SENATE DOCKET, NO. 2130 FILED ON: 2/19/2021

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:	DISTRICT/ADDRESS:
Cynthia Stone Creem	*First Middlesex and Norfolk*

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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:

SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the following section:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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