

SENATE No. 2523

The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court
(2017-2018)
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SENATE, Monday, May 14, 2018

The committee on Financial Services, to whom was referred the petition (accompanied by bill, Senate, No. 528) of Jennifer L. Flanagan, Jay R. Kaufman, Marjorie C. Decker, Patricia D. Jehlen and other members of the General Court for legislation to increase consumer transparency about insurance provider networks,- reports the accompanying bill (Senate, No. 2523).

For the committee,
James B. Eldridge

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

An Act to increase consumer transparency about insurance provider networks.

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 176O of the General Laws is hereby amended by inserting after
2 section 27 the following sections:-

3 Section 28. (a) A carrier shall ensure the accuracy of the information concerning each
4 provider listed in the carrier's provider directories for each network plan and shall review and
5 update the entire provider directory for each network plan. In making the directory available
6 electronically in a searchable format, the carrier shall ensure that the general public is able to
7 view all of the current health care providers for a network plan through a clearly identifiable link
8 or tab and without creating or accessing an account, entering a policy or contract number,
9 providing other identifying information, or demonstrating coverage or an interest in obtaining
10 coverage with the network plan. Thereafter, the carrier shall update each online network plan
11 provider directory at least monthly, or more frequently, if required by state or federal law or
12 regulations promulgated by the commissioner pursuant to Section 29(j), when informed of and
13 upon confirmation by the plan of any of the following:

14 (1) A contracting provider is no longer accepting new patients for that network plan, or
15 an individual provider within a provider group is no longer accepting new patients.

16 (2) A provider or provider group is no longer under contract for a particular network plan.

17 (3) A provider's practice location or other information required under this section has
18 changed.

19 (4) Upon completion of the investigation described in paragraph (a)(4), a change is
20 necessary based on an enrollee complaint that a provider was not accepting new patients, was
21 otherwise not available, or whose contact information was listed incorrectly.

22 (5) A provider has retired or otherwise has ceased to practice.

23 (6) Any other information that affects the content or accuracy of the provider directory or
24 directories.

25 (b) A provider directory shall not list or include information on a provider that is not
26 currently under contract with the network plan.

27 (c) A carrier shall periodically audit its provider directories for accuracy and retain
28 documentation of such an audit to be made available to the commissioner upon request.

29 (d) A carrier shall provide a print copy, or a print copy of the requested directory
30 information, of a current provider directory upon request of an insured or a prospective insured.
31 The printed copy of the provider directory or directories shall be provided to the requester by
32 mail postmarked no later than five business days following the date of the request and may be
33 limited to the geographic region in which the requester resides or works or intends to reside or
34 work.

35 (e) The carrier shall include in both its electronic and print directories a dedicated
36 customer service email address and telephone number or electronic link that insureds, providers
37 and the general public may use to notify the carrier of inaccurate provider directory information.
38 This information shall be disclosed prominently in the directory or directories and on the
39 carrier's web site. The carrier shall be required to investigate reports of inaccuracies within 30
40 days of notice and modify the directories in accordance with any findings within 30 days of such
41 findings.

42 (f) The provider directory or directories shall inform enrollees and potential enrollees that
43 they are entitled to: (A) language interpreter services, at no cost to the enrollee; and (B) full and
44 equal access to covered services as required under the federal Americans with Disabilities Act of
45 1990 and Section 504 of the Rehabilitation Act of 1973. A provider directory, whether in
46 electronic or print format, shall accommodate the communication needs of individuals with
47 disabilities, and include a link to or information regarding available assistance for persons with
48 limited English proficiency, including how to obtain interpretation and translation services.

49 (g) The carrier shall include a disclosure in the print directory that the information
50 included in the directory is accurate as of the date of printing and that insureds or prospective
51 insureds should consult the carrier's electronic provider directory on its website or call a
52 specified customer service telephone number to obtain the most current provider directory
53 information.

54 (h) The carrier shall update its printed provider directory or directories at least annually,
55 or more frequently, if required by federal law or regulations promulgated by the commissioner.

56 Section 29. (a) The division shall establish a task force to develop recommendations to
57 ensure the current and accurate electronic posting of carrier provider directories in a searchable
58 format for each of the carriers' network plans available for viewing by the general public.

