SENATE DOCKET, NO. 2052 FILED ON: 1/20/2017

SENATE . . . . . No. 603

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

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:
Joseph A. Boncore	*First Suffolk and Middlesex*

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SENATE . . . . . No. 603

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 603) of Joseph A. Boncore for legislation relative to equitable provide reimbursement for non-network providers. Health Care Financing.

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:

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-Emergency Services" means all services that are not Emergency services.

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

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

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

(8) "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.

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

(c) Non-Emergency Services.

(1) Non-emergency services for an insured

(A) When a carrier receives a bill for non-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.

(B) Any provider that is reimbursed for services pursuant to this section is prohibited from billing, charging, seeking payment or reimbursement from, or having any recourse against a patient or a person acting on behalf of patient. This prohibition does not prohibit the provider from collecting any applicable co-payment, coinsurance or deductible from the patient. Further, this prohibition does not prohibit the provider and patient to continue services solely at the expense of the patient, as long as the provider has clearly informed the patient of the patients' rights and obligations and obtained a written consent from the patient as required by the commissioner of insurance.

DRAFT DISCLOSURE TO PATIENT

I, _____(name of patient), hereby agree to the following:

1) I understand that my provider, _____(name of provider), is not a covered provider in my insurance network.

2) I understand that because my provider is not covered by my insurance network, my provider will bill me directly for charges related to this visit and related services, sometimes referred to a "balance bills" or "surprise bills."

3) I understand that I could contact my insurance company and locate a different provider that is covered by my insurance to avoid such "balance bills" or "surprise bills."

Signature of patient:

Name of patient:

Date:

Signature of provider:

Name of provider:

Date:

Signature of witness:

Name of witness:

Date: