Joint Committee on Health Care Financing
2025-2026 (194th) Bill Summary

Bill Number: House, No. 1384

Title: AN ACT UPDATING THE HEALTH CARE COST GROWTH BENCHMARK AND ASSOCIATED MARKET OVERSIGHT ACTIVITIES

Sponsor: Representative John J. Lawn, Jr. (Watertown)

Hearing Date: June 2, 2025

Reporting Deadline: August 1, 2025

Prior History: New Bill

Similar Matters: N/A

Current Law:
M.G.L. Ch. 6D § 1, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", defines certain terms as they are to be understood within the context of Chapter 6D, which governs the operations and activities of the Health Policy Commission (HPC), an independent agency within the Executive Office of Administration and Finance to set health care cost growth goals, enhance provider organization transparency, monitor and review marketplace changes, and establish a health care cost growth benchmark for the average growth in total health care expenditures.

M.G.L. Ch. 6D § 8, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", directs the HPC to hold annual public hearings, based on the report submitted by the Center for Health Information and Analysis (CHIA) pursuant to section 16 of chapter 12C. The hearing examines the costs, prices and cost trends of health care providers, provider organizations, private and public health care payers, pharmaceutical manufacturing companies and pharmacy benefit managers and any relevant impact of significant equity investors, health care real estate investment trusts, management services organizations costs, prices, and cost trends, with particular attention to factors that contribute to cost growth within the commonwealth's health care system and trends in annual primary care and behavioral health expenditures. The HPC shall identify witnesses for the hearing, who shall give testimony under oath and be subject to examination and cross examination. Witnesses are required to provide testimony on specific subjects, including testimony concerning costs, payment systems, and relative prices. The HPC compiles an annual report concerning spending trends and underlying factors, along with any recommendations for strategies to increase the efficiency of the health care system, based on the commission's analysis of information provided at the hearings by witnesses, providers, provider organizations and payers, registration data collected pursuant to section 11, data collected or analyzed by the center pursuant to sections 8 to 10A, inclusive, of chapter 12C and any other available information that the commission considers necessary. The report shall be submitted to the house and senate committees on ways and means and the joint committee on health care financing and shall be published and available to the public not later than December 31 of each year.

M.G.L. Ch. 6D § 9, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", directs HPC board, not later than April 15 of every year, to establish a health care cost growth benchmark for the average growth in total health care expenditures. For calendar years 2023 and beyond, the

health care cost growth benchmark shall be equal to the growth rate of potential gross state product established under said section 7H ½ of said chapter 29. The HPC may determine that an adjustment in the health care cost growth benchmark is reasonably warranted. The statue requires HPC to hold a public hearing to consider available data, information, and testimony from market participants and other interested parties. The statute also grants the Joint Committee on Health Care Financing the right to participate in the public hearing.

M.G.L. Ch. 6D § 10 directs CHIA to notify the HPC of any health care entity identified by the center as exceeding the health care cost growth benchmark for any given year. The HPC may require that entity to file and implement a performance improvement plan to improve efficiency and reduce cost growth. In addition, if the HPC finds that the percentage change in total health care expenditures exceeded the health care cost growth benchmark in the previous calendar year, the HPC may require any entity to file a performance improvement plan.

M.G.L. Ch. 6D § 13 requires providers and provider organizations to provide the HPC, CHIA and the AGO with advance notice of any impending material change, which includes any of the following: a corporate merger or affiliation with, or acquisition of, a provider or provider organization and a carrier, hospital, or hospital system; an acquisition of an insolvent provider organization; a merger or acquisition resulting in a provider organization having a near-majority of market share in a given service or region. Section 13 also directs the HPC to determine whether a material change may affect the competitive market or significantly impede the Commonwealth's ability to meet the health care cost growth benchmark, in which case HPC may conduct a Cost and Market Impact Review (CMIR).

M.G.L. Chapter 12 § 11N, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", authorizes the Attorney General (AGO) to monitor trends in the health care market; including but not limited to, trends in provider organization size and composition, consolidation in the provider market, payer contracting trends and patient access and quality issues in the health care market.