59 (b) The task force shall consist of the commissioner of insurance or a designee, who shall
60 serve as chair, and 12 members: one of whom shall be a representative of the Massachusetts
61 Association of Health Plans, one of whom shall be a representative of Blue Cross Blue Shield
62 MA, one of whom shall be a representative of the Massachusetts Health and Hospital
63 Association, one of whom shall be a representative of the Massachusetts Medical Society, one of
64 whom shall be a representative of Healthcare Administrative Solutions, Inc., one of whom shall
65 be a representative of the Children's Mental Health Campaign, one of whom shall be a
66 representative of the Massachusetts Association for Mental Health, and five members chosen by
67 the commissioner: one of whom shall have expertise in the treatment of individuals with
68 substance use disorder, , one of whom shall have expertise in the treatment of individuals with a
69 mental illness, one of whom shall be from a health consumer advocacy organization, one of
70 whom shall be a consumer representative, and one of whom shall be a representative from an
71 employer group. The task force shall have the ability to form workgroups to develop the
72 recommendations defined in subsection (a).

73 (c) The recommendations shall include measures for ensuring the accuracy of
74 information concerning each provider listed in the carrier's provider directories for each network
75 plan. The task force shall develop recommendations that establish substantially similar processes
76 and time frames for health care providers included in a carrier's network to provide information
77 to the carrier, and substantially similar processes and timeframes for carriers to include such
78 information in their provider directories, regarding the following:

79 (1) when a contracting provider is no longer accepting new patients for that network plan
80 and when a contracting provider is resuming acceptance of new patients, or an individual
81 provider within a provider group is no longer accepting new patients and when an individual
82 provider within a provider group is resuming acceptance of new patients;

83 (2) when a provider who is not accepting new patients is contacted by an enrollee or
84 potential enrollee seeking to become a new patient, the provider may direct the enrollee or
85 potential enrollee to the carrier for additional assistance in finding a provider and shall inform
86 the carrier immediately if they have not done so already that the provider is not accepting new
87 patients;

88 (3) when a provider is no longer under contract for a particular network plan;

89 (4) when a provider's practice location or other information required under this section
90 has changed;

91 (5) for health care professionals: (i) name; (ii) contact information; (iii) gender; (iv)
92 participating office location(s); (v) specialty, if applicable; (vi) clinical and developmental areas
93 of expertise; (vii) populations of interest; (viii) licensure and board certification(s); (ix) medical
94 group affiliations, if applicable; (x) facility affiliations, if applicable; (xi) participating facility
95 affiliations, if applicable; (xii) languages spoken other than English, if applicable; (xiii) whether
96 accepting new patients; and (xiv) information on access for people with disabilities, including
97 but not limited to structural accessibility and presence of accessible examination and diagnostic
98 equipment;

99 (6) for hospitals: (i) hospital name; (ii) hospital type; (iii) participating hospital location
100 and telephone number; (iv) hospital accreditation status; (7) for facilities, other than hospitals, by

101 type: (i) facility name; (ii) facility type; (iii) types of services performed; (iv) participating
102 facility location(s) and telephone number; and

103 (7) Any other information that affects the content or accuracy of the provider directory or
104 directories.

105 (d) The task force shall develop recommendations for carriers to include information in
106 the provider directory that identifies the tier level for each specific provider, hospital or other
107 type of facility in the network, when applicable.

108 (e) The task force shall develop recommendations for carriers to include in the provider
109 directories substantially similar language to assist insureds with understanding and searching for
110 behavioral health specialty providers.

111 (f) The task force shall consider the feasibility of carriers making updates to each online
112 network plan provider directory in real time when health care providers included in a carrier's
113 network provide information to the carrier pursuant to subsection (c).

114 (g) The task force shall consider measures to address circumstances when an insured
115 reasonably relies upon materially inaccurate information contained in a carrier's provider
116 directory.

117 (h) The task force shall develop recommendations for measures carriers shall take to
118 ensure the accuracy of the information concerning each provider listed in the carrier's provider
119 directories for each network plan based on the information provided to the carriers by network
120 providers, as described in paragraph (c), including but not limited to periodic testing to ensure

121 that the public interface of the directories accurately reflects the provider network, as required by
122 state and federal laws and regulations.

123 (i) The task force shall recommend appropriate timelines for completion of its
124 recommendations.

125 (j) The commissioner shall file the task force's recommendations, including any proposed
126 regulations, with the joint committee on health care financing not later than November 15, 2018.

127 (k) The commissioner shall promulgate regulations pursuant to section 28 and the
128 recommendations of the task force no later than three months following the commissioner's
129 filing under subsection (j).

130 (l) The commissioner shall conduct quarterly implementation progress reports, which
131 shall be available to the public, commencing on January 1, 2019 and continuing until the task
132 force recommendations under subsection (j) are fully implemented.

133 SECTION 2. Carriers shall ensure the accuracy of the information pursuant to the
134 regulations issued by the commissioner of insurance pursuant to section 29 of chapter 176O of
135 the general laws for each network plan no later than January 1, 2020.