HOUSE DOCKET, NO. 3493 FILED ON: 1/16/2015

HOUSE . . . . . No. 905

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia and John F. Keenan

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 expand coverage and access to behavioral health services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Elizabeth A. Malia	*11th Suffolk*	*1/16/2015*
John F. Keenan	*Norfolk and Plymouth*	*1/16/2015*
Thomas J. Calter	*12th Plymouth*	*8/5/2019*
Jonathan D. Zlotnik	*2nd Worcester*	*8/5/2019*
Mathew Muratore	*1st Plymouth*	*8/5/2019*
Paul W. Mark	*2nd Berkshire*	*8/5/2019*
Jason M. Lewis	*Fifth Middlesex*	*8/5/2019*
Tom Sannicandro	*7th Middlesex*	*8/5/2019*
Thomas A. Golden, Jr.	*16th Middlesex*	*8/5/2019*
Kenneth I. Gordon	*21st Middlesex*	*8/5/2019*
Jennifer E. Benson	*37th Middlesex*	*8/5/2019*
James J. Dwyer	*30th Middlesex*	*8/5/2019*
Kenneth J. Donnelly	*Fourth Middlesex*	*8/5/2019*
Thomas M. McGee	*Third Essex*	*8/5/2019*
Jennifer L. Flanagan	*Worcester and Middlesex*	*8/5/2019*
James R. Miceli	*19th Middlesex*	*8/5/2019*
Joan B. Lovely	*Second Essex*	*8/5/2019*
Ann-Margaret Ferrante	*5th Essex*	*8/5/2019*

HOUSE DOCKET, NO. 3493 FILED ON: 1/16/2015

HOUSE . . . . . No. 905

By Representative Malia of Boston and Senator Keenan, a joint petition (accompanied by bill, House, No. 905) of Elizabeth A. Malia and others for legislation to expand coverage and access to behavioral health services. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to expand coverage and access to behavioral health services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 19 of Chapter 118E, as appearing in the 2012 Official Edition, is hereby amended by adding after the first paragraph, the following new paragraph:-

"The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall cover the cost of medically necessary mental health services within an inpatient psychiatric facility licensed by the Department of Mental Health for up to 14 days and shall not require preauthorization prior to obtaining said mental health services; provided that the facility shall provide the division or its contractors notification of admission within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7; and provided further, that Emergency Service Program teams, so-called, as contracted through MassHealth to conduct behavioral health screenings, shall not be considered a preauthorization requirement pursuant to any

admission under this section. Medical necessity shall be determined by the treating licensed mental health professional and noted in the member's medical record."

SECTION 2. Section 12 of Chapter 123 of the general laws, as so appearing, is hereby amended by striking the first sentence of subsection (b) in its entirety and inserting in place thereof the following:-

"Only if the application for hospitalization under the provisions of this section is made by a physician specifically designated by the facility to have the authority to order an admission to a facility in accordance with the regulations of the department, shall such person be admitted to the facility immediately after his reception."

SECTION 3. Section 16 of Chapter 176O, as so appearing, is hereby amended by adding at the end thereof the following new subsection:-

(d) A carrier shall provide coverage for medically necessary mental health services within an inpatient psychiatric facility licensed by the Department of Mental Health for up to a total of 14 days when such treatment is determined to be medically necessary by the treating licensed mental health professional, and shall not require preauthorization prior to obtaining said mental health services; provided that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7.

SECTION 4. Notwithstanding any general or special law, rule or regulation to the contrary, Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or the Medicaid primary care clinician plans shall develop a

streamlined process that will enhance the current community based behavioral health screening process to allow admission to inpatient behavioral health services from a community based setting where a patient is presenting with a medical condition requires such admission but does not require a medical screening examination in an emergency department. Said process shall be developed after consultation with a working group that includes representatives from the Office of Medicaid, and representatives from organizations that represent and provide expertise in community based mental health, emergency medical care providers, acute care hospitals, inpatient and specialty psychiatric hospitals, insurance carriers, and patient advocacy. The working group shall develop a process that includes, but shall not be limited to (1) additional incentives for community based screening teams that are most successful in placing patients and achieving better patient outcomes for patients screened in the community rather than in an emergency department; and (2) requirements for the Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan to pay the screening teams for community based screening at not less than the rates for adult emergency and crisis services paid by the Massachusetts Behavioral Health Partnership for emergency services as of January 1, 2010 in the following settings: community-based; mobile response; and community crisis stabilization.

SECTION 5. Notwithstanding any general or special law to the contrary, the Office of Medicaid and the Commissioner of Insurance shall develop regulations requiring that carriers, as defined under Section 1 of chapter 176O, and their contractors, and Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or a

primary care clinician plan to assist the provider in conducting searches for inpatient or community based mental health or substance abuse placements for their members or insured if the individuals suffering from a mental health or substance abuse condition once the determination for treatment has been made by the emergency department physician or psychiatric physician, where such assistance shall include providing 24 hour seven day a week access to staff that are familiar with the applicable networks and who will assist providers in real time to locate appropriate placements within the contracted networks of a Carrier, Medicaid managed care organization or a primary care clinician plan.

