

SENATE No. 641

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 relative to special education health care costs.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

SENATE No. 641

By Ms. Creem, a petition (accompanied by bill, Senate, No. 641) of Cynthia Stone Creem for legislation relative to special education health care costs. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 559 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to special education health care costs.

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 32A of the General Laws is hereby amended by adding the
2 following section:-

3 Section 28. The commission shall provide to an active or retired employee of the
4 commonwealth who is insured under the group insurance commission benefits on a
5 nondiscriminatory basis for the medically necessary treatment for disease, illness, injury, or
6 bodily dysfunction which are required by a student’s individual education program,
7 individualized family service plan, individualized service plan or the federal Individuals with
8 Disabilities Education Improvement Act.

9 In order to obtain coverage, school districts shall request, but not require, the child’s
10 family to provide information about the child’s coverage when a child with a disability begins to

11 receive services from the district of a type that are reimbursable and shall request, but may not
12 require, updated information as needed.

13 (a) In order to access benefits, a school district must:

14 (i) obtain annual written informed consent from the parent or legal guardian.

15 (1) When obtaining informed consent, the school district must notify the legal guardian

16 (a) that the cost of the person's private health insurance premium may increase due to providing
17 the covered service in the school setting, (b) that the school district may pay certain enrollee
18 health plan costs, including but not limited to, co-payments, coinsurance, deductibles, premium
19 increases or other enrollee cost-sharing amounts for health and related services required by an
20 individual service plan, or individualized family service plan, and (c) that the school's billing for
21 each type of covered service may affect service limits and prior authorization thresholds. The
22 informed consent may be revoked in writing at any time by the person authorizing the billing of
23 the health plan;

24 (ii) inform the parent or legal representative that a refusal to permit the district to access
25 their private health care coverage does not relieve the district of its responsibility to provide all
26 services necessary to provide free and appropriate public education at no cost to the parent or
27 legal representative.

28 (b) To the extent required by federal law, a school district may not require parents of
29 children with disabilities, if they would incur a financial cost, to use private health coverage to
30 pay for the services that must be provided under an individualized education program or
31 individualized family service plan.

32 (c) To the extent required by federal law, no school district may deny, withhold, or delay
33 any service that must be provided under an individualized education program or individualized
34 family service plan because a family has refused to provide informed consent to bill a health plan
35 for services or a health plan company has refused to pay any, all, or a portion of the cost of
36 services billed.

37 (d) A school district may disclose information contained in a student's individualized
38 education program, including records of the student's diagnosis and treatment, to a health plan
39 company only with the signed and dated consent of the student's parent, or other legally
40 authorized individual. The school district shall disclose only that information necessary for the
41 health plan company to decide matters of coverage and payment. A health plan company may
42 use the information only for making decisions regarding coverage and payment, and for any
43 other use permitted by law.

44 SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting after
45 section 47II the following section:-

46 Section 47JJ. An individual policy of accident and sickness insurance issued under
47 section 108 that provides hospital expense and surgical expense insurance and any group blanket
48 or general policy of accident and sickness insurance issued under section 110 that provides
49 hospital expense and surgical expense insurance, which is issued or renewed within or without
50 the commonwealth, shall provide benefits on a nondiscriminatory basis for the medically
51 necessary treatment for disease, illness, injury, or bodily dysfunction which are required by a
52 student's individual education program, individualized family service plan, individualized
53 service plan or the federal Individuals with Disabilities Education Improvement Act.

54 In order to obtain coverage, school districts shall request, but not require, the child's
55 family to provide information about the child's coverage when a child with a disability begins to
56 receive services from the district of a type that are reimbursable and shall request, but may not
57 require, updated information as needed.

58 (a) In order to access benefits, a school district must:

59 (i) obtain annual written informed consent from the parent or legal guardian.

60 (1) When obtaining informed consent, the school district must notify the legal guardian
61 (a) that the cost of the person's private health insurance premium may increase due to providing
62 the covered service in the school setting, (b) that the school district may pay certain enrollee
63 health plan costs, including but not limited to, co-payments, coinsurance, deductibles, premium
64 increases or other enrollee cost-sharing amounts for health and related services required by an
65 individual service plan, or individualized family service plan, and (c) that the school's billing for
66 each type of covered service may affect service limits and prior authorization thresholds. The
67 informed consent may be revoked in writing at any time by the person authorizing the billing of
68 the health plan;

69 (ii) inform the parent or legal representative that a refusal to permit the district to access
70 their private health care coverage does not relieve the district of its responsibility to provide all
71 services necessary to provide free and appropriate public education at no cost to the parent or
72 legal representative.

