

SENATE No. 618

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 establishing a public health insurance option.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/30/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2017</i>

SENATE No. 618

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 618) of James B. Eldridge, Jonathan Hecht and Denise Provost for legislation to establish a public health insurance option. Health Care Financing.

The Commonwealth of Massachusetts

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

An Act establishing a public health insurance option.

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. The General Laws are hereby amended by inserting after chapter 176Q the
2 following chapter:-

3 CHAPTER 176S.

4 PUBLIC HEALTH INSURANCE OPTION.

5 Section 1. As used in this chapter, the following words shall have the following
6 meanings, unless the context clearly requires otherwise:-

7 “Commonwealth Connector Board”, the board of the commonwealth health insurance
8 connector, established by subsection (b) of section 2 of chapter 176Q.

9 “Commonwealth Connector”, the commonwealth health insurance connector authority,
10 established by subsection (a) of section 2 of chapter 176Q.

11 “Connector seal of approval”, the approval given by the board of the connector to
12 indicate that a health benefit plan meets certain standards regarding quality and value, as
13 established by section 10 of Chapter 176Q.

14 “Carrier”, an insurer licensed or otherwise authorized to transact accident and health
15 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
16 176A; a nonprofit medical service corporation organized under chapter 176B; a health
17 maintenance organization organized under chapter 176G.

18 “Health benefit plan”, any individual, general, blanket or group policy of health, accident
19 and sickness insurance issued by an insurer licensed under chapter 175; a group hospital service
20 plan issued by a non-profit hospital service corporation under chapter 176A; a group medical
21 service plan issued by a non-profit medical service corporation under chapter 176B; a group
22 health maintenance contract issued by a health maintenance organization under chapter 176G; a
23 coverage for young adults health insurance plan under section 10 of chapter 176J. The words
24 “health benefit plan” shall not include accident only, credit-only, limited scope vision or dental
25 benefits if offered separately, hospital indemnity insurance policies if offered as independent,
26 non-coordinated benefits, which, for the purposes of this chapter, shall mean policies issued
27 under chapter 175 that provide a benefit not to exceed \$500 per day, as adjusted on an annual
28 basis by the amount of increase in the average weekly wages in the commonwealth as defined in
29 section 1 of chapter 152, to be paid to an insured or a dependent, including the spouse of an
30 insured, on the basis of a hospitalization of the insured or a dependent, disability income
31 insurance, coverage issued as a supplement to liability insurance, specified disease insurance that
32 is purchased as a supplement and not as a substitute for a health plan and meets any requirements
33 the commissioner by regulation may set, insurance arising out of a workers’ compensation law or

34 similar law, automobile medical payment insurance, insurance under which benefits are payable
35 with or without regard to fault and which is statutorily required to be contained in a liability
36 insurance policy or equivalent self-insurance, long-term care if offered separately, coverage
37 supplemental to the coverage provided under 10 U.S.C. section 55 if offered as a separate
38 insurance policy, or any policy subject to chapter 176K or any similar policies issued on a group
39 basis, Medicare Advantage plans or Medicare Prescription drug plans. A health plan issued,
40 renewed or delivered within or without the commonwealth to an individual who is enrolled in a
41 qualifying student health insurance program under section 18 of chapter 15A shall not be
42 considered a health plan for the purposes of this chapter and shall be governed by said chapter
43 15A. The commissioner of insurance may by regulation define other health coverage as a health
44 benefit plan for the purposes of this chapter.

45 “Eligible individuals”, an individual who is a resident of the commonwealth;
46 provided, however, that the individual is not offered subsidized health insurance by an employer
47 with more than 50 employees.

48 “Eligible small groups”, groups, any sole proprietorship, labor union, educational,
49 professional, civic, trade, church, not-for-profit or social organization or firms, corporations,
50 partnerships or associations actively engaged in business that on at least 50 per cent of its
51 working days during the preceding year employed at least one but not more than 50 employees.