M.G.L. Ch. 12C § 1, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", defines certain terms as understood within the context of Chapter 12C, which governs the operations and activities of the Center for Health Information and Analysis (CHIA), an independent agency tasked with collecting and analyzing health care data and publishing annual reports on health care costs, cost trends, market power, and quality data in support of the annual health care cost trends hearings conducted by the HPC.

M.G.L. Ch. 12C § 8, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", governs data reporting requirements for institutional providers and their parent organizations and any other affiliated entities including significant equity investors, health care real estate investment trusts and management services organizations, non-institutional providers and provider organizations.

M.G.L. Ch. 12C § 9, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", governs data reporting requirements for registered provider organizations.

M.G.L. Ch. 12C § 10 governs data reporting requirements for private and public health care payers and third party administrators of information necessary to analyze trends in health insurance costs and utilization.

M.G.L. Ch. 12C § 10A inserted by chapter 342 of the acts of 2024, "*An relative to pharmaceutical access, costs and transparency [S3012]*", governs data reporting requirements for pharmacy benefit managers.

Summary Prepared by the House Staff of the Joint Committee on Health Care Financing

M.G.L. Ch. 12C §11, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", directs the Center for Health Information and Analysis to ensure the timely reporting of data and of information required under sections 8, 9, 10 and 10A od chapter 12C.

M.G.L. Chapter 12C § 16, as amended by chapter 343 of the acts of 2024, "*An Act enhancing the market review process [H5159]*", requires CHIA to publish an annual report on health care cost trends based on data collected from health care providers, provider organizations, private and public health care payers, pharmaceutical manufacturing companies and pharmacy benefit managers under sections 8 through 10A of chapter 12C, market power reviews as required under section 13 of chapter 6D, and quality data collected under section 15 of chapter 12C.

M.G.L. Ch. 12C § 18 CHIA to perform an ongoing analysis of payers, providers or provider organizations whose increase in health status-adjusted total medical expense is excessive, and who threaten the Commonwealth's ability to meet the health care cost growth benchmark. CHIA is directed to identify such health care entities and confidentially provide a list to the HPC such that the HPC may pursue further action under section 10 of chapter 6D, the performance improvement plan statute.

M.G.L. Ch.29 § 7H ½ states that, on or before Jan. 15th each year, the Secretary of Administration and Finance (A&F) and the House and Senate Committees on Ways & Means will develop a Growth Rate of Potential (GSP). GSP is the long-run average growth rate of the Commonwealth's economy, excluding fluctuations due to the business cycle.

Summary:

SECTION 1 of the proposed legislation amends section 1 of chapter 6D by inserting the following new definition:

- "Benchmark cycle", a fixed, predetermined period of 3 consecutive calendar years during which the projected average annual percentage change in total health care expenditures in the commonwealth is calculated pursuant to section 9 and monitored pursuant to section 10.

SECTION 2 of the proposed legislation amends section 1 of chapter 6D by redefining the term "Health care cost growth benchmark" as follows:

- "Health care cost growth benchmark", the projected average annual percentage change in total health care expenditures in the commonwealth during a benchmark cycle, as established in section 9.

SECTION 3 of the proposed legislation amends section 1 of chapter 6D by inserting the following new definition:

- "Technical advisory committee" the technical advisory committee of the health policy commission established by section 4A.

SECTION 4 of the proposed legislation inserts into Chapter 6D a new 4A, consisting of the following 3 subsections:

