

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.