

SENATE No. 2081

The Commonwealth of Massachusetts

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

SENATE, Thursday, December 24, 2015

The committee on Financial Service to whom was referred the petition (accompanied by bill, Senate, No. 557) of Karen E. Spilka, David Paul Linsky, Jason M. Lewis, Michael O. Moore and other members of the General Court for legislation to protect access to confidential healthcare,- reports the accompanying bill (Senate, No. 2081).

For the committee,
James B. Eldridge

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An Act to protect access to confidential healthcare.

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. Chapter 176O of the General Laws is hereby amended by striking out
2 section 27 and inserting in place thereof the following:-

3 Section 27. (a) The division shall develop a common summary of payments form to be
4 used by all carriers in the commonwealth that is provided to health care consumers with respect
5 to provider claims submitted to a payer and written in an easily readable and understandable
6 format showing the consumer's responsibility, if any, for payment of any portion of a health care
7 provider claim; provided that the division shall allow the development of forms to be exchanged
8 securely through electronic means; and further provided that carriers shall not be obligated to
9 issue a summary of payments form for provider claims that consist solely of requests for co-
10 payment. The division shall consult with stakeholders to develop these forms.

11 (b) Carriers shall issue common summary of payments forms at the member level for all
12 insureds. Carriers may establish a standard method of delivery of summary of payments forms.
13 All carriers shall permit an insured who is legally authorized to consent to care, or a party legally
14 authorized to consent to care for the insured, to choose an alternative method of receiving the

common summary of payments form, which shall include, but not be limited to, the following:

(1) sending a paper form to the address of the subscriber; (2) sending a paper form to the address of the insured dependent; (3) sending a paper form to any alternate address upon request of the insured; or (4) allowing only the insured to access said form through electronic means whenever available, provided that such access is provided in compliance with any applicable state and federal laws and regulations pertaining to data security, including without limitation 45 CFR Part 160 and 45 CFR Subparts A and C of Part 164, M.G.L. c. 93H, M.G.L. c. 93I , and 201 C.M.R. 17.00, as may be amended; and provided further that any insured dependent who is legally authorized to consent to certain care shall have access to said forms through the means described in section 4 of this paragraph for said care. The preferred method of receipt shall be valid until the insured submits a request orally or in writing for a different method, provided that the carrier may request verification of the request in writing following an oral request. Carriers shall comply with an insured's request pursuant to this paragraph within three business days of the request.

(c) In the event that the insured has no liability for payment for any procedure or service, including, but not limited to, the United States Preventive Services Taskforce recommended A and B preventive services, a carrier may elect not to provide a common summary of payments form; provided that the carrier shall be required to provide the form for that procedure or service upon request of the insured pursuant to subsection (b).

(d) Carriers shall not identify the descriptions for sensitive health care services in a common summary of payments form. The division shall define sensitive health care services for purposes of this section and, in determining such definition, shall consider the National Committee on Vital and Health Statistics and similar regulations in other states, and shall consult

with experts in fields including, but not limited to, infectious disease, reproductive and sexual health, domestic violence and sexual assault, and mental health and substance use disorders.

(e) In the event that the insured has no liability for payment for any procedure or service, carriers shall permit all insureds who are legally authorized to consent to care, or parties legally authorized to consent to care for the insured, to request suppression of summary of payments forms for a specific service or procedure, in which case summary of payments forms shall not be issued; provided that the insured clearly makes the request orally or in writing. Carriers shall not require an explanation as to the basis for an insured's confidential communications request, unless otherwise required by law or court order.

(f) The right to request the preferred method of receipt pursuant to subsection (b) and to request suppression of summary of payments forms pursuant to subsection (e) shall be communicated in plain language and in a clear and conspicuous manner in evidence of coverage documents, member privacy communications and on every summary of payments form, and shall be conspicuously displayed on the carrier's member website and online portals for individual members .

(g) The division shall, no later than three months after the effective date of this act, promulgate final regulations necessary to implement and enforce this section, which shall include reasonable reporting by carriers to the division regarding compliance and the number and type of complaints received regarding noncompliance with this section.

(h) The division, in collaboration with the department of public health, shall develop and implement a plan to educate providers and consumers regarding the rights of insureds and responsibilities of carriers to promote compliance with this section. The plan shall include, but

not be limited to, staff training and other education for hospitals, community health centers, school-based health centers, physicians, nurses and other licensed health care professionals, as well as administrative staff, which shall include all staff involved in patient registration and education about confidentiality, and billing staff involved in processing of insurance claims. The plan shall be developed in consultation with groups representing health care insurers, providers, and consumers, including consumer organizations concerned with the provision of sensitive health services.

SECTION 2. Subsection (h) of Chapter 176O shall take effect six months from the effective date of this act.

Subsections (b)-(f) of Section 27 of Chapter 176O shall take effect nine months from the promulgation of the final regulations pursuant to subsection (g).