73 (b) To the extent required by federal law, a school district may not require parents of
74 children with disabilities, if they would incur a financial cost, to use private health coverage to

75 pay for the services that must be provided under an individualized education program or
76 individualized family service plan.

77 (c) To the extent required by federal law, no school district may deny, withhold, or delay
78 any service that must be provided under an individualized education program or individualized
79 family service plan because a family has refused to provide informed consent to bill a health plan
80 for services or a health plan company has refused to pay any, all, or a portion of the cost of
81 services billed.

82 (d) A school district may disclose information contained in a student's individualized
83 education program, including records of the student's diagnosis and treatment, to a health plan
84 company only with the signed and dated consent of the student's parent, or other legally
85 authorized individual. The school district shall disclose only that information necessary for the
86 health plan company to decide matters of coverage and payment. A health plan company may
87 use the information only for making decisions regarding coverage and payment, and for any
88 other use permitted by law.

89 SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after
90 section 8KK the following section:-

91 Section 8LL. A contract between a subscriber and the corporation under an individual or
92 group hospital service plan which is issued or renewed within or without the commonwealth
93 shall provide benefits on a nondiscriminatory basis for the medically necessary treatment for
94 disease, illness, injury, or bodily dysfunction which are required by a student's individual
95 education program, individualized family service plan, individualized service plan or the federal
96 Individuals with Disabilities Education Improvement Act.

97 In order to obtain coverage, school districts shall request, but not require, the child's
98 family to provide information about the child's coverage when a child with a disability begins to
99 receive services from the district of a type that are reimbursable and shall request, but may not
100 require, updated information as needed.

101 (a) In order to access benefits, a school district must:

102 (i) obtain annual written informed consent from the parent or legal guardian.

103 (1) When obtaining informed consent, the school district must notify the legal guardian

104 (a) that the cost of the person's private health insurance premium may increase due to providing
105 the covered service in the school setting, (b) that the school district may pay certain enrollee
106 health plan costs, including but not limited to, co-payments, coinsurance, deductibles, premium
107 increases or other enrollee cost-sharing amounts for health and related services required by an
108 individual service plan, or individualized family service plan, and (c) that the school's billing for
109 each type of covered service may affect service limits and prior authorization thresholds. The
110 informed consent may be revoked in writing at any time by the person authorizing the billing of
111 the health plan;

112 (ii) inform the parent or legal representative that a refusal to permit the district to access
113 their private health care coverage does not relieve the district of its responsibility to provide all
114 services necessary to provide free and appropriate public education at no cost to the parent or
115 legal representative.

116 (b) To the extent required by federal law, a school district may not require parents of
117 children with disabilities, if they would incur a financial cost, to use private health coverage to

118 pay for the services that must be provided under an individualized education program or
119 individualized family service plan.

120 (c) To the extent required by federal law, no school district may deny, withhold, or delay
121 any service that must be provided under an individualized education program or individualized
122 family service plan because a family has refused to provide informed consent to bill a health plan
123 for services or a health plan company has refused to pay any, all, or a portion of the cost of
124 services billed.

125 (d) A school district may disclose information contained in a student's individualized
126 education program, including records of the student's diagnosis and treatment, to a health plan
127 company only with the signed and dated consent of the student's parent, or other legally
128 authorized individual. The school district shall disclose only that information necessary for the
129 health plan company to decide matters of coverage and payment. A health plan company may
130 use the information only for making decisions regarding coverage and payment, and for any
131 other use permitted by law.

132 SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after
133 section 4KK the following section:-

134 Section 4LL. A subscription certificate under an individual or group medical service
135 agreement which is issued or renewed within or without the commonwealth shall provide
136 benefits on a nondiscriminatory basis for the medically necessary treatment for disease, illness,
137 injury, or bodily dysfunction which are required by a student's individual education program,
138 individualized family service plan, individualized service plan or the federal Individuals with
139 Disabilities Education Improvement Act.

140 In order to obtain coverage, school districts shall request, but not require, the child's
141 family to provide information about the child's coverage when a child with a disability begins to
142 receive services from the district of a type that are reimbursable and shall request, but may not
143 require, updated information as needed.

144 (a) In order to access benefits, a school district must:

145 (i) obtain annual written informed consent from the parent or legal guardian.

