paragraph:

4           For any hospital fiscal year commencing on or after October 1, 2009, the division shall  
5 not classify any ventilator dependent patients in a non-acute hospital as an administratively  
6 necessary day patient, unless a physician member of the hospital’s utilization review committee  
7 finds and certifies that the medical services required by the patient are actually available in a  
8 non-hospital facility located within a 25 mile radius of the patient’s principle residence and that  
9 the patient will receive safe and effective care. The division shall not make any decision or take  
10 any action as to the continuing necessity of hospital care in a non-acute hospital which is  
11 inconsistent with the hospital utilization review committee findings. The division shall pay non-  
12 acute hospitals at the full hospital inpatient per diem rate for services provided to such ventilator

13 dependent patients entitled to medical assistance and the ventilator dependent patients shall not  
14 be subject to administratively necessary day rates.

15 SECTION 2: The Office of Medicaid shall promulgate regulations to implement the  
16 provisions of section 1 of this Act no later than 90 days after the effective date of the Act.