HOUSE DOCKET, NO. 388 FILED ON: 1/12/2017

HOUSE . . . . . No. 591

The Commonwealth of Massachusetts

PRESENTED BY:

James Arciero

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 strengthen the PIP process.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
James Arciero	*2nd Middlesex*	*1/12/2017*

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HOUSE . . . . . No. 591

By Mr. Arciero of Westford, a petition (accompanied by bill, House, No. 591) of James Arciero relative to health care performance improvement plans. Health Care Financing.

The Commonwealth of Massachusetts

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

An Act to strengthen the PIP process.

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 6D of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking section 10 in its entirety and replacing it with the following new language:-

Section 10. Section 10. (a) For the purposes of this section, "health care entity" shall mean a clinic, hospital, ambulatory surgical center, physician organization, accountable care organization or payer; provided, however, that physician contracting units with a patient panel of 15,000 or fewer, or which represents providers who collectively receive less than $25,000,000 in annual net patient service revenue from carriers shall be exempt.

(b) The commission shall provide notice to all health care entities that have been identified by the center under section 18 of chapter 12C as exceeding the health care cost growth

13 benchmark for any given year. Such notice shall state that the center may analyze the cost
14 growth of individual health care entities and, beginning in calendar year 2016, the commission
15 may require certain actions, as established in this section, from health care entities so identified.

16

17 (c) For calendar year 2015, if the commission finds, based on the center's annual report,
18 the commission's annual cost trend hearings or any other pertinent information, that the average
19 percentage change in cumulative total health care expenditures from 2013 to 2014 exceeded the
20 average health care cost growth benchmark from 2013 to 2014, and in order to support the state's
21 efforts to meet future health care cost growth benchmarks, as established in section 9, the
22 commission shall establish procedures to assist health care entities to improve efficiency and
23 reduce cost growth by requiring certain health care entities to file and implement a performance
24 improvement plan.

25

26 Beginning in calendar year 2016, if the commission finds, based on the center's annual
27 report, the commission's annual cost trend hearings or any other pertinent information, that the
28 percentage change in total health care expenditures exceeded the health care cost growth
29 benchmark in the previous calendar year, and in order to support the state's efforts to meet future
30 health care cost growth benchmarks, as established in said section 9, the commission shall
31 establish procedures to assist health care entities to improve efficiency and reduce cost growth by
32 requiring certain health care entities to file and implement a performance improvement plan.

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34 (d) In addition to the notice provided under subsection (b), the commission may require
35 any health care entity that is identified by the center under section 16 of chapter 12C as
36 exceeding the health care cost growth benchmark established under section 9, any provider
37 whose relative price exceeds the statewide average relative price, or any provider who has a total
38 medical expense in excess of the statewide average physician group health status adjusted total
39 medical expense to file a performance improvement plan with the commission. The commission
40 shall provide written notice to such health care entity or provider that they are required to file a
41 performance improvement plan. Within 45 days of receipt of such written notice, the health care
42 entity shall either:

43

44 (1) file a performance improvement plan with the commission; or

45

46 (2) file an application with the commission to waive or extend the requirement to file a
47 performance improvement plan.

48

49 (e) The health care entity may file any documentation or supporting evidence with the
50 commission to support the health care entity's application to waive or extend the requirement to
51 file a performance improvement plan. The commission shall require the health care entity to
52 submit any other relevant information it deems necessary in considering the waiver or extension
53 application; provided, however, that such information shall be made public at the discretion of
54 the commission.

55

56 (f) The commission may waive or delay the requirement for a health care entity to file a
57 performance improvement plan in response to a waiver or extension request filed under
58 subsection (b) in light of all information received from the health care entity, based on a
59 consideration of the following factors:

60

61 (1) the costs, price and utilization trends of the health care entity over time, and any
62 demonstrated improvement to reduce health status total medical expenses;

63

64 (2) any ongoing strategies or investments that the health care entity is implementing to
65 improve future long-term efficiency and reduce cost growth;

66

67 (3) whether the factors that led to increased costs for the health care entity can reasonably
68 be considered to be unanticipated and outside of the control of the entity. Such factors may
69 include, but shall not be limited to, age and other health status adjusted factors and other cost
70 inputs such as pharmaceutical expenses and medical device expenses;

71

72 (4) the overall financial condition of the health care entity;

73

74 (5) a significant difference between the growth rate of potential gross state product and
75 the growth rate of actual gross state product, as determined under section 7H 1/2 of chapter 29;
76 and

77

78 (6) any other factors the commission considers relevant.

