SENATE DOCKET, NO. 1150 FILED ON: 1/16/2015

# SENATE . . . . . No. 574

## The Commonwealth of Massachusetts

PRESENTED BY:

***Benjamin B. Downing***

*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 equitable health care pricing.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Benjamin B. Downing* | *Berkshire, Hampshire, Franklin and Hampden* |
| *Marjorie C. Decker* | *25th Middlesex* |
| *Daniel A. Wolf* | *Cape and Islands* |
| *Patricia D. Jehlen* | *Second Middlesex* |
| *Sean Garballey* | *23rd Middlesex* |

SENATE DOCKET, NO. 1150 FILED ON: 1/16/2015

# SENATE . . . . . No. 574

By Mr. Downing, a petition (accompanied by bill, Senate, No. 574) of Benjamin B. Downing, Marjorie C. Decker, Daniel A. Wolf, Patricia D. Jehlen and others for legislation relative to equitable health care pricing. Health Care Financing.

## The Commonwealth of Massachusetts

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

An Act relative to equitable health care pricing.

*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. Chapter 176O of the General Laws of Massachusetts shall be amended by inserting after section 27 the following new section:-

Section 28. Notwithstanding any general or special law to the contrary, as used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Alternative Payment Methods": Payment methods not based solely on fee-for-service payments, as defined by the center under 957 CMR 2.02, and which may include, but are not be limited to, shared savings arrangements, bundled payments, global payments and fee-for-service payments that are settled or reconciled with a bundled or global payment.

"Center": the Center for Health Information and Analysis established under chapter 12C.

"Health Care Provider": For purposes of this section, an acute care hospital licensed under the provisions of section 51 of chapter 111 and its contracting agents.

"Health Status Adjusted Total Medical Expenses (TME)": The total cost of care for the patient population associated with a provider group based on allowed claims for all categories of medical expenses and all non-claims related payments to providers, adjusted by health status, and expressed on a Per Member Per Month basis, as defined by the center under 957 CMR 2.02.

(a) Every health care provider must accept payment by a carrier consistent with the provisions of this section, and may not balance bill the recipient of services for any amount in excess of the amount paid by the carrier pursuant to this section, other than applicable co-payments, co-insurance and deductibles. Any health care provider that participates in a carrier's network or any health benefit plan shall not refuse to participate in the carrier's network due to the carrier's compliance with this section.

(b) Carriers shall, utilizing claims-paid data filed annually with the center, calculate the carrier-specific relative prices the carrier has agreed to pay health care providers using the relevant provider categories and uniform methodology for price relativities established by the center.

(c) No carrier or health care provider, excepting specialty hospitals as defined in section 1 of chapter 12C or geographically isolated hospitals that are the sole acute care hospital within a 20-mile radius, shall enter into or renew a contract or agreement on or after the effective date of this act under which the health care provider is reimbursed at a rate that is more than 20% above the median carrier-specific relative price for each relevant health care provider category that the carrier has agreed to pay to all such health care providers in that category

(d) No carrier or health care provider shall enter into or renew a contract or agreement on or after the effective date of this act under which the health care provider is reimbursed at a rate that is more than 10% below the median carrier-specific relative price for each relevant health care provider category that the carrier has agreed to pay to all such health care providers in that category.

(e) For contracts entered into or renewed prior to the effective date of this act, but on or after July 15, 2016, and for a period of three years or more, this section shall be applied to such contracts one year after the date on which they were entered into or renewed.

(f) The requirements of this section shall also apply to contracts utilizing alternative payment methods between a carrier and a health care provider such that total payment rates, including supplemental payments, quality payments, bonuses and other incentive payments under such alternative payment contracts shall be no more than 20% above and no more than 10% below the median total payment rates in the commonwealth of alternative payment contracts. However, payments under such alternative payment contracts may exceed 20% of the median contracts for payment to specialty hospitals as defined in section 1 of chapter 12C or geographically isolated hospitals that are the sole acute care hospital within a 20-mile radius,

(g) Any and all net savings realized by the carrier attributable to the operation of this section shall be passed on in full through a reduction in the premiums charged to health plan purchasers and eligible members.

(h) Every health care provider that does not agree to participate in a carrier's network must accept a rate equal to the carrier-specific median relative price paid to similar in-network health care providers in those health care providers' geographic service areas.

(i) Nothing in this section shall prohibit a carrier from denying payment for unapproved services conducted by a non-network provider. Every out-of-network health care provider must accept payment by a carrier consistent with the provisions of this section.

(j) The center, in consultation with the commissioner, may promulgate rules and regulations as necessary to monitor and ensure compliance with this section.

SECTION 2. Chapter 12C of the General Laws is hereby amended by inserting after section 22 the following new section:

Section 23. Health Care Provider Exemption from Fair Health Care Pricing

(a) Upon application by a health care provider, the executive director shall once annually determine whether such health care provider may receive an exemption from the provisions of Section 28 of Chapter 176O. The executive director shall weigh the circumstances presented in an application against any potential for such exemption to increase the cost of health care. The executive director shall consider whether application of Section 28 of Chapter 176O would risk the financial solvency of the health care provider or otherwise unduly impact patient access to the health care provider's services.

(b) The attorney general may review and analyze any information submitted pursuant to subsection (a) and may require any provider seeking an exemption to produce documents and testimony under oath related to the circumstances warranting an exemption to Section 28 of Chapter 176O.

(c) The executive director, in consultation with the attorney general, may promulgate regulations to enforce the provisions of this section.

SECTION 3. The division of insurance, in consultation with the center for health information and analysis and the health policy commission, shall annually conduct a study of the impact of section 28 of chapter 176O. The division may conduct a public hearing and receive input from interested parties. The division shall file a report annually with the clerks of the senate and house of representatives on their findings and may make recommendations for legislation.

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

SECTION 5. This act shall take effect on January 15, 2017