

**HOUSE . . . . . No. 957**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Paul J. Donato*

*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 protect consumers from surprise billing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>1/16/2019</i>
<i>Carmin Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/22/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/25/2019</i>

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By Mr. Donato of Medford, a petition (accompanied by bill, House, No. 957) of Paul J. Donato, Carmine Lawrence Gentile and Sean Garballey relative to non-contracted and non-emergency healthcare billing. Financial Services.

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The Commonwealth of Massachusetts

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In the One Hundred and Ninety-First General Court  
(2019-2020)  
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An Act to protect consumers from surprise billing.

*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 6D of the General Laws, as appearing in the 2016 Official Edition,  
2 is hereby amended by inserting after section 16 the following section:-

3 Section 16A. (a) The commission shall, upon consideration of advice or any other  
4 pertinent evidence, recommend the noncontracted commercial rate for emergency services and  
5 the noncontracted commercial rate for nonemergency services, as defined in section 1 of chapter  
6 176O. The noncontracted commercial rate for emergency services and the noncontracted  
7 commercial rate for nonemergency services shall be in effect for a term of 5 years and shall  
8 apply to payments under clauses (ii) and (iv) of section 28 of said chapter 176O.

9 (b) In recommending rates, the commission shall consider: (i) the impact of each rate on  
10 the growth of total health care expenditures; (ii) the impact of each rate on premiums under  
11 Chapter 176J; (iii) the impact of each rate on in-network participation by health care providers  
12 and the risk of reducing network participation by health care providers; and (iv) whether each

13 rate is easily understandable and administrable by health care providers and carriers. The  
14 commission may establish separate rates for subsidized and nonsubsidized health benefit plans.  
15 The commission shall not issue its recommendations for the noncontracted commercial rate for  
16 emergency services and the noncontracted commercial rate for nonemergency services without  
17 the approval of the board established under subsection (b) of section 2.

18 (c) If the board approves the recommendations pursuant to subsection (b), the  
19 commission shall submit the recommendations to the division of insurance. The division may,  
20 not later than 30 days after the proposal has been submitted, hold a public hearing on the  
21 proposal. The division shall issue any findings within 20 days after the public hearing and shall  
22 make public those findings and any proposed regulation to implement those findings with respect  
23 to the recommendations of the commission. If the division does not issue final regulations with  
24 respect to the recommendations within 65 days after the commission submits the  
25 recommendations to division, the recommendations shall be adopted by the division as the  
26 noncontracted commercial rate for emergency services and noncontracted commercial rate for  
27 nonemergency services in effect for the applicable 5-year term.

28 (d) Prior to recommending the rates, the commission shall hold a public hearing. The  
29 hearing shall examine current rates paid for in- and out-of-network services and the impact of  
30 those rates on the operation of the health care delivery system and determine, based on the  
31 testimony, information and data, an appropriate noncontracted commercial rate for emergency  
32 services and noncontracted commercial rate for nonemergency services consistent with  
33 subsection (b). The commission shall provide public notice of the hearing not less than 45 days  
34 before the date of the hearing, including notice to the division of insurance. The division may  
35 participate in the hearing. The commission shall identify as witnesses for the public hearing a

36 representative sample of providers, provider organizations, payers and other interested parties as  
37 the commission may determine. Any interested party may testify at the hearing.

38 (e) The commission shall conduct a review of established rates in the fourth year of the  
39 rates' operation. The commission shall further hold a public hearing under subsection (d) in said  
40 fourth year and recommend rates consistent with this section to be effective for the next 5-year  
41 term.

42 SECTION 2. Chapter 32A of the General Laws, as appearing in the 2016 Official  
43 Edition, is hereby amended by adding the following 3 sections:-

44 Section 28. (a) As used in this section, "facility fee", "health system", "hospital" and  
45 "hospital-based facility" shall have the same meanings as provided in section 28 of chapter  
46 176O.

47 (b) Coverage offered by the commission to an active or retired employee of the  
48 commonwealth insured under the group insurance commission shall not impose a separate  
49 copayment on an insured or provide reimbursement to a hospital, health system or hospital-based  
50 facility for services provided at a hospital, a health system or a hospital-based facility or for  
51 reimbursement to such a hospital, health system or hospital-based facility for a facility fee for  
52 services utilizing a current procedural terminology evaluation and management code or which is  
53 otherwise limited pursuant to section 51L of chapter 111.

54 A hospital, health system or hospital-based facility shall not charge, bill or collect from  
55 an insured a facility fee greater than the facility fee reimbursement rate agreed to by the carrier  
56 pursuant to an insured's policy.

57 (c) Nothing in this section shall prohibit the commission from offering coverage that  
58 restricts the reimbursement of facility fees beyond the limitations set forth in section 51L of  
59 chapter 111.

60 SECTION 3. Chapter 111 of the General Laws, as appearing in the 2016 Official Edition,  
61 is hereby amended by inserting after section 51K the following section:-

62 Section 51L. (a) For the purposes of this section, the following terms shall have the  
63 following meanings unless the context clearly indicates otherwise:

64 “Campus”, the physical area immediately adjacent to a hospital's main buildings and  
65 other areas and structures that are not strictly contiguous to the main buildings but are located not  
66 more than 250 yards from the main buildings or other area that has been determined on an  
67 individual case basis by the Centers for Medicare & Medicaid Services to be part of a hospital's  
68 campus.

69 “Carrier”, shall have the same meaning as provided in section 1 of chapter 176O.

70 “Facility fee”, shall have the same meaning as provided in section 28 of chapter 176O.

71 “Health system”, shall have the same meaning as provided in section 28 of chapter 176O.

72 “Hospital-based facility”, shall have the same meaning as provided in section 28 of  
73 chapter 176O.

74 (b) A hospital, health system or hospital-based facility shall not charge, bill or collect a  
75 facility fee for services utilizing a current procedural terminology evaluation and management  
76 code or other current procedural terminology code as determined by the department. A hospital,  
77 health system or hospital-based facility shall not offset the loss of revenue from facility fees

78 through increased rates, fees or charges on carriers or an insured. A violation of this subsection  
79 shall be an unfair trade practice under chapter 93A.