52 “Eligible large groups”, groups, any labor union, educational, professional, civic, trade,
53 church, not-for-profit or social organization or firms, corporations, partnerships or associations
54 actively engaged in business that on at least 50 per cent of its working days during the preceding
55 year employed at least 51 employees.

56 "Public Option", the public health benefits plan offered through the Commonwealth
57 Connector, established by section 2.

58 "Trust Fund", the Public Health Insurance Trust Fund, established by section 7.

59 Section 2. (a) The Commonwealth Connector Authority shall provide for the offering of a
60 public health benefits plan, which shall be known as the public health insurance option, to
61 eligible individuals and groups, to ensure choice, competition, and stability of affordable, high
62 quality coverage throughout Massachusetts.

63 (b) The public health insurance option shall:

64 (1) be made available exclusively through the Commonwealth Connector, alongside
65 health benefit plans receiving the Connector seal of approval;

66 (2) meet all the requirements established for health benefit plans to receive the
67 Commonwealth Connector seal of approval;

68 (3) meet the Connector's standards for minimum creditable coverage; and

69 (4) comply with subsections (b), (c), and (d) of section 5 of chapter 176Q.

70 Section 3. The executive director of the commonwealth connector may contract with
71 managed care organizations or other such health benefits administrators to administer aspects of
72 plans offered under the public health insurance option. Notwithstanding any general or special
73 law to the contrary, the executive director shall collaborate with the secretary of health and
74 human services and the commissioner of insurance to ensure that only Medicaid managed care
75 organizations, that have contracted with the commonwealth as of January 1, 2018, to deliver
76 such managed care services, are so contracted with to administer aspects of the public option.

77 The executive director may accept applications from non-Medicaid managed care organizations
78 for the provision of such services after January 1, 2020.

79 Section 4. A report on the activities, receipts, expenditures, and enrollments of the public
80 health insurance option shall be included in the Commonwealth Connector's annual reports and
81 shall be subject to the prescription and oversight of the Commonwealth Connector Board and
82 state auditor pursuant to section 14 and section 15 of chapter 176Q.

83 Section 5. The Commonwealth Connector shall establish premium rates for the public
84 health insurance option at a level sufficient to fully finance the costs of health benefits provided
85 by the public health insurance option and administrative costs related to operating the public
86 health insurance option.

87 Section 6. The Connector Board shall establish payment rates for the public health
88 insurance option for services and providers based on parts A and B of Medicare. The
89 Commonwealth Connector Board may determine the extent to which adjustments to base
90 Medicare payment rates shall be made in order to fairly reimburse providers and medical goods
91 and device makers, as well as to maintain a strong provider network.

92 Section 7. Health care providers, including physicians and hospitals, participating in
93 Medicare are participating providers in the public health insurance option unless they opt out
94 through a process to be established by the Commonwealth Connector. The opt-out process must
95 ensure that:

96 (a) no provider shall be subject to a penalty for not participating in the public health
97 insurance option;

98 (b) the connector shall include information on how providers participating in Medicare
99 who chose to opt out of participating in the public health insurance option may opt back in; and

100 (c) there shall be an annual enrollment period in which providers may decide whether to
101 participate in the public health insurance option.

102 Section 8. The Commonwealth Connector may adopt regulations to implement this
103 chapter.

104 SECTION 2. The General Laws are hereby amended by inserting after Section 8J of
105 Chapter 26 the following Section:-

106 Section 8K. Risk Adjustment

107 (a) The commissioner of insurance is hereby authorized to make an assessment against all
108 health plans, health insurers, and health maintenance organizations in the commonwealth, as well
109 as the public health insurance option established by section 2 of chapter 176R , which shall be
110 referred to herein as "risk-adjusted health plans," if the actuarial risk of the enrollees of such
111 plans or coverage for a year is less than the average actuarial risk of all enrollees in all risk-
112 adjusted health plans for such year. Self-insured group health plans, which are subject to the
113 provisions of the Employee Retirement Income Security Act of 1974, shall be exempted from
114 such risk adjustment.

