SENATE DOCKET, NO. 473 FILED ON: 1/15/2015

SENATE . . . . . No. 604

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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 establishing a public health option.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jason M. Lewis	*Fifth Middlesex*
James B. Eldridge	*Middlesex and Worcester*
Mary S. Keefe	*15th Worcester*
Patricia D. Jehlen	*Second Middlesex*
Byron Rushing	*9th Suffolk*
Sal N. DiDomenico	*Middlesex and Suffolk*

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SENATE . . . . . No. 604

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 604) of Jason M. Lewis, James B. Eldridge, Mary S. Keefe, Patricia D. Jehlen and other members of the General Court for legislation to establish a public health option. Health Care Financing.

The Commonwealth of Massachusetts

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

An Act establishing a public health option.

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. The Massachusetts General Laws, as appearing in the 2014 Official Edition, are hereby amended by inserting after chapter 176Q the following new chapter:-

CHAPTER 176S

PUBLIC HEALTH INSURANCE OPTION

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

"Commonwealth Connector Board", the board of the commonwealth health insurance connector, established by subsection (b) of section 2 of chapter 176Q.

"Commonwealth Connector", the commonwealth health insurance connector authority, established by subsection

11 (a) of section 2 of chapter 176Q.

12 “Connector seal of approval”, the approval given by the board of the connector to
13 indicate that a health benefit plan meets certain standards regarding quality and value, as
14 established by section 10 of Chapter 176Q.

15 “Carrier”, an insurer licensed or otherwise authorized to transact accident and health
16 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
17 176A; a nonprofit medical service corporation organized under chapter 176B; a health
18 maintenance organization organized under chapter 176G.

19 “Health benefit plan”, any individual, general, blanket or group policy of health, accident
20 and sickness insurance issued by an insurer licensed under chapter 175; a group hospital service
21 plan issued by a non-profit hospital service corporation under chapter 176A; a group medical
22 service plan issued by a non-profit medical service corporation under chapter 176B; a group
23 health maintenance contract issued by a health maintenance organization under chapter 176G; a
24 coverage for young adults health insurance plan under section 10 of chapter 176J. The words
25 “health benefit plan” shall not include accident only, credit-only, limited scope vision or dental
26 benefits if offered separately, hospital indemnity insurance policies if offered as independent,
27 non-coordinated benefits which for the purposes of this chapter shall mean policies issued under
28 chapter 175 which provide a benefit not to exceed $500 per day, as adjusted on an annual basis
29 by the amount of increase in the average weekly wages in the commonwealth as defined in
30 section 1 of chapter 152, to be paid to an insured or a dependent, including the spouse of an
31 insured, on the basis of a hospitalization of the insured or a dependent, disability income
32 insurance, coverage issued as a supplement to liability insurance, specified disease insurance that

33 is purchased as a supplement and not as a substitute for a health plan and meets any requirements
34 the commissioner by regulation may set, insurance arising out of a workers' compensation law or
35 similar law, automobile medical payment insurance, insurance under which benefits are payable
36 with or without regard to fault and which is statutorily required to be contained in a liability
37 insurance policy or equivalent self-insurance, long-term care if offered separately, coverage
38 supplemental to the coverage provided under 10 U.S.C. section 55 if offered as a separate
39 insurance policy, or any policy subject to chapter 176K or any similar policies issued on a group
40 basis, Medicare Advantage plans or Medicare Prescription drug plans. A health plan issued,
41 renewed or delivered within or without the commonwealth to an individual who is enrolled in a
42 qualifying student health insurance program under section 18 of chapter 15A shall not be
43 considered a health plan for the purposes of this chapter and shall be governed by said chapter
44 15A. The commissioner of insurance may by regulation define other health coverage as a health
45 benefit plan for the purposes of this chapter.

46 "Eligible individuals", an individual who is a resident of the commonwealth; provided
47 however, that the individual is not offered subsidized health insurance by an employer with more
48 than 50 employees.

