

HOUSE No. 988

By Ms. Khan of Newton, petition of Kay Khan and others relative to the regulation of carveout companies. Financial Services.

The Commonwealth of Massachusetts

PETITION OF:

Kay Khan	Matthew C. Patrick
Timothy J. Toomey, Jr.	John W. Scibak
William N. Brownsberger	Ruth B. Balser
Douglas W. Petersen	Elizabeth A. Malia
Barbara A. L'Italien	Christine E. Canavan
Mary E. Grant	David B. Sullivan

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE REGULATION OF CARVEOUT COMPANIES.

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. Section 1 of chapter 176G of the General Laws, as
2 most recently amended by Sections 34 to 39 of Chapter 141 of the
3 Acts of 2003, is hereby further amended by adding the following:—
4 “Carve out”, a company organized under the laws of the Com-
5 monwealth or organized under the laws of another state and quali-
6 fied to do business in the Commonwealth, that has entered into a
7 contractual arrangement with a health maintenance organization to
8 provide or arrange for the provision of behavioral health services to
9 voluntarily enrolled members of said health maintenance organiza-
10 tion.

1 SECTION 2. Section 10 of chapter 176G of the General Laws, as
2 most recently amended by Section 41 of Chapter 141 of the Acts of
3 2003, is hereby further amended by inserting after the phrase,
4 “Every health maintenance organization”, as it appears therein, the
5 following:— and carve out.

1 SECTION 3. Chapter 176G of the General Laws, as most recently
2 amended by Section 5 of Chapter 430 of the Acts of 2004, is hereby
3 further amended by adding the following section:—

4 Required Disclosures.

5 (1) A carve out shall provide to at least one adult insured in each
6 household upon enrollment, and to a prospective insured upon
7 request, the following information:—

8 (a) a statement that physician profiling information, so-called,
9 may be available from the Board of Registration in Medicine for
10 physicians licensed to practice in Massachusetts;

11 (b) a summary description of the process by which clinical guide-
12 lines and utilization review criteria are developed;

13 (c) A notice to insureds regarding emergency medical conditions
14 that states all of the following:—

15 1.) that insureds have the opportunity to obtain health care serv-
16 ices for an emergency medical condition, including the option of
17 calling the local pre-hospital emergency medical service system by
18 dialing the emergency telephone access number 911, or its local
19 equivalent, whenever the insured is confronted with an emergency
20 medical condition which in the judgment of a prudent layperson
21 would require pre-hospital emergency services;

22 2.) that no insured shall in any way be discouraged from using the
23 local pre-hospital emergency medical service system, the 911 tele-
24 phone number, or the local equivalent;

25 3.) that no insured will be denied coverage for medical and trans-
26 portation expenses incurred as a result of such emergency medical
27 condition; and

28 4.) if the carve out requires an insured to contact either the carve
29 out or its designee or the primary care physician of the insured
30 within 48 hours of receiving emergency services, that notification
31 already given to the carve out, designee or primary care physician by
32 the attending emergency physician shall satisfy that requirement.

33 (e) a description of the Office of Patient Protection and a state-
34 ment that the information specified in 211 CMR 52.16 is available to
35 the insured or prospective insured from the Office of Patient Protec-
36 tion.

37 (2) The information required by this section may be contained in
38 the evidence of coverage and need not be provided in a separate doc-
39 ument.

40 (3) Every disclosure described in this section must contain the
41 effective date, date of issue and, if applicable, expiration date.

42 (4) Carve outs shall submit material changes to the disclosures
43 required by this section to the Bureau at least 30 days before their
44 effective dates.

45 (5) Carve outs shall submit material changes to the disclosures
46 required by to at least one adult insured in every household residing
47 in Massachusetts at least once every two years.

48 (6) A carve out that provides specified services through a
49 workers' compensation preferred provider arrangement shall be
50 deemed to have met the requirements of this section if it has met the
51 requirements of 211 CMR 112.00 and 452 CMR 6.00.

1 SECTION 4. Chapter 176G of the General Laws as most recently
2 amended by section 5 of Chapter 430 of the Acts of 2004, is hereby
3 further amended by inserting after section 29 the following
4 section:—

5 Section 30. Any health maintenance organization for whom a
6 carve-out is administering behavioral and mental health services,
7 shall be responsible for the carve-out's failure to comply with the
8 requirements of said Chapter 176G in the same manner as if the
9 health maintenance organization failed to comply with said provi-
10 sions.

1 SECTION 5. Chapter 176G of the General Laws as most recently
2 amended by Section 5 of Chapter 430 of the Acts of 2004, is hereby
3 further amended by inserting after section 30 the following
4 section:—

5 Section 31. Any health maintenance organization for whom a
6 carve-out is administering behavioral and mental health services,
7 shall state on its enrollment card the name of the carve-out and its
8 telephone number to ensure coverage for such services.

1 SECTION 6. Section 7 of chapter 176O of the General Laws as
2 added by section 27 of chapter 141 of the Acts of 2000, is hereby
3 amended by inserting after sub-section (b)(4) the following sub-
4 section:—

5 (b)(5) a report, submitted annually, that details the following:—
6 the number of times per year an insured seeks assistance from the

7 carrier in obtaining a referral for inpatient mental and behavioral
8 health services; outpatient mental and behavioral health services;
9 and for those inpatient and outpatient services obtained that are pro-
10 vided out-of-network due to their unavailability within the network.
11 The reporting for each of these three categories must list adults and
12 children separately. The reporting must also be further sub-divided
13 into regional totals, the geographic regions as defined by the depart-
14 ment of mental health in accordance with 104 CMR 26.02.

1 SECTION 7. Section 7 of Chapter 176O of the General Laws as
2 added by Section 27 of Chapter 141 of the Acts of 2000, is hereby
3 amended by inserting after sub-section (a)(6) the following sub-
4 section:—

5 (a)(7) a statement that an insured has the right to request referral
6 assistance from a carrier if the insured, or his or her primary care
7 physician, has difficulty identifying services within the carrier's net-
8 work; that the carrier shall, upon request by the insured, identify and
9 confirm the availability of these services directly; and that if neces-
10 sary, the carrier must obtain services out-of-network if they are
11 unavailable from within the network.