- Subsection (a) establishes a Technical Advisory Committee to the HPC to perform the following duties: charged with:
  - (i) establishing adjustment factors as part of the redesigned health care cost growth benchmark;
  - (ii) provide technical advice to HPC upon request;
  - (iii) provide HPC with operational, policy, regulatory or legislative recommendations; and
  - (iv) produce an annual report and other reports as requested by HPC.
- Subsection (b) provides for the membership of the Technical Advisory Committee. Pursuant to this subsection the committee is chaired by the HPC Executive Director as a non-voting member and comprised of the

following 15 members to serve without compensation for a term of 3 years and for no more than 2 consecutive terms:
  - Asst. Secretary for MassHealth;
  - Executive Director of the Connector;
  - Executive Director of the Group Insurance Commission;
  - 7 members selected by the HPC Executive Director, 1 from each list of nominees provided by the following organizations: Massachusetts Hospital Association; Massachusetts Senior Care Association; Massachusetts Medical Society; Massachusetts League of Community Health Centers; Massachusetts Biotechnology Council; Massachusetts Association of Health Plans; and Blue Cross Blue Shield of Massachusetts.
  - 5 members named by the HPC Executive Director from applications submitted by candidates with demonstrated experience in health care delivery, health care economics, health care data analysis, clinical research and innovation in health care delivery, or health care benefits management.
  - Appointed members shall have demonstrated experience in a broad range of provider sectors and public and private health care payers.
- <u>Subsection (c)</u> direct the Technical Advisory Committee to submit an annual report to the HPC summarizing activities and additional reports with technical recommendations, as requested by the commission, taking into consideration the availability, timeliness, quality and usefulness of existing data, including the data collected by CHIA under chapter 12C.

SECTION 5 of the proposed legislation amends subsection (a) of section 8 of chapter 6D by making technical changes related to the transition from an annual to a multiyear health care cost growth benchmark.

SECTION 6 of the proposed legislation amends subsection (f) of section 8 of chapter 6D by making technical changes related to the transition from an annual to a multiyear health care cost growth benchmark. The changes made in this subsection allow the HPC to call witnesses to provide testimony at its cost trends hearing if the statewide percentage change in total health care expenditures in the previous calendar year exceeds the average annual growth established for the applicable health care cost growth benchmark cycle.

SECTION 7 of the proposed legislation amends subsection (g) of section 8 of chapter 6D to change the requirement that the HPC produce an annual report concerning spending trends and underlying factors, along with any recommendations for strategies to increase the efficiency of the health care system as follows:
- Changes annual reports to annual cost growth progress reports when produced within applicable health care cost growth benchmark cycle.
- Requires HPC to produce a final benchmark cycle report after the 3rd year of the applicable benchmark cycle analyzing spending trends for the entire 3 year benchmark cycle.
- Expands the scope of spending trends examined to include primary care spending.

SECTION 8 of the proposed legislation amends sections 9 and 10 of chapter 6D as described below:
- <u>In the amended Section 9</u>, the proposed legislation changes the state's health care cost growth benchmark from a single-year benchmark to a multi-year benchmark cycle measuring the average annual growth in total health care expenditures during a period of 3 consecutive calendar years, referred to as a benchmark cycle. As amended, the Section 9:
  - Sets the deadline to establish the benchmark set at April 15 of the year before start of new benchmark cycle.
  - Establishes, for each benchmark cycle, a base benchmark set at PGSP plus an adjustment factor approved by HPC upon the recommendation of the Technical Advisory Committee, limited to a range of 1% above to 1 % below PGSP.

  - Requires the adjustment factor to be based on economic and market factors specific to the health care industry including, but not limited to, the following factors: (i) medical CPI calculated by the United States Bureau of Labor Statistics; (ii) labor and workforce development costs; (iii) the introduction of new pharmaceuticals, medical devices and other health technologies; (iv) historical growth in the Commonwealth's GSP, and (v) any other factors as determined by the Technical Advisory Committee.
  - Requires any recommended adjustment to be approved by a majority vote of the Technical Advisory Committee, then submitted to the HPC in a public report by February 15 of the year before start of new benchmark cycle, followed by a majority vote of the HPC. If the Technical Advisory Committee fails to approve an adjustment recommendation, the adjustment factor defaults to zero.
  - Instructs the HPC shall hold a public hearing prior to accepting or rejecting an adjustment recommendation of the Technical Advisory Committee. Joint Committee on Health Care Financing retains option to participate.