49 "Eligible small groups", groups, any sole proprietorship, labor union, educational,
50 professional, civic, trade, church, not-for-profit or social organization or firms, corporations,
51 partnerships or associations actively engaged in business that on at least 50 per cent of its
52 working days during the preceding year employed at least one but not more than 50 employees.

53 "Eligible large groups", groups, any labor union, educational, professional, civic, trade,
54 church, not-for-profit or social organization or firms, corporations, partnerships or associations

55 actively engaged in business that on at least 50 per cent of its working days during the preceding
56 year employed at least 51 employees.

57 "Public Option", the public health benefits plan offered through the Commonwealth
58 Connector, established by section 2.

59 "Trust Fund", the Public Health Insurance Trust Fund, established by section 7.

60 Section 2. The Commonwealth Connector Authority shall provide for the offering a
61 public health benefits plan - the public health insurance option - to eligible individuals and
62 groups, to ensure choice, competition, and stability of affordable, high quality coverage
63 throughout Massachusetts. The public option shall:-

64 (a) be made available exclusively through the Commonwealth Connector, alongside
65 health benefit plans receiving the Connector seal of approval;

66 (b) meet all the requirements established for health benefit plans to receive the
67 Commonwealth Connector seal of approval;

68 (c) meet the Connector's standards for minimum creditable coverage; and

69 (d) comply with subsections (b), (c), and (d) of section 5 of chapter 176Q.

70 Section 3. The public option shall be made available to eligible individuals and eligible
71 small groups through the Connector no later than January 1, 2016. In addition the public option
72 shall be made available to eligible large groups no later than July 1, 2016.

73 Section 4. The executive director of the commonwealth connector may contract with
74 managed care organizations or other such health benefits administrators to administer aspects of

75 plans offered under the public health insurance option. Notwithstanding any general or special
76 law to the contrary, the executive director shall collaborate with the secretary of health and
77 human services and the commissioner of insurance to ensure that only Medicaid managed care
78 organizations, that have contracted with the commonwealth as of January 1, 2016, to deliver
79 such managed care services, are so contracted with to administer aspects of the public option.
80 The executive director may accept applications from non-Medicaid managed care organizations
81 for the provision of such services after January 1, 2018.

82 Section 5. A report on the activities, receipts, expenditures, and enrollments of the public
83 option shall be included in the Commonwealth Connector's annual reports and shall be subject to
84 the prescription and oversight of the Commonwealth Connector Board and state auditor as per
85 section 14 and section 15 of chapter 176Q.

86 Section 6. The Commonwealth Connector shall establish premium rates for the public
87 health insurance option at a level sufficient to fully finance the costs of:-

88 (a) health benefits provided by the public option; and

89 (b) administrative costs related to operating the public option.

90 Section 7. The Connector Board shall establish payment rates for the Public Health
91 Insurance Option for services and providers based on parts A and B of Medicare. The
92 Commonwealth Connector Board may determine the extent to which adjustments to base
93 Medicare payment rates shall be made in order to fairly reimburse providers and medical goods
94 and device makers, as well as to maintain a a strong provider network.

95 Section 8. Health care providers (including physicians and hospitals) participating in
96 Medicare are participating providers in the public option unless they opt out through a process to
97 be established by the Commonwealth Connector. This opt-out process must ensure that:

98 (a) no provider shall be subject to a penalty for not participating in the public health
99 insurance option;

100 (b) the connector shall include information on how providers participating in Medicare
101 who chose to opt out of participating in the public health insurance option may opt back in; and

102 (c) there shall be an annual enrollment period in which providers may decide whether to
103 participate in the public health insurance option.

104 Section 9. The Commonwealth Connector may adopt regulations to implement this
105 chapter.

106 SECTION 2. Chapter 26 of the Massachusetts General Laws, as appearing in the 2014
107 Official Edition, is hereby amended by inserting after section 8J the following new section:-

108 Section 8K. (a) The commissioner of insurance is hereby authorized to make an
109 assessment against all health plans, health insurers, and health maintenance organizations in the
110 Commonwealth, as well as the public health insurance option established by section 2 of chapter
111 176R of the General Laws (which shall be referred to herein as "risk-adjusted health plans") , if
112 the actuarial risk of the enrollees of such plans or coverage for a year is less than the average
113 actuarial risk of all enrollees in all risk-adjusted health plans for such year. Self-insured group
114 health plans (which are subject to the provisions of the Employee Retirement Income Security
115 Act of 1974), shall be exempted from such risk adjustment.