SECTION 6. Notwithstanding any general or special law to the contrary, the Office of Medicaid and the Commissioner of Insurance shall develop regulations requiring the development of a payment rate by Carriers and their contractors as well as Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan, that reimburses hospitals and physicians at not less than the Medicaid, carrier's or contractor's average contracted rate for inpatient mental health or substance abuse services, for each calendar day that a patient remains boarded in the emergency department beyond 24 hours after a determination to admit has been made by the emergency department physician or psychiatric physician.

SECTION 7. Notwithstanding any general or special law, rule or regulation to the contrary, a Carrier, as defined under Section 1 of Chapter 176O and their contractors, and Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or a primary care clinician plan shall implement all Current Procedural

Terminology (CPT), as well as evaluation and management codes for mental health and substance abuse services in accordance with the new CPT evaluation and management codes as most recently adopted by the American Medical Association and the Centers for Medicare and Medicaid Services (CMS); provided further, that if a code is covered under a Carrier or Medicaid fee schedule and paid on the medical/surgical benefit, then the code shall reimburse health care providers at the same rate as provided in facility and non-facility settings on the mental health and substance abuse benefit regardless of the location where the services were rendered or the medical specialty of the treating healthcare provider; provided further, that the Carrier and office of Medicaid shall work with its actuary to ensure that capitation rates appropriately account for changes in provider rates for all rate changes associated with incremental increases for mental health and substance abuse services; provided further, that any integrated care organization, managed care entity or behavioral health carve-out entity that manages mental health and substance abuse services on behalf of the Carrier or Medicaid shall implement all CPT evaluation and management codes for behavioral health services in accordance with the new CPT codes for evaluation and management services as well as psychopharmacological services and neuropsychological assessment services as most recently adopted by the American Medical Association and CMS; provided further, that any integrated care organization, managed care entity or behavioral health carve-out entity that manages behavioral health services on behalf of a Carrier or Medicaid shall be required to pay, at a minimum, the Carrier's or Medicaid's rates of payment for all CPT evaluation and management codes for behavioral health services by October 1, 2015; and provided further, that the Carrier and Medicaid shall review and adjust all rates of payment accordingly for mental health and substance abuse services provided in hospitals,

hospital clinics, outpatient clinics, private practice offices, community health centers and mental health centers by October 1, 2015.

SECTION 8. Notwithstanding any general or special law or rule or regulation to the contrary, the Office of Medicaid shall develop a process for providers to receive a supplemental payment from the Office to reimburse the difference between reimbursement from Medicaid fee schedules and/or contract arrangements and 95% of the cost of care provided to MassHealth members for mental health and substance abuse services; provided however that the Center for Health Information and Analysis shall conduct an analysis to determine the actual costs of said care.

SECTION 9. Notwithstanding any general or special law or rule or regulation to the contrary, the Office of Medicaid and the Department of Mental Health shall evaluate and coordinate the development a difficult to manage unit, so called, to provide behavioral health services for children and adolescents who also have an intellectual disability at a capacity of at least 15 licensed beds in said unit. Said unit shall be in service at an existing DMH facility or be contracted with a facility licensed by the Department not later than October 1, 2016.

SECTION 10. There shall be a special task force convened to identify existing structural or policy-based impediments to streamlining the current judicial reviews for commitment or Rogers guardianship hearings for adults and children/adolescents to an inpatient psychiatric facility. The task force shall consist of the following members: 1 shall be the Secretary of Health and Human Services or a designee, who shall serve as co-chair; 1 shall be the Trial Court Administrator or a designee, who shall serve as co-chair; 1 shall be the commissioner of mental health; 1 shall be a representative of the Massachusetts Hospital Association; 1 shall be a

representative of the Massachusetts Psychiatric Society; 1 shall be a representative of the Massachusetts Association of Behavioral Health Systems; 1 of whom shall be a representative of the Massachusetts College of Emergency Physicians; 1 shall be a representative of the Massachusetts Medical Society; 1 shall be a representative of the National Alliance on Mental Illness Massachusetts; 1 shall be a representative of the Children's Mental Health Campaign; 1 shall be a representative from the Office of the Child Advocate; 1 shall be a representative of the Committee for Public Counsel Services; 1 shall be a representative of the Center for Public Representation; and additional members may be determined by the Chair. In its examination, the task force shall develop legislative recommendations no later than January 31, 2016, which shall be provided to the Joint Committee on Mental Health and Substance Abuse, the Joint Committee on the Judiciary, the Joint Committee on Health Care Financing, and the House and Senate Committees on Ways and Means.

SECTION 11. Notwithstanding any general or special law or rule or regulation to the contrary, the Division of Insurance shall issue regulation no later than October 1, 2015 that requires Carriers, as defined in section 1 of chapter 176O of the General Laws, to cover community based services for children and adolescents using a wraparound model, so called, that are the same or similar to those provided under Section 16S of Chapter 6A of the General Laws.