

**SENATE . . . . . No. 493**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

*Karen E. Spilka*

*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 adoption of the accompanying bill:

An Act relative to women’s health and cancer recovery.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Karen E. Spilka*

*Second Middlesex and Norfolk*

*Michael F. Rush*

*Norfolk and Suffolk*

**SENATE . . . . . No. 493**

---

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 493) of Karen E. Spilka and Michael F. Rush for legislation relative to women’s health and cancer recovery. Financial Services.

---

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 467 OF 2011-2012.]

**The Commonwealth of Massachusetts**

—————  
**In the Year Two Thousand Thirteen**  
—————

An Act relative to women’s health and cancer recovery.

*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. Notwithstanding any general or special law to the contrary:

2 (a) Any insurer proposing to issue individual or group accident and sickness insurance  
3 policies providing hospital, medical and surgical, or major medical coverage on an expense-  
4 incurred basis; any corporation providing individual or group accident and sickness insurance  
5 policies providing hospital, medical and surgical, or major medical coverage on an expense-  
6 incurred basis; any health maintenance organization contract providing a health care plan for  
7 health care services; and any group blanket policy of accident and sickness insurance, including  
8 the contributory group insurance for persons in the active or retired service of the  
9 Commonwealth, that covers medical and surgical benefits, shall provide coverage consistent  
10 with all of the provisions of this section, known as the “Women’s Health and Cancer Recovery  
11 Act.”

12 (b) Coverage under this section shall include benefits that provide a minimum hospital  
13 stay for such period as is determined by the attending physician in consultation with the patient  
14 to be medically appropriate for such covered person undergoing a lymph node dissection or a  
15 lumpectomy or a mastectomy for the treatment of breast cancer. Such coverage may be subject  
16 to annual deductibles and coinsurance as may be deemed appropriate by the Division of  
17 Insurance, herein referred to as “the division”, and as are consistent with those established for  
18 other benefits within a given policy.

19 (c) Every policy which provides hospital, medical, major medical, or similar  
20 comprehensive-type coverage must provide coverage for a second medical opinion by an  
21 appropriate specialist, including but not limited to a specialist affiliated with a specialty care  
22 center for the treatment of cancer, in the event of a positive or negative diagnosis of cancer or a  
23 recurrence of cancer or a recommendation of a course of treatment for cancer, subject to the  
24 following:

25 (1) In the case of a policy that requires, or provides financial incentives for, the insured to  
26 receive covered services from health care providers participating in a provider network  
27 maintained by or under contract with the insurer, the policy shall include coverage for a second  
28 medical opinion from a non-participating specialist, including but not limited to a specialist  
29 affiliated with a specialty care center for the treatment of cancer, when the attending physician  
30 provides a written referral to a non-participating specialist, at no additional cost to the insured  
31 beyond what such insured would have paid for services from a participating appropriate  
32 specialist. Provided however, that nothing herein shall impair an insured's rights (if any) under  
33 the policy to obtain the second medical opinion from a non-participating specialist without a  
34 written referral, subject to the payment of additional coinsurance (if any) required by the policy  
35 for services provided by non-participating providers. The insurer shall compensate the non-  
36 participating specialist at the usual, customary and reasonable rate, or at a rate listed on a fee  
37 schedule filed and approved by the division, which provides a comparable level of  
38 reimbursement.

39 (2) In the case of a policy that does not provide financial incentives for, and does not  
40 require, the insured to receive covered services from health care providers participating in a  
41 provider network maintained by or under contract with the insurer, the policy shall include  
42 coverage for a second medical opinion from a specialist at no additional cost to the insured  
43 beyond what the insured would have paid for comparable services covered under the policy.

44 (3) Such coverage may be subject to annual deductibles and coinsurance as may be  
45 deemed appropriate by the division and as are consistent with those established for other benefits  
46 within a given policy, and, where applicable, consistent with the provisions of paragraphs (1) and  
47 (2) of this subsection. Nothing in subsection (c) shall be construed as requiring the provision of  
48 secondary consultations where the patient determines not to seek such a consultation.

49 (d) Every policy which provides hospital, medical, major medical, or similar  
50 comprehensive-type coverage shall provide the following coverage for breast reconstruction  
51 surgery after a mastectomy:

52 (1) All stages of reconstruction of the breast on which the mastectomy has been  
53 performed;

54 (2) Surgery and reconstruction of the other breast to produce a symmetrical appearance;  
55 and

56 (3) Prostheses and physical complications of mastectomy, including lymphedemas.

57 Such coverage shall be provided in the manner determined by the attending physician and  
58 the patient to be medically appropriate. Such coverage may be subject to annual deductibles and  
59 coinsurance provisions as may be deemed appropriate by the division and as are consistent with  
60 those established for other benefits within a given policy.

61 (e) Every policy which provides hospital, medical, major medical, or similar  
62 comprehensive-type coverage shall provide coverage which includes benefits for equipment,  
63 supplies, complex decongestive therapy, and outpatient self-management training and education  
64 for the treatment of lymphedema, if prescribed by a health care professional legally authorized to  
65 prescribe or provide such items under law. Such coverage may be subject to annual deductibles  
66 and coinsurance provisions as may be deemed appropriate by the division and as are consistent  
67 with those established for other benefits within a given policy.

68 (f) Written notice of the availability of such coverage provided by this section shall be  
69 delivered to the policyholder or beneficiary of such policy, contract, arrangement or plan prior to  
70 inception or renewal of such policy and annually thereafter.

71 (g) An insurer providing coverage under this section and any participating entity through  
72 which the insurer offers health services shall not:

73 (1) Deny to a covered person eligibility, or continued eligibility, to enroll or to renew  
74 coverage under the terms of the policy or vary the terms of the policy for the purpose or with the  
75 effect of avoiding compliance with this section;

76 (2) Provide incentives (monetary or otherwise) to encourage a covered person to accept  
77 less than the minimum protections available under this section;

78 (3) Penalize in any way or reduce or limit the compensation of a health care practitioner  
79 for recommending or providing care to a covered person in accordance with this section;

80 (4) Provide incentives (monetary or otherwise) to a health care practitioner relating to the  
81 services provided pursuant to this section intended to induce or have the effect of inducing such  
82 practitioner to provide care to a covered person in a manner inconsistent with this section; or

83 (5) Restrict coverage for any portion of a period within a hospital length of stay required  
84 under this section in a manner that is inconsistent with the coverage provided for any preceding  
85 portion of such stay.

86 (h) This Act shall take effect on the first of January next succeeding the date on which it  
87 shall have become a law, and shall apply to all insurance policies, plans, arrangements, and  
88 contracts issued, renewed, extended, modified, altered or amended on or after such date.

89 (i) This section shall not apply to, nor include, the following, or any combination thereof:

- 90 (1) Coverage for accidental death or dismemberment;
- 91 (2) Coverage for short-term travel;
- 92 (3) Coverage providing wages or payments in lieu of wages for any period during which  
93 the employee is absent from work on account of sickness or injury;
- 94 (4) A Medicare supplemental policy, as defined in Section 1852(g)(1) of the Social  
95 Security Act, or any other similar coverage under state or federal government plans;
- 96 (5) Coverage issued as a supplement to liability insurance;
- 97 (6) Worker's compensation or similar insurance;
- 98 (7) Automobile medical-payment insurance; and
- 99 (8) A long-term policy, including a nursing home fixed indemnity policy, unless the  
100 division determines that such a policy provides sufficiently comprehensive coverage of a benefit  
101 so that it should be treated as a health insurance plan under Section (a) of this Act.