

SENATE No. 542

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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 to define the use of observation services.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Richard T. Moore

Worcester and Norfolk

Anne M. Gobi

5th Worcester

SENATE No. 542

By Mr. Richard T. Moore, a petition (accompanied by bill, Senate, No. 542) of Richard T. Moore and Anne M. Gobi for legislation to define the use of observational services. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 527 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to define the use of observation 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 8 of Chapter 118E of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by inserting after the definition of “Medical benefits” the
3 following new definition:

4 “Observation Services”, a defined set of clinically appropriate health care services which
5 include ongoing assessment, treatment, reassessment, furnished while a decision is being made
6 regarding whether recipients of medical assistance will require inpatient hospitalization or
7 whether they are able to be discharged from the hospital.

8 SECTION 2. Section 12 of chapter 118E of the General Laws, as so appearing, is further
9 amended by inserting at the end thereof the following new paragraph:-

10 The division and its contractors shall classify a medical assistance recipient as requiring
11 or receiving observation services based on the medical judgment of the treating health care
12 provider after due consideration of the recipient’s initial presenting signs and symptoms. If the
13 treating health care provider anticipates greater than 24 hours diagnostic assessment, the
14 recipient shall be deemed admitted to the facility as an inpatient; provided however, that the
15 treating healthcare provider may authorize observation status for services provided beyond 24
16 hours. The division and its contractors shall provide the health care provider an opportunity to

17 seek reconsideration of an adverse determination from a clinical peer reviewer, as defined in
18 chapter 176O of the general laws, should the division seek to retroactively reclassify the
19 recipient from inpatient to observation, for either a portion or the entire stay, based on the
20 division's clinical review criteria.

21 SECTION 3. Section 1 of chapter 176O of the General Laws, as so appearing, is hereby
22 amended by inserting after the definition of "network" the following new definition:

23 "Observation Services", a defined set of clinically appropriate health care services which
24 include ongoing assessment, treatment, reassessment, furnished while a decision is being made
25 regarding whether the insured will require further inpatient hospitalization or whether they are
26 able to be discharged from the hospital.

27 SECTION 4. Section 12 of chapter 176O, as so appearing, is further amended by
28 inserting the following new subsection (f):

29 (f) The carrier and its contractors shall classify an insured as requiring or receiving
30 observation services based on the medical judgment of the treating health care provider after due
31 consideration of the insured's initial presenting signs and symptoms. If the treating health care
32 provider anticipates greater than 24 hours diagnostic assessment, the insured shall be deemed
33 admitted to the facility as an inpatient; provided however, that the treating healthcare provider
34 may authorize observation status for services provided beyond 24 hours. The carrier and its
35 contractors shall provide the health care provider an opportunity to seek reconsideration of an
36 adverse determination from a clinical peer reviewer should the carrier seek to retroactively
37 reclassify the insured from an approved inpatient authorization to observation, for either a
38 portion or the entire stay, based on the carrier's clinical review criteria.

39 SECTION 5. The commissioner of insurance and the office of medicaid shall promulgate
40 regulations, that are consistent with the Medicare interpretive guidelines for applying observation
41 services, to enforce the provisions of this act no later than 90 days after the effective date of the
42 act, which shall be effective for provider contracts which are entered into, renewed, or amended
43 on or after the regulations effective date.