115 (b) Using the criteria and methods developed under subsection (c), the commissioner of
116 insurance shall provide a payment to risk-adjusted health plans with respect to health insurance
117 coverage if the actuarial risk of the enrollees of such plans or coverage for a year is greater than

118 the average actuarial risk of all enrollees in all risk-adjusted health plans for such year that are
119 not self-insured group health plans.

120 (c) The commissioner shall establish criteria and methods to be used in carrying out the
121 risk adjustment activities under this section. In calculating the actuarial risk of risk-adjusted
122 health plans, the commissioner may utilize data including but not limited to enrollee
123 demographics, inpatient and outpatient diagnoses in similar fashion as such data are used under
124 parts C and D of title XVIII of the Social Security Act, and such other information as the
125 commissioner determines may be necessary such as the actual medical costs of enrollees during
126 the previous year. Upon request, such risk-adjusted health plans shall make information available
127 to the division of insurance for the purposes of risk adjustment under this section. Such
128 information shall be confidential and limited to the minimum amount of personal information
129 necessary. Such information shall not constitute a public record pursuant to paragraph 26 of
130 section 7 of chapter 4.

131 SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after
132 section 2XXX the following section:-

133 Section 2FFFF. There is hereby established and set up on the books of the
134 commonwealth a separate fund to be known as the Public Health Insurance Option Trust Fund,
135 in this section called the trust fund. Amounts credited to the trust fund shall be expended without
136 further appropriation for operation of the public health insurance option. Not later than January
137 1, the comptroller shall report an update of revenues for the current fiscal year. The comptroller
138 shall file this report with the secretary of administration and finance, the office of Medicaid, the

139 joint committee on health care financing, and the house and senate committees on ways and
140 means.

141 SECTION 4. Subsection (a) of section 5 of Chapter 176Q is hereby amended by
142 inserting, after the word "carrier" in line 3, the following words:- , as well as the public health
143 insurance option,

144 SECTION 5. Section 1 of Chapter 176Q is hereby amended by inserting, after the
145 definition of "Eligible Small Groups", the following definition:-

146 "Eligible large groups", groups, any labor union, educational, professional, civic, trade,
147 church, not-for-profit or social organization or firms, corporations, partnerships or associations
148 actively engaged in business that on at least 50 per cent of its working days during the preceding
149 year employed at least 51 employees.

150 SECTION 6. Section 4(a) of Chapter 176Q of the General Laws, as appearing in the 2014
151 Official Edition, is hereby amended by inserting after the word "small" in line 3, the following
152 words:- and large

153 SECTION 7. Section 4(b) of Chapter 176Q of the General Laws, as appearing in the
154 2014 Official Edition, is hereby amended by striking out, in line 5, the word "group's", and
155 inserting in place thereof the following words:- or large group's

156 SECTION 8. Section 123 of chapter 58 of the acts of 2006 is hereby amended by striking
157 out the following:- The director shall collaborate with the secretary of health and human services
158 and the group insurance commission to implement a methodology for the purposes of adjusting
159 for variations in clinical risk among populations served by each of the commonwealth health

160 insurance connector contractors. Adjustments to final payments to each of the contractors for a
161 contract year shall be made in accordance with the risk adjustment methodology.

162 SECTION 9. The public health insurance option established in chapter 176S shall be
163 made available to eligible individuals and eligible small groups through the Connector no later
164 than January 1, 2018. In addition the public health insurance option shall be made available to
165 eligible large groups no later than July 1, 2018.

166 SECTION 10. Effective no later than July 1, 2018, the board of the Commonwealth
167 Connector shall, consistent with the board's powers and duties as enumerated in section 3 of
168 chapter 176J, extend its seal of approval to large group plans and offer such plans, alongside a
169 public health insurance option for large groups, through the Connector.