

SENATE No. 741

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 reduce racial and ethnic health disparities through commercial rate equity for safety net hospitals.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|--------------------------|---|------------------|
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Worcester and Middlesex</i> | <i>1/23/2023</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>3/14/2023</i> |

SENATE No. 741

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 741) of Sal N. DiDomenico and Rebecca L. Rausch for legislation to reduce racial and ethnic health disparities through commercial rate equity for safety net hospitals. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 760 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to reduce racial and ethnic health disparities through commercial rate equity for safety net hospitals.

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 176J of the General Laws, as appearing in the 2020 Official
2 Edition, is hereby amended in section 6 in subsection (c), as so appearing, by adding at the end
3 thereof the following:-

4 "The subscriber contracts, rates and evidence of coverage for health benefit plans shall be
5 subject to the disapproval of the commissioner of insurance. To promote health equity and access
6 through commercial rate equity for high Medicaid safety net acute hospitals that predominantly
7 serve communities that experience health disparities as a result of race, ethnicity, socioeconomic
8 status or other status, for all commercial insured health benefit plan rates effective for rate years
9 on and after January 1, 2023, the carrier's health benefit plan rates filed with the division of

10 insurance are considered presumptively disapproved if the carrier's network provider
11 reimbursement rates, inclusive of rates and targets within re-based alternative payment contracts,
12 do not reimburse high Medicaid acute hospitals, defined as acute care hospitals with a fiscal year
13 2020 Medicaid payer mix at or above 25 per cent calculated using data published by the center
14 for health information and analysis in April 2022 in its databook titled Massachusetts Hospital
15 Profiles, at or greater than the carrier's statewide average commercial relative price calculated
16 separately for acute hospital inpatient and outpatient services in accordance with requirements
17 established by the division of insurance, based on the most recent relative price analysis by the
18 center for health information and analysis. Carriers shall annually certify and provide hospital-
19 specific evidence to the division of insurance that each high Medicaid acute hospital's rates meet
20 a minimum threshold of the carrier's statewide average commercial relative price individually
21 calculated for inpatient and outpatient services."

22 SECTION 2. Chapter 176A of the General Laws is hereby amended in section 6, as so
23 appearing, by adding the following after the word "discriminatory":-

24 "The subscriber contracts, rates and evidence of coverage for health benefit plans shall be
25 subject to the disapproval of the commissioner of insurance. To promote health equity and access
26 through commercial rate equity for high Medicaid safety net acute hospitals that predominantly
27 serve communities that experience health disparities as a result of race, ethnicity, socioeconomic
28 status or other status, for all commercial insured health benefit plan rates effective for rate years
29 on and after January 1, 2023, the carrier's health benefit plan rates filed with the division of
30 insurance are considered presumptively disapproved if the carrier's network provider
31 reimbursement rates, inclusive of rates and targets within alternative payment contracts, do not
32 reimburse high Medicaid acute hospitals, defined as acute care hospitals with a fiscal year 2020

33 Medicaid payer mix at or above 25 per cent calculated using data published by the center for
34 health information and analysis in April 2022 in its databook titled Massachusetts Hospital
35 Profiles, at or greater than the carrier's statewide average commercial relative price calculated
36 separately for acute hospital inpatient and outpatient services in accordance with requirements
37 established by the division of insurance, based on the most recent relative price analysis by the
38 center for health information and analysis. Carriers shall annually certify and provide hospital-
39 specific evidence to the division of insurance that each high Medicaid acute hospital's rates meet
40 a minimum threshold of the carrier's statewide average commercial relative price individually
41 calculated for inpatient and outpatient services."

42 SECTION 3. Chapter 176B of the General Laws is hereby amended in section 4, as so
43 appearing, by inserting the following after the word "discriminatory":-

44 "The subscriber contracts, rates and evidence of coverage for health benefit plans shall be
45 subject to the disapproval of the commissioner of insurance. To promote health equity and access
46 through commercial rate equity for high Medicaid safety net acute hospitals that predominantly
47 serve communities that experience health disparities as a result of race, ethnicity, socioeconomic
48 status or other status, for all commercial insured health benefit plan rates effective for rate years
49 on and after January 1, 2023, the carrier's health benefit plan rates filed with the division of
50 insurance are considered presumptively disapproved if the carrier's network provider
51 reimbursement rates, inclusive of rates and targets within alternative payment contracts, do not
52 reimburse high Medicaid acute hospitals, defined as acute care hospitals with a fiscal year 2020
53 Medicaid payer mix at or above 25 per cent calculated using data published by the center for
54 health information and analysis in April 2022 in its databook titled Massachusetts Hospital
55 Profiles, at or greater than the carrier's statewide average commercial relative price calculated

