

HOUSE No. 2212

The Commonwealth of Massachusetts

PRESENTED BY:

Mark J. Cusack

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 extend patient protections to recipients of MassHealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	<i>1/19/2017</i>

HOUSE No. 2212

By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 2212) of Mark J. Cusack relative to health insurance consumer protections. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 974 OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act to extend patient protections to recipients of MassHealth.

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 118 E, Section 38 as appearing in the 2010 Official Edition of the
2 Mass General Laws is hereby amended by inserting at the end thereof of the following new
3 paragraphs:

4 “Within 45 days after the receipt by the Division of completed forms for reimbursement
5 to a physician who participates in a medical service program established pursuant to this chapter,
6 or within 15 days if such claim is received electronically, the Division shall (i) make payments
7 for such services provided by the physician that are services covered under such medical
8 assistance program and for which claim is made, or (ii) notify the physician in writing or by
9 electronic means, within 15 days for written claim forms or 48 hours for electronic claims, of any
10 and all reasons for non-payment, or (iii) notify the physician in writing or by electronic means,

11 within 15 days for written claim forms or 48 hours for electronic claims, of all additional
12 information or documentation that is necessary to establish such physician's entitlement to such
13 reimbursement. If the Division fails to comply with the provisions of this paragraph for any such
14 completed claim, the Division shall pay, in addition to any reimbursement for health care
15 services provided to which the physician is entitled, interest on any unpaid amount of such
16 benefits, which shall accrue beginning 45 days after the Division's receipt of request for
17 reimbursement, or 15 days after the receipt of an electronic claim, at the rate of 1.5 per cent per
18 month, not to exceed 18 per cent per year. The provisions of this paragraph relating to interest
19 payments shall not apply to a claim that the Division is investigating because of suspected
20 fraud.”

21 “The division shall provide written guidelines to providers of medical services that
22 participate in a medical assistance program established pursuant to this chapter setting forth a
23 statement of its policies and procedures that is complete, detailed and specific with regard to
24 what such providers must include in claims for reimbursement in order to qualify as a completed
25 claim for reimbursement payment for which any such provider is entitled. Such guidelines shall
26 identify all of the data and documentation that is to accompany each claim for reimbursement
27 and shall identify all utilization review and other screening policies and procedures employed by
28 the division in reviewing such claims submitted by a provider of medical services.

29 The Division shall institute no policy or practice of recoupment, reduction, review or
30 retroactive denial of payments to any physician or physicians for services provided one year or
31 more prior to the date of the Division's initiating said policy or practice. Physicians must be
32 given written notice by the Division specifying any and all policy changes which may result in

33 recoupments, reductions or reviews of payments for physician services at least 90 days prior to
34 the implementation of such recoupments, reductions or reviews.

35 SECTION 2. CHAPTER 176O, as most recently amended by Chapter 224 of the Acts of
36 2012, is hereby amended by the deletion of the title and inserting in place thereof the following
37 new title: HEALTH INSURANCE AND DIVISION OF MEDICAL ASSISTANCE
38 CONSUMER PROTECTIONS.

39 SECTION 3. Said Chapter 176 O Section 1 is further amended by the deletion of the
40 following paragraph:

41 ““Carrier”, an insurer licensed or otherwise authorized to transact accident or health
42 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
43 176A; a nonprofit medical service corporation organized under chapter 176B; a health
44 maintenance organization organized under chapter 176G; and an organization entering into a
45 preferred provider arrangement under chapter 176I, but not including an employer purchasing
46 coverage or acting on behalf of its employees or the employees of one or more subsidiaries or
47 affiliated corporations of the employer. Unless otherwise noted, the term "carrier" shall not
48 include any entity to the extent it offers a policy, certificate or contract that provides coverage
49 solely for dental care services or visions care services.”;

50 And inserting in place thereof the following new paragraph:

51 "Carrier", an insurer licensed or otherwise authorized to transact accident or health
52 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
53 176A; a nonprofit medical service corporation organized under chapter 176B; a health
54 maintenance organization organized under chapter 176G, the Primary Care Clinician Program or

55 any entity providing managed care services under contract to the Division, or any similar
56 managed care arrangement of the Division of Medical Assistance or its successor providing
57 medical care coverage to eligible individuals under M. G. L. Chapter 118 E; and an organization
58 entering into a preferred provider arrangement under chapter 176I, but not including an employer
59 purchasing coverage or acting on behalf of its employees or the employees of one or more
60 subsidiaries or affiliated corporations of the employer. Unless otherwise noted, the term "carrier"
61 shall not include any entity to the extent it offers a policy, certificate or contract that provides
62 coverage solely for dental care services or visions care services.”