146 (1) When obtaining informed consent, the school district must notify the legal guardian
147 (a) that the cost of the person's private health insurance premium may increase due to providing
148 the covered service in the school setting, (b) that the school district may pay certain enrollee
149 health plan costs, including but not limited to, co-payments, coinsurance, deductibles, premium
150 increases or other enrollee cost-sharing amounts for health and related services required by an
151 individual service plan, or individualized family service plan, and (c) that the school's billing for
152 each type of covered service may affect service limits and prior authorization thresholds. The
153 informed consent may be revoked in writing at any time by the person authorizing the billing of
154 the health plan;

155 (ii) inform the parent or legal representative that a refusal to permit the district to access
156 their private health care coverage does not relieve the district of its responsibility to provide all
157 services necessary to provide free and appropriate public education at no cost to the parent or
158 legal representative.

159 (b) To the extent required by federal law, a school district may not require parents of
160 children with disabilities, if they would incur a financial cost, to use private health coverage to

161 pay for the services that must be provided under an individualized education program or
162 individualized family service plan.

163 (c) To the extent required by federal law, no school district may deny, withhold, or delay
164 any service that must be provided under an individualized education program or individualized
165 family service plan because a family has refused to provide informed consent to bill a health plan
166 for services or a health plan company has refused to pay any, all, or a portion of the cost of
167 services billed.

168 (d) A school district may disclose information contained in a student's individualized
169 education program, including records of the student's diagnosis and treatment, to a health plan
170 company only with the signed and dated consent of the student's parent, or other legally
171 authorized individual. The school district shall disclose only that information necessary for the
172 health plan company to decide matters of coverage and payment. A health plan company may
173 use the information only for making decisions regarding coverage and payment, and for any
174 other use permitted by law.

175 SECTION 5. Chapter 176G of the General Laws is hereby amended by inserting after
176 section 4CC the following section:-

177 Section 4DD. A health maintenance contract issued or renewed within or without the
178 commonwealth shall provide benefits on a nondiscriminatory basis for the medically necessary
179 treatment for disease, illness, injury, or bodily dysfunction which are required by a student's
180 individual education program, individualized family service plan, individualized service plan or
181 the federal Individuals with Disabilities Education Improvement Act.

182 In order to obtain coverage, school districts shall request, but not require, the child's
183 family to provide information about the child's coverage when a child with a disability begins to
184 receive services from the district of a type that are reimbursable and shall request, but may not
185 require, updated information as needed.

186 (a) In order to access benefits, a school district must:

187 (i) obtain annual written informed consent from the parent or legal guardian.

188 (1) When obtaining informed consent, the school district must notify the legal guardian
189 (a) that the cost of the person's private health insurance premium may increase due to providing
190 the covered service in the school setting, (b) that the school district may pay certain enrollee
191 health plan costs, including but not limited to, co-payments, coinsurance, deductibles, premium
192 increases or other enrollee cost-sharing amounts for health and related services required by an
193 individual service plan, or individualized family service plan, and (c) that the school's billing for
194 each type of covered service may affect service limits and prior authorization thresholds. The
195 informed consent may be revoked in writing at any time by the person authorizing the billing of
196 the health plan;

197 (ii) inform the parent or legal representative that a refusal to permit the district to access
198 their private health care coverage does not relieve the district of its responsibility to provide all
199 services necessary to provide free and appropriate public education at no cost to the parent or
200 legal representative.

201 (b) To the extent required by federal law, a school district may not require parents of
202 children with disabilities, if they would incur a financial cost, to use private health coverage to

203 pay for the services that must be provided under an individualized education program or
204 individualized family service plan.

205 (c) To the extent required by federal law, no school district may deny, withhold, or delay
206 any service that must be provided under an individualized education program or individualized
207 family service plan because a family has refused to provide informed consent to bill a health plan
208 for services or a health plan company has refused to pay any, all, or a portion of the cost of
209 services billed.

210 (d) A school district may disclose information contained in a student's individualized
211 education program, including records of the student's diagnosis and treatment, to a health plan
212 company only with the signed and dated consent of the student's parent, or other legally
213 authorized individual. The school district shall disclose only that information necessary for the
214 health plan company to decide matters of coverage and payment. A health plan company may
215 use the information only for making decisions regarding coverage and payment, and for any
216 other use permitted by law.

217 SECTION 6. All policies, contracts and certificates of health insurance subject to section
218 28 of chapter 32A, section 47JJ of chapter 175, section 8LL of chapter 176A, section 4LL of
219 chapter 176B, and section 4DD of chapter 176G of the General Laws which are delivered, issued
220 or renewed on or after January 1, 2022 shall conform with the provisions of this act. Form filings
221 implementing this act shall be subject to the approval of the commissioner of insurance.

222 SECTION 7. This act shall take effect on January 1, 2022.