79

80 (h) If the commission declines to waive or extend the requirement for the health care
81 entity to file a performance improvement plan, the commission shall provide written notice to the
82 health care entity that its application for a waiver or extension was denied and the health care
83 entity shall file a performance improvement plan.

84

85 (i) A health care entity shall file a performance improvement plan: (1) within 45 days of
86 receipt of a notice under subsection (c); (2) if the health care entity has requested a waiver or
87 extension, within 45 days of receipt of a notice that such waiver or extension has been denied; or
88 (3) if the health care entity is granted an extension, on the date given on such extension. The
89 performance improvement plan shall be generated by the health care entity and shall identify the
90 causes of the entity's cost growth and shall include, but not be limited to, specific strategies,
91 adjustments and action steps the entity proposes to implement to improve cost performance. The
92 proposed performance improvement plan shall include specific identifiable and measurable
93 expected outcomes and a timetable for implementation. The timetable for a performance
94 improvement plan shall not exceed 18 months.

95

96 (j) The commission shall approve any performance improvement plan that it determines
97 is reasonably likely to address the underlying cause of the entity's cost growth and has a
98 reasonable expectation for successful implementation.

99

100 (k) If the board determines that the performance improvement plan is unacceptable or
101 incomplete, the commission may provide consultation on the criteria that have not been met and
102 may allow an additional time period, up to 30 calendar days, for resubmission; provided,
103 however, that all aspects of the performance improvement plan shall be proposed by the health
104 care entity and the commission shall not require specific elements for approval.

105

106 (l) Upon approval of the proposed performance improvement plan, the commission shall
107 notify the health care entity to begin immediate implementation of the performance improvement
108 plan. Public notice shall be provided by the commission on its website, identifying that the health
109 care entity is implementing a performance improvement plan. All health care entities
110 implementing an approved performance improvement plan shall be subject to additional
111 reporting requirements and compliance monitoring, as determined by the commission. The
112 commission shall provide assistance to the health care entity in the successful implementation of
113 the performance improvement plan.

114

115 (m) All health care entities shall, in good faith, work to implement the performance
116 improvement plan. At any point during the implementation of the performance improvement
117 plan the health care entity may file amendments to the performance improvement plan, subject to
118 approval of the commission.

119

120 (n) At the conclusion of the timetable established in the performance improvement plan,
121 the health care entity shall report to the commission regarding the outcome of the performance
122 improvement plan. If the performance improvement plan was found to be unsuccessful, the
123 commission shall either: (i) extend the implementation timetable of the existing performance
124 improvement plan; (ii) approve amendments to the performance improvement plan as proposed
125 by the health care entity; (iii) require the health care entity to submit a new performance
126 improvement plan under subsection (c) or (iv) waive or delay the requirement to file any
127 additional performance improvement plans.

128

129 (o) Upon the successful completion of the performance improvement plan, the identity of
130 the health care entity shall be removed from the commission's website.

131

132 (p) The commission may submit a recommendation for proposed legislation to the joint
133 committee on health care financing if the commission determines that further legislative
134 authority is needed to achieve the health care quality and spending sustainability objectives of

135 this act, assist health care entities with the implementation of performance improvement plans or
136 otherwise ensure compliance with the provisions of this section.

137

138 (q) If the commission determines that a health care entity has: (i) willfully neglected to
139 file a performance improvement plan with the commission within 45 days as required under
140 subsection (d); (ii) failed to file an acceptable performance improvement plan in good faith with
141 the commission; (iii) failed to implement the performance improvement plan in good faith; or
142 (iv) knowingly failed to provide information required by this section to the commission or that
143 knowingly falsifies the same, the commission may assess a civil penalty to the health care entity
144 of not more than $500,000. The commission shall seek to promote compliance with this section
145 and shall only impose a civil penalty as a last resort.

146

147 (r) The commission shall promulgate regulations necessary to implement this section;
148 provided, however, that notice of any proposed regulations shall be filed with the joint
149 committee on state administration and regulatory oversight and the joint committee on health
150 care financing at least 180 days before adoption. or third-party administrators shall be excluded
151 from this definition.