HOUSE DOCKET, NO. 2364 FILED ON: 1/19/2017

# HOUSE . . . . . No. 2188

## The Commonwealth of Massachusetts

PRESENTED BY:

***Aaron Michlewitz***

*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 relating to equitable provider reimbursement.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *Aaron Michlewitz* | *3rd Suffolk* | *1/19/2017* |

HOUSE DOCKET, NO. 2364 FILED ON: 1/19/2017

# HOUSE . . . . . No. 2188

By Mr. Michlewitz of Boston, a petition (accompanied by bill, House, No. 2188) of Aaron Michlewitz relative to equitable health care provider reimbursement. Financial Services.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court**
**(2017-2018)**

An Act relating to equitable provider reimbursement.

*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 12 of Chapter 118E of the General Laws is hereby amended by inserting at the beginning of the section the following new definitions:

Emergency services" means, with respect to an emergency condition: (1) a medical screening examination as required under section 1867 of the social security act, 42 U.S.C. § 1395dd, which is within the capability of the emergency Division of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition; and (2) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of the social security act, 42 U.S.C. § 1395dd, to stabilize the patient.

“Managed Care Organization”, any entity with which the Commonwealth contracts to provide managed care services to eligible MassHealth enrollees on a capitated basis.

"Network", a grouping of health care providers who contract with a managed care organization to provide services to MassHealth enrollees covered by the managed care organization's plans, policies, contracts or other arrangements.

"Non-network provider", a health care provider who has not entered into a contract with a managed care organization to provide services to MassHealth enrollees.

SECTION 2. Section 12 of Chapter 118E of the General Laws is further amended by inserting at the end of the section the following new language:

For emergency services that have received a prior approval by a managed care organization, a non-network provider must accept a rate equal to the rate paid by Medicaid for the same or similar services. Nothing in this section shall prohibit a managed care organization from denying payment for unapproved services conducted by a non-network provider. The non-participating provider shall not bill the insured except for any applicable copayment, coinsurance or deductible that would be owed if the insured utilized a participating provider.

SECTION 3. Chapter 176O of the General Laws is hereby amended by inserting after Section 27 the following new section:

Section 28. (a) Definitions. For the purposes of this section:

(1) "Emergency condition" means a medical or behavioral condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, possessing an average knowledge of medicine and health, could reasonably expect the absence of immediate medical attention to result in : (1) placing the health of the person afflicted with such

condition in serious jeopardy, or in the case of a behavioral condition placing the health of such person or others in serious jeopardy; (2) serious impairment to such person's bodily functions; (3) serious dysfunction of any bodily organ or part of such person; (4) serious disfigurement of such person; or (5) a condition described in clause (i), (ii) or (iii) of section 1867(e)(1)(A) of the social security act 42 U.S.C. § 1395dd.

(2) "Emergency services" means, with respect to an emergency condition: (1) a medical screening examination as required under section 1867 of the social security act, 42 U.S.C. § 1395dd, which is within the capability of the emergency Division of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition; and (2) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of the social security act, 42 U.S.C. § 1395dd, to stabilize the patient.

(3) "Insured" means a patient covered under a carrier’s policy or contract.

(4) "Non-participating" means not having a contract with a health care plan to provide health care services to an insured.

(5) "Participating" means having a contract with a carrier to provide health care services to an insured.

(6) "Patient" means a person who receives health care services, including emergency services, in this state.

(7) “ Non-participating provider rate” means with respect to payment to a non-participating provider under this section, 100 percent of the Medicare reimbursement rate or

reasonable approximation thereof for those services as if they were rendered to a Medicare beneficiary not taking into consideration any beneficiary cost sharing. For services or supplies for which there is no Medicare reimbursement amount, the amount as determined by the commissioner of the center for health information and analysis is to be consistent with Medicare payment policies at a 100 percent level and set in consultation with the commissioner of insurance.

(b) Emergency Services.

(1) Emergency services for an insured.

(A) When a carrier receives a bill for emergency services from a non-participating physician, the carrier shall pay the non-participating provider rate for the emergency services rendered by the non-participating physician, except for the insured's co-payment, coinsurance or deductible, if any, and shall ensure that the insured shall incur no greater out-of-pocket costs for the emergency services than the insured would have incurred with a participating physician.