- <u>In the amended Section 10</u>, the HPC's Performance Improvement Plan (PIP) process is changed as follows:
  - Amends the definition of "health care entity" to conform with changes made to section 18 of chapter 12C pursuant to SECTION 13 of this legislation. This change will require CHIA to identify and report to the HPC any entity whose contribution to health care spending growth, including but not limited to, spending levels and growth as measured by health status adjusted total medical expense, is considered excessive and who threaten the ability of the state to meet the health care cost growth benchmark.
  - Instructs HPC to examine not just a health care entity's cost growth, but also its health care spending performance, and to require a health care entity to undergo a PIP if the HPC finds, based on the CHIA's final benchmark cycle report issued under section 16, that a health care entity's percentage change in total health care expenditures during the benchmark period exceeded the health care cost growth benchmark.
  - Amends certain factors that the HPC may consider in reviewing a waiver or delay of a PIP to capture baseline and trends in cost price, utilization as well as payer mix over time, both of the health care entity and as compared to similar entities.
  - Extends the PIP period is extended from the current 18 months to 3 years to better align with the new 3-year benchmark cycle.
  - Requires the names of providers or payers under a PIP to remain public even after the completion of the PIP.
  - Adds additional options for HPC to respond to an unsuccessful PIP, including requiring the entity to include specific action steps in an updated plan or conducting a CMIR of the entity.
  - Increases penalties for failure to cooperate with HPC during the PIP process, including escalating civil penalties starting at $500,000 and ending at $1,000,000 for a third or subsequent violation, as well as notifying DPH that the entity is not in compliance, which may result in DPH placing a stay on any pending DoN application.

SECTION 9 of the proposed legislation amends subsection (b) of section 13 of chapter 6D by making technical changes related to the transition from an annual to a multiyear health care cost growth benchmark 13(b) Tech change related to transition to a multiyear health care cost growth benchmark and by authorizing the HPC to conduct a CMIR of any provider organization referred to the commission by CHIA under section 18 of chapter 12C, as amended by SECTION 13 of this legislation.

SECTION 10 of the proposed legislation amends section 1 of chapter 12C by inserting the following new definition:

- "Benchmark cycle", a fixed, predetermined period of 3 consecutive calendar years during which the projected average annual percentage change in total health care expenditures in the commonwealth is calculated pursuant to section 9 and monitored pursuant to section 10.

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SECTION 11 of the proposed legislation amends section 1 of chapter 12C by redefining the term "Health care cost growth benchmark" as follows:

- "Health care cost growth benchmark", the projected average annual percentage change in total health care expenditures in the commonwealth during a benchmark cycle, as established in section 9 of chapter 6D.

SECTION 12 of the proposed legislation adds a new subsection into section 16 of chapter 12C, subsection (d), which amends CHIA's health care cost trends reporting statute to incorporate a new final benchmark cycle report to compare costs and cost trends for the entire benchmark cycle with the applicable 3-year benchmark established by HPC under section 9 of chapter 6D.

SECTION 13 of the proposed legislation strikes section 18 of chapter 12C in its entirety and inserts a new section 18 consisting of the following 3 subsections:

- Subsection (a) defines the term "health care entity" to include a clinic, hospital, ambulatory surgical center, physician organization, carrier or an accountable care organization required to register as an RPO under section 11 of chapter 6D.
- Subsection (b) broadens the requirement that CHIA identify and refer health care entities to the HPC for a potential PIP to apply to (1) entities whose contribution to health care spending growth, including but not limited to, spending levels and growth as measured by health status adjusted total medical expense, is considered excessive and who threaten the ability of the state to meet the health care cost growth benchmark, with CHIA provided new authority to establish differential standards for excessive growth rates for cohorts of similar health care entities based on baseline spending, pricing levels, and payer mix, or (2) to entities whose data is not submitted to CHIA in a proper, timely, or complete manner.
- Subsection (c) maintains CHIA's current authority to confidentially refer entities identified under this section to HPC.

SECTION 14 of the proposed legislation amends subsection (b) of section 7H ½ of chapter 29 (by making technical changes related to the transition from an annual to a multiyear health care cost growth benchmark in the statute governing the development of a growth rate of potential gross state product.