

SENATE No. 522

The Commonwealth of Massachusetts

PRESENTED BY:

Eileen M. Donoghue

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 reducing the financial burden of surprise medical bills for patients.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|-----------------------------|--------------------------------------|------------------|
| <i>Eileen M. Donoghue</i> | <i>First Middlesex</i> | |
| <i>John W. Scibak</i> | <i>2nd Hampshire</i> | <i>1/30/2017</i> |
| <i>Rady Mom</i> | <i>18th Middlesex</i> | <i>2/1/2017</i> |
| <i>Jennifer L. Flanagan</i> | <i>Worcester and Middlesex</i> | <i>2/1/2017</i> |
| <i>Walter F. Timilty</i> | <i>Norfolk, Bristol and Plymouth</i> | <i>2/1/2017</i> |
| <i>Barbara A. L'Italien</i> | <i>Second Essex and Middlesex</i> | <i>2/2/2017</i> |
| <i>Sheila C. Harrington</i> | <i>1st Middlesex</i> | <i>2/3/2017</i> |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> | <i>2/3/2017</i> |

SENATE No. 522

By Ms. Donoghue, a petition (accompanied by bill, Senate, No. 522) of Eileen M. Donoghue, John W. Scibak, Rady Mom, Jennifer L. Flanagan and other members of the General Court for legislation reduce the financial burden of surprise medical bills for patients. Financial Services.

The Commonwealth of Massachusetts

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

An Act reducing the financial burden of surprise medical bills for patients.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 176O of the General Laws, as so appearing, is hereby amended by inserting after
2 Section 27 the following new section:-

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

4 (1) "Emergency services" means, with respect to an emergency medical condition: (1) a
5 medical screening examination as required under section 1867 of the social security act, 42
6 U.S.C. § 1395dd, which is within the capability of the emergency division of a hospital,
7 including ancillary services routinely available to the emergency department to evaluate such
8 emergency medical condition; and (2) within the capabilities of the staff and facilities available
9 at the hospital, such further medical examination and treatment as are required under section
10 1867 of the social security act, 42 U.S.C. § 1395dd, to stabilize the patient.

11 (2) "Non-participating" means not having a contract with a carrier to provide health care
12 services to an insured.

13 (3) “Non-participating provider rate” means with respect to payment to a non-
14 participating provider under this section, 100 percent of the Medicare reimbursement rate or
15 reasonable approximation thereof for those services as if they were rendered to a Medicare
16 beneficiary not taking into consideration any beneficiary cost sharing. For services or supplies
17 for which there is no Medicare reimbursement amount, the amount as determined by the
18 commissioner of the center for health information and analysis is to be consistent with Medicare
19 payment policies at a 100 percent level and set in consultation with the commissioner of
20 insurance.

21 (b) Services that must be covered by law.

22 (1) Emergency services for an insured.

23 (A) When a carrier receives a bill for emergency services from a non-participating
24 provider, the carrier shall pay a reasonable amount not less than the non-participating provider
25 rate for the emergency services rendered by the non-participating physician, except for the
26 insured's co-payment, coinsurance or deductible, if any, and shall ensure that the insured shall
27 incur no greater out-of-pocket costs for the emergency services than the insured would have
28 incurred with a participating provider.

29 (B) Any provider that is reimbursed for services pursuant to this section is prohibited
30 from billing, charging, seeking payment or reimbursement from, or having any recourse against a
31 insured or a person acting on behalf of insured. This prohibition does not prohibit the provider
32 from collecting any applicable co-payment, coinsurance or deductible from the insured.

33 (2) Non-participating providers at participating facilities.

34 (A) When a carrier receives a bill for services provided by a non-participating provider at
35 a participating facility that the carrier is required to pay pursuant to Section 6 of this Chapter, the
36 carrier shall pay a reasonable rate not less than the non-participating provider rate for the
37 services rendered by the non-participating provider, except for the insured's co-payment,
38 coinsurance or deductible, if any, and shall ensure that the insured shall incur no greater out-of-
39 pocket costs for the implicated services than the insured would have incurred with a participating
40 provider.

41 (B) Any provider that is reimbursed for services pursuant to this section is prohibited
42 from billing, charging, seeking payment or reimbursement from, or having any recourse against
43 an insured or a person acting on behalf of insured. This prohibition does not prohibit the
44 provider from collecting any applicable co-payment, coinsurance or deductible from the insured.

45 (c) Non-participating provider charges that are not reimbursable by the carrier.

46 (1) Any provider not receiving a non-participating provider rate pursuant this section that
47 chooses to treat an insured must perform an eligibility check to determine whether such provider
48 is a participating provider in the insured's carrier network. In the event that the provider is not a
49 participating provider in the insured's carrier network, the provider must disclose to the insured,
50 and obtain a written consent confirming the insured's understanding that: (a) the provider is not a
51 participating provider in the insured's network, (b) the insured will be responsible for the cost of
52 services, (c) the dollar amount or reasonable estimate for cost of services to be provided, and (d)
53 the insured could seek care from a provider in the insured's carrier network. The provider will
54 be deemed to have made appropriate disclosures if the provider utilizes the below template.

55 (2) Any non-participating provider that fails either to do an eligibility check or to obtain
56 the appropriate consent as described in the previous section is prohibited from billing or charging
57 the insured for services rendered. Nothing in this section shall prohibit a provider from offering
58 and performing services once the provider has clearly informed the insured of his or her rights
59 and obligations and obtained a written consent from the insured as set forth above.