

SENATE No. 670

The Commonwealth of Massachusetts

PRESENTED BY:

Barry R. Finegold

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 uncollected co-pays, co-insurance and deductibles.

PETITION OF:

NAME:

Barry R. Finegold

DISTRICT/ADDRESS:

Second Essex and Middlesex

SENATE No. 670

By Mr. Finegold, a petition (accompanied by bill, Senate, No. 670) of Barry R. Finegold for legislation to require certain healthcare carriers to share accountability with providers for uncollectible patient obligations after insurance. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 976 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act relative to uncollected co-pays, co-insurance and deductibles.

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 176O of the General Laws, as appearing in the 2018 Official
2 Edition, is hereby amended by adding the following new section:

3 Section 7A. Equitable Funding for Health Care Provider Bad Debt

4 (a) Notwithstanding any other provision of the general laws to the contrary, a carrier shall
5 reimburse a health care provider no less than sixty-five percent (65%) of each co-payment, co-
6 insurance and/or deductible amount due under an insured’s health benefit plan which are unpaid
7 after reasonable collection efforts have been made by the health care provider pursuant to
8 subsection (c) of this section.

9 (b) As used in this section, the following words shall have the following meanings: a “co-
10 payment” is defined as a fixed dollar amount that is owed by an insured as required under a
11 health benefit plan for health care services provided and billed by a healthcare provider. A “co-
12 insurance” is defined as a percentage of the allowed amount, after a co-payment, if any, that an
13 insured must pay for covered services received under a health benefit plan for health care
14 services provided and billed by a healthcare provider. A “deductible” is defined as a specific
15 dollar amount that an insured must pay for covered services before the carrier’s health benefit
16 plan becomes obligated to pay for covered health care services provided and billed by a
17 healthcare provider; such deductible does not include any portion of premiums paid by an
18 insured.

19 (c) Reimbursement for uncollected co-payment, co-insurance and/or deductible amounts
20 due (each a “claim”) under an insured’s health benefit plan for covered services rendered shall be
21 deemed an uncollectible bad debt, and a health care provider may submit a request for
22 reimbursement to the carrier under the following conditions:

23 (1) The claim must be derived from the wholly or partially uncollected co-payment, co-
24 insurance and/or deductible amounts under an insured’s health benefit plan;

25 (2) The reimbursement requested by the health care provider should be for a claim where
26 the co-payment, co-insurance, or deductible amount was at least two hundred and fifty dollars
27 (\$250), and each claim reflected a unique covered service under the health benefit plan per
28 insured;

29 (3) The health care provider must have made reasonable collection efforts for each claim
30 filed for reimbursement under this section, such efforts including documentation that the claim

31 has remained partially or fully unpaid and is not subject to an on-going payment plan for more
32 than one hundred twenty (120) days from the date the first bill was mailed, which may include
33 such efforts as telephone calls, collection letters, or any other notification method that constitutes
34 a genuine and continuous effort to contact the member, said documentation shall include the date
35 and method of contact;

36 (4) On or before May 1 of each year, the health care provider shall submit an aggregate
37 request for reimbursement representing all claims that meet the criteria under this section in the
38 prior calendar year. The request for reimbursement shall include documentation of the attempt to
39 collect on the claim(s), the name and identification number of the insured, the date of service, the
40 unpaid co-payment, co-insurance, or deductible, the amount that was collected, if any, and the
41 date and general method of contact with the insured. For the purposes of this section, an insured
42 co-payment, co-insurance, and/or deductible amount due shall be determined based on the date
43 that the service is rendered; provided further that a carrier shall not prohibit reimbursement if the
44 insured is no longer covered by the plan on the date that the request is made.

45 (5) Nothing in this section shall prevent the carrier from conducting an audit of the
46 request for reimbursement of unpaid co-payment, co-insurance, and/or deductible amounts to
47 verify that the insured was eligible for coverage at the time of service, that the service was a
48 covered health benefit under the applicable health benefit plan, and to verify from the provider's
49 internal log that reasonable efforts were made to contact the insured following the criteria
50 outlined in this section. The carrier must complete any such audit of the submitted report from
51 the health care provider and notify the health care provider of any disputes as to the request for
52 reimbursement within one hundred and twenty (120) days of receipt of the request for
53 reimbursement from the health care provider. The carrier shall pay the health care provider sixty-

54 five percent (65%) of the undisputed amounts as submitted by the health care provider in the
55 request for reimbursement in accordance with this section within 120 days of receipt of such
56 requests from the health care provider. Any dispute regarding contested claims shall be subject to
57 a dispute resolution process applicable to the arrangement between the carrier and the health care
58 provider; and

59 (6) Any amounts attributable to co-payment, co-insurance, or deductible amount
60 collected by a health care provider after reimbursement has been made by the carrier pursuant to
61 this section shall be recorded by the health care provider and reported as an offset to future
62 submissions to such carrier.

63 (d) No carrier shall prohibit a health care provider from collecting the amount of the
64 insured's co-payment, co-insurance, and/or deductible, if any, at the time of service.

65 SECTION 2. The division shall promulgate regulations within ninety (90) days of the
66 effective date of this act that are consistent with the rules developed by the Centers for Medicare
67 & Medicaid Services for reasonable collection efforts required by a health care provider prior to
68 submission of a request of reimbursement to a carrier. Notwithstanding the foregoing, in the
69 event that the division fails to promulgate such regulations, the provisions of section 1 shall be
70 self-implementing, and carriers shall make applicable payments to health care providers in
71 accordance with the provisions of section 1 utilizing the same process adopted by the Centers for
72 Medicare & Medicaid Services' reasonable collection efforts for bad debt, as documented in the
73 most recent Medicare Provider Reimbursement Manual, CMS Pub. 15-1 and 15-2 (HIM-15) in
74 effect within 90 days of the effective date of this Act. The division shall further require each
75 carrier to provide the division an annual report showing the total number and amount of

76 uncollected co-payments, co-insurances, and deductibles that are reimbursed as well as those that
77 are denied. The report shall be made publicly available on the division's website.