116 (b) Using the criteria and methods developed under subsection (c), the commissioner of
117 insurance shall provide a payment to risk-adjusted health plans (with respect to health insurance
118 coverage) if the actuarial risk of the enrollees of such plans or coverage for a year is greater than
119 the average actuarial risk of all enrollees in all risk-adjusted health plans for such year that are
120 not self-insured group health plans (which are subject to the provisions of the Employee
121 Retirement Income Security Act of 1974).

122 (c) The commissioner shall establish criteria and methods to be used in carrying out the
123 risk adjustment activities under this section. In calculating the actuarial risk of risk-adjusted
124 health plans, the commissioner may utilize data including but not limited to enrollee
125 demographics, inpatient and outpatient diagnoses (in similar fashion as such data are used under
126 parts C and D of title XVIII of the Social Security Act), and such other information as the
127 commissioner determines may be necessary such as the actual medical costs of enrollees during
128 the previous year. Upon request, such risk-adjusted health plans shall make information available
129 to the division of insurance for the purposes of risk adjustment under this section. Such
130 information shall be limited to the minimum amount of personal information necessary, shall be
131 confidential, and shall not constitute a public record.

132 (d) Section 123 of chapter 58 of the Session Laws of 2006 is hereby amended by striking
133 out the last two sentences of the section, beginning with "The director shall collaborate with the
134 secretary…"

135 SECTION 3. Chapter 29 of the Massachusetts General Laws, as appearing in the 2014
136 Official Edition, is hereby amended by inserting after section 2XXX the following new section:-

137 Section 2FFFF. There is hereby established and set up on the books of the
138 commonwealth a separate fund to be known as the Public Health Insurance Option Trust Fund,
139 in this section called the trust fund. Amounts credited to the trust fund shall be expended without
140 further appropriation for operation of the public health insurance option. Not later than January
141 1, the comptroller shall report an update of revenues for the current fiscal year. The comptroller
142 shall file this report with the secretary of administration and finance, the office of Medicaid, the
143 joint committee on health care financing, and the house and senate committees on ways and
144 means.

145 SECTION 4. Subsection (a) of section 5 of Chapter 176Q of the Massachusetts General
146 Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting, after the words
147 "underwritten by a carrier," the following words:- , as well as the public health insurance option,

148 SECTION 5. Section 1 of Chapter 176Q of the Massachusetts General Laws, as
149 appearing in the 2014 Official Edition, is hereby amended by inserting, after the definition of
150 "Eligible Small Groups", the following definition:-

151 "Eligible large groups", groups, any labor union, educational, professional, civic, trade,
152 church, not-for-profit or social organization or firms, corporations, partnerships or associations
153 actively engaged in business that on at least 50 per cent of its working days during the preceding
154 year employed at least 51 employees.'

155 SECTION 6. Section 4(a) of Chapter 176Q of the Massachusetts General Laws, as
156 appearing in the 2014 Official Edition, is hereby amended by inserting prior to the words
157 "groups as defined," the following words:- eligible small and large

158 SECTION 7. Section 4(b) of Chapter 176Q of the Massachusetts General Laws, as
159 appearing in the 2014 Official Edition, is hereby amended by striking out the phrase "or small
160 group" and inserting in its place the following words:- , small group, or large group

161 SECTION 8. Effective no later than July 1, 2016, the board of the Commonwealth
162 Connector shall, consistent with the Board's powers and duties as enumerated in section 3 of
163 chapter 176J, extend its seal of approval to large group plans and offer such plans, alongside a
164 public health insurance option for large groups, through the Connector.