63 SECTION 4. Said Chapter 176 O, Section 1 is further amended by the deletion of the
64 following definition:

65 "Covered benefits" or "benefits", health care services to which an insured is entitled
66 under the terms of the health benefit plan.”

67 And inserting in place thereof the following definition:

68 "Covered benefits" or "benefits", health care services to which an insured or a recipient of
69 services under the Division of Medical Assistance or its successor entity under M. G. L. Chapter
70 118 E is entitled under the terms of a health benefit plan or program.

71 SECTION 5. Said Chapter 176O, Section 1 is further amended by the deletion of the
72 following definition:

73 "Grievance", any oral or written complaint submitted to the carrier which has been
74 initiated by an insured, or on behalf of an insured with the consent of the insured, concerning any
75 aspect or action of the carrier relative to the insured, including, but not limited to, review of

76 adverse determinations regarding scope of coverage, denial of services, quality of care and
77 administrative operations, in accordance with the requirements of this chapter.

78 And inserting in place thereof the following definition:

79 "Grievance", any oral or written complaint submitted to the carrier or the Division of
80 Medical Assistance or its successor entity under M. G. L. Chapter 118 E which has been initiated
81 by an insured or a recipient of public assistance, or on behalf of an insured or recipient of public
82 assistance with the consent of the insured or the recipient, concerning any aspect or action of the
83 carrier or the Division of Medical Assistance or its successor entity under M. G. L. Chapter 118
84 E relative to the insured or the recipient, including, but not limited to, review of adverse
85 determinations regarding scope of coverage, denial of services, quality of care and administrative
86 operations, in accordance with the requirements of this chapter.

87 SECTION 6. Said Chapter 176 O, Section 1 is further amended by the deletion of the
88 following definition:

89 "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or
90 issued by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of
91 health care services.

92 And inserting in place thereof the following definition:

93 "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or
94 issued by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of
95 health care services; or a managed care arrangement of the Division of Medical Assistance or its
96 successor entity under M. G. L. Chapter 118 E.

97 SECTION 7.Said Chapter 176 O, Section 1 is further amended by the deletion of the
98 following definition:

99 "Insured", an enrollee, covered person, insured, member, policyholder or subscriber of a
100 carrier, including an individual whose eligibility as an insured of a carrier is in dispute or under
101 review, or any other individual whose care may be subject to review by a utilization review
102 program or entity as described under other provisions of this chapter.

103 And inserting in place thereof the following definition:

104 "Insured", an enrollee, covered person, insured, member, policyholder or subscriber of a
105 carrier, including an assistance recipient of the Division of Medical Assistance, and including an
106 individual whose eligibility as an insured of a carrier is in dispute or under review, or any other
107 individual whose care may be subject to review by a utilization review program or entity as
108 described under other provisions of this chapter.

109 SECTION 8. Said Chapter 176 O, Section 2(a) is hereby amended by the deletion of lines
110 1 through 3 and inserting in place thereof the following:

111 Section 2. (a) There is hereby established within the center a bureau of managed care.
112 Said bureau shall by regulation establish minimum standards for the accreditation of carriers,
113 other than the Division of Medical Assistance or its successor entity under M. G. L. Chapter 118
114 E, in the following areas:

115 SECTION 9. Said Chapter 176 O, Section 8 is hereby amended by striking said section in
116 its entirety and inserting in place thereof the following:

117 Section 8. A carrier, other than the Division of Medical Assistance or its successor entity
118 under M. G. L. Chapter 118 E, neglecting to make and file its annual statement or the materials
119 required by the commissioner to be filed with the division under this chapter or under chapter
120 176G in the form and within the time required thereby shall be fined \$5,000 for each day during
121 which such neglect continues after being notified by said commissioner of such neglect, and,
122 after notice and a hearing by the commissioner to that effect, its authority to do new business
123 shall cease while such neglect continues