56 separately for acute hospital inpatient and outpatient services in accordance with requirements
57 established by the division of insurance, based on the most recent relative price analysis by the
58 center for health information and analysis. Carriers shall annually certify and provide hospital-
59 specific evidence to the division of insurance that each high Medicaid acute hospital's rates meet
60 a minimum threshold of the carrier's statewide average commercial relative price individually
61 calculated for inpatient and outpatient services."

62 SECTION 4. Chapter 176G of the General Laws, as appearing in the 2020 Official
63 Edition, is hereby amended in section 16, as so appearing, by inserting the following after the
64 word "reasonable":-

65 "To promote health equity and access through commercial rate equity for high Medicaid
66 safety net acute hospitals that predominantly serve communities that experience health
67 disparities as a result of race, ethnicity, socioeconomic status or other status, for all commercial
68 insured health benefit plan rates effective for rate years on and after January 1, 2023, the carrier's
69 health benefit plan rates filed with the division of insurance are considered presumptively
70 disapproved if the carrier's network provider reimbursement rates, inclusive of rates and targets
71 within alternative payment contracts, do not reimburse high Medicaid acute hospitals, defined as
72 acute care hospitals with a fiscal year 2020 Medicaid payer mix at or above 25 per cent
73 calculated using data published by the center for health information and analysis in April 2022 in
74 its databook titled Massachusetts Hospital Profiles, at or greater than the carrier's statewide
75 average commercial relative price calculated separately for acute hospital inpatient and
76 outpatient services in accordance with requirements established by the division of insurance,
77 based on the most recent relative price analysis by the center for health information and analysis.
78 Carriers shall annually certify and provide hospital-specific evidence to the division of insurance

79 that each high Medicaid acute hospital's rates meet a minimum threshold of the carrier's
80 statewide average commercial relative price individually calculated for inpatient and outpatient
81 services."

82 SECTION 5. Chapter 175 of the General Laws, as appearing in the 2020 Official Edition,
83 is hereby amended by adding the following new section:-

84 "Section 229. Approval of Contracts

85 The subscriber contracts, rates and evidence of coverage for health benefit plans shall be
86 subject to the disapproval of the commissioner of insurance. No such contracts shall be approved
87 if the benefits provided therein are unreasonable in relation to the rate charged, or if the rates are
88 excessive, inadequate, or unfairly discriminatory.

89 To promote health equity and access through commercial rate equity for high Medicaid
90 safety net acute hospitals that predominantly serve communities that experience health
91 disparities as a result of race, ethnicity, socioeconomic status or other status, for all commercial
92 insured health benefit plan rates effective for rate years on and after January 1, 2023, the carrier's
93 health benefit plan rates filed with the division of insurance are considered presumptively
94 disapproved if the carrier's network provider reimbursement rates, inclusive of rates and targets
95 within alternative payment contracts, do not reimburse high Medicaid acute hospitals, defined as
96 acute care hospitals with a fiscal year 2020 Medicaid payer mix at or above 25 per cent
97 calculated using data published by the center for health information and analysis in April 2022 in
98 its databook titled Massachusetts Hospital Profiles, at or greater than the carrier's statewide
99 average commercial relative price calculated separately for acute hospital inpatient and
100 outpatient services in accordance with requirements established by the division of insurance,

101 based on the most recent relative price analysis by the center for health information and analysis.
102 Carriers shall annually certify and provide hospital-specific evidence to the division of insurance
103 that each high Medicaid acute hospital's rates meet a minimum threshold of the carrier's
104 statewide average commercial relative price individually calculated for inpatient and outpatient
105 services. SECTION 6. The rules or regulations necessary to carry out this act shall be adopted
106 not later than May 1, 2023 or not later than 90 days after the effective date of this act, whichever
107 is sooner."

108 SECTION 7. Sections 1, 2, 3, 4, 5 to 6, inclusive, shall take effect immediately upon the
109 effective date of this act.