

SENATE No. 724

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 promoting healthcare access and affordability for patients.

PETITION OF:

NAME:

Sal N. DiDomenico

DISTRICT/ADDRESS:

Middlesex and Suffolk

SENATE No. 724

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 724) of Sal N. DiDomenico for legislation to promote healthcare access and affordability for patients. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act promoting healthcare access and affordability for patients.

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. Sections 131 and 226 of chapter 139 of the acts of 2012 are hereby
2 repealed.

3 SECTION 2. Chapter 176O of the General Laws is hereby amended by adding the
4 following section:-

5 Section 31. (a) As used in this section, the following words shall, unless the context
6 clearly requires otherwise, have the following meanings:

7 “Cost-sharing”, as defined in subsection (a) of section 21C of chapter 94C.

8 “Estimated rebate”, any: (i) negotiated price concessions, whether described as a rebate
9 or otherwise, including, but not limited to, base price concessions, and reasonable estimates of
10 any price protection rebates and performance-based price concessions that may accrue, directly
11 or indirectly, to a carrier, pharmacy benefit manager or other party on a carrier’s behalf during a
12 carrier’s plan year from a pharmaceutical manufacturing company, dispensing pharmacy or other

13 party to the transaction based on the amounts the carrier received in the prior quarter or
14 reasonably expects to receive in the current quarter; and (ii) reasonable estimates of any price
15 concessions, fees and other administrative costs that are passed through, or are reasonably
16 anticipated to be passed through to the carrier, pharmacy benefit manager or other party on the
17 carrier's behalf and that serve to reduce the carrier's prescription drug liabilities for the plan year
18 based on the amounts the carrier received in the prior quarter or reasonably expects to receive in
19 the current quarter.

20 "Pharmacy benefit manager", as defined in section 1 of chapter 176Y.

21 "Price protection rebate", a negotiated price concession that accrues directly or indirectly
22 to the carrier, or other party on behalf of the carrier, including a pharmacy benefit manager, in
23 the event of an increase in the wholesale acquisition cost of a drug that is greater than a specified
24 threshold.

25 (b) A carrier, or any pharmacy benefit manager, shall make available to an insured at
26 least 80 per cent of the estimated rebates received by such carrier, or any pharmacy benefit
27 manager, by reducing the amount of defined cost-sharing that the carrier would otherwise charge
28 at the point of sale, except that the reduction amount shall not result in a credit at the point of
29 sale. Neither the insured nor the carrier shall be responsible for any difference between the
30 estimated rebate amount and the actual rebate amount the carrier receives; provided, that such
31 estimates were calculated in good faith.

32 (c) Nothing in this section shall preclude a pharmacy benefit manager from decreasing an
33 insured's defined cost-sharing by an amount greater than that required under subsection (b).

34 (d) Annually, not later than April 1, a carrier shall file with the division a report in the
35 manner and form determined by the commissioner demonstrating the manner in which the carrier
36 has complied with this section. If the commissioner determines that a carrier has not complied
37 with 1 or more requirements of this section, the commissioner shall notify the carrier of such
38 noncompliance and a date by which the carrier must demonstrate compliance. If the carrier does
39 not come into compliance by such date, the division shall impose a fine not to exceed \$5,000 for
40 each day during which such noncompliance continues.

41 (e) In implementing the requirements of this section, the division shall only regulate a
42 carrier or pharmacy benefit manager to the extent permissible under applicable law.

43 (f) A pharmacy benefit manager, its agent or any third-party administrator shall not
44 publish or otherwise disclose information regarding the actual amount of rebates a carrier
45 receives on a specific product or therapeutic class of products, manufacturer or pharmacy-
46 specific basis. Such information shall be considered to be a trade secret and confidential
47 commercial information, shall not be a public record as defined by clause Twenty-sixth of
48 section 7 of chapter 4 or section 10 of chapter 66, and shall not be disclosed directly or
49 indirectly, or in a manner that would allow for the identification of an individual product,
50 therapeutic class of products or manufacturer, or in a manner that would have the potential to
51 compromise the financial, competitive or proprietary nature of the information. A pharmacy
52 benefit manager shall impose the confidentiality protections and requirements of this section on
53 any agent or third-party administrator that performs health care or administrative services on
54 behalf of the pharmacy benefit manager that may receive or have access to rebate related
55 information.

56 SECTION 3. (a) Notwithstanding any general or special law to the contrary, the health
57 policy commission, together with the secretary of the executive office of health and human
58 services, shall conduct an analysis and issue a report on the future of cell and gene therapy in the
59 commonwealth with the objective of addressing anticipated barriers to access that may exist with
60 respect to such treatments for patients covered by MassHealth programs and other vulnerable
61 populations. The analysis and report shall include, but not be limited to:

62 (1) a projection of the estimated total number of cell and gene therapy products, including
63 information on the diseases and conditions such products will be approved to treat (including the
64 total estimated number of lives impacted in the commonwealth, and the total number receiving
65 care under MassHealth), that are expected to come to market in the U.S. (hereinafter the
66 “products”) during a forecast period of 2027 to 2037 (hereinafter, the “forecast period”);

67 (2) an assessment of existing reimbursement frameworks and methodologies employed
68 by MassHealth for the products to the extent purchased by health care facilities for
69 administration to MassHealth beneficiaries during inpatient hospital stays;

70 (3) an assessment of whether the reimbursement frameworks and methodologies
71 identified in subdivision (2) would lead to barriers to access to the products during the forecast
72 period in light of the projected costs to the Massachusetts health care system associated with the
73 utilization of the products, and whether such barriers to access, if any, would disproportionately
74 impact MassHealth beneficiaries or other vulnerable populations, including population groups
75 that may be more likely to have adverse health outcomes due to experience with historic
76 disparities or discrimination, including racial or ethnic minority population groups;

77 (4) An assessment of whether the health care facility infrastructure in place and planned
78 for development during the forecast period, and that is necessary of the administration of the
79 products, will be adequate to ensure equitable access for patients in need of treatment with the
80 products.

81 (b) To the extent that the analysis required under subdivision (3) of subsection (a)
82 identifies any barriers to access, the commission and the secretary shall analyze and report on the
83 reasons for such barriers and shall propose corrective policy solutions. If any identified barriers
84 are the result of or otherwise related to current MassHealth reimbursement methodologies for
85 gene and cell therapies, the commission and the secretary shall propose modifications to such
86 methodologies to the extent authorized under Federal law. Such proposed modifications shall
87 address and be designed to eliminate any disproportionate impact of the access barriers on
88 MassHealth beneficiaries or other vulnerable populations.

89 (c) In conducting the analysis and producing the report as required by subsection (a), the
90 secretary and the commission shall consult with the Massachusetts Biotechnology Council or a
91 designee, the Massachusetts Hospital Association or a designee, the Conference of Boston
92 Teaching Hospitals or a designee, and the rare disease advisory council established pursuant to
93 section 26 of chapter 260 of the acts of 2020.

94 (d) The report shall be made available electronically on the commission's website, and
95 shall be filed with the secretary of administration and finance, the clerks of the house of
96 representatives and the senate, the house and senate committees on ways and means and the joint
97 committee on health care financing no later than July 30, 2028.