

SENATE No. 760

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 behavioral health clinic rates.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2023</i>
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	<i>3/28/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>4/4/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>4/12/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>9/15/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>10/3/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>10/4/2023</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>10/17/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>10/17/2023</i>
<i>Adam Scanlon</i>	<i>14th Bristol</i>	<i>10/17/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>10/17/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>10/17/2023</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>10/18/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>10/23/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>11/1/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>11/3/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>11/3/2023</i>

SENATE No. 760

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 760) of John F. Keenan and Michael O. Moore for legislation relative to behavioral health clinic rates. Health Care Financing.

The Commonwealth of Massachusetts

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

An Act relative to behavioral health clinic rates.

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 118E of the general laws, as appearing in the 2020 official edition,
2 is hereby amended by inserting after 13D the following section:-

3 Section 13D ½.

4 (a) For the purposes of this section, the following words shall have the following
5 meanings:

6 “Behavioral health clinic”, a clinic licensed by the department of public health pursuant
7 to section 3 and sections 51 through 56 of chapter 111 of the general laws, as appearing in the
8 2020 official edition, and regulated pursuant to title 130 of the code of Massachusetts regulations
9 429.000.

10 “Behavioral health services”, evaluation, diagnosis, treatment, care coordination,
11 management, or peer support of patients with mental health, developmental or substance use
12 disorder.

13 “Independent practitioner”, an individual who is licensed by the board to practice
14 independent clinical social work and who meets the qualifications set forth in section 131 of
15 chapter 112 of the general laws, as appearing in the 2020 official edition, for an independent
16 clinical social worker and is regulated pursuant to title 130 of the code of Massachusetts
17 regulations 462.000.

18 “Minimum payment rates”, rates of payment for services below which managed care
19 entities may not enter into provider agreements.

20 (b) The division shall increase minimum payment rates for behavioral health services by
21 5% per procedure code for rates of payment effective as of January 1, 2023.

22 (c) Pursuant to sections 13C and 13D, and notwithstanding applicable state and federal
23 laws, the division shall ensure that each rate of payment or component payment in a bundled rate
24 for behavioral health services delivered in behavioral health clinics are no less than 20% above
25 comparable behavioral health services delivered by independent practitioners.

26 (d) The division shall review behavioral health service rates biennially. This review shall
27 include, but not be limited to the following: (i) adoption of an inflationary adjustment factor no
28 less than the total Medicare Economic Index percentage for the past two calendar years; (ii)
29 where possible, comparison of the wage estimate for each classification of staff position to the
30 75th percentile wage estate for that position as determined by the most current United States
31 Bureau of Labor Statistics for the commonwealth; and (iii) consideration of the reasonable cost

32 to providers of any existing or new governmental mandate that has been enacted, promulgated or
33 imposed by any governmental unit or federal governmental authority.

34 SECTION 2. Said chapter 118E is hereby amended by inserting after section 13K the
35 following new section:-

36 Section 13L.

37 (a) For the purposes of this section, the following words shall have the following
38 meanings:

39 “Behavioral health clinic”, a clinic licensed by the department of public health pursuant
40 to section 3 and sections 51 through 56 of chapter 111 of the general laws, as appearing in the
41 2020 official edition, and that is regulated pursuant to title 130 of the code of Massachusetts
42 regulations 429.000.

43 “Behavioral health services”, evaluation, diagnosis, treatment, care coordination,
44 management or peer support of patients with mental health, developmental or substance use
45 disorder.

46 “Independent practitioner”, an individual who is licensed by the board to practice
47 independent clinical social work and who meets the qualifications set forth in section 131 of
48 chapter 112 of the general laws, as appearing in the 2020 official edition, and who is regulated
49 pursuant to title 130 of the code of Massachusetts regulations 462.000.

50 “Managed care entity”, all contracted health insurers, health plans, health maintenance
51 organizations, behavioral health management firms and third party administrators under contract

52 to a Medicaid managed care organization or primary care clinician plan, and accountable care
53 organizations.

54 “Minimum payment rates”, rates of payment for services below which managed care
55 entities may not enter into provider agreements.

56 (b) Notwithstanding applicable state and federal laws, the division shall direct its
57 managed care entities to increase minimum payment rates for behavioral health services by 5%
58 per procedure code for rates of payment effective as of January 1, 2023.

59 (c) The division shall direct managed care entities to ensure that each rate of payment or
60 component payment in a bundled rate for behavioral health services delivered in behavioral
61 health clinics is no less than 20% above comparable behavioral health services delivered by
62 independent practitioners.

63 (d) The division shall review rates of payment by managed care entities for behavioral
64 health services biennially. This review shall include, but not be limited to the following: (i)
65 adoption of an inflationary adjustment factor no less than the total Medicare Economic Index
66 percentage for the past two calendar years; (ii) where possible, comparison of the wage estimate
67 for each classification of staff position to the 75th percentile wage estate for that position as
68 determined by the most current United States Bureau of Labor Statistics for the commonwealth;
69 and (iii) consideration of the reasonable cost to providers of any existing or new governmental
70 mandate that has been enacted, promulgated or imposed by any governmental unit or federal
71 governmental authority.