

# HOUSE . . . . . No. 1148

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian and Joyce A. Spiliotis relative to patient health care costs for consumers without insurance. Health Care Financing.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO PATIENT HEALTH CARE COSTS.

*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. The General Court finds that consumers without  
2 health care coverage are sometimes charged more for needed  
3 health care services and often cannot afford to pay for these serv-  
4 ices. This Act requires health care facilities to establish self-pay  
5 patient programs and provide information on the self-pay pro-  
6 gram, and provides a venue for billing disputes.

1 SECTION 2. Chapter 118G of the General Laws is hereby  
2 amended by inserting at the end thereof the following new  
3 section:

4 Section 23. Self-Pay Patient Health Care Costs

5 (A) Definitions

6 For purposes of this section, the following words shall, unless  
7 the context clearly requires otherwise, have the following mean-  
8 ings: —

9 “Alternative payment arrangement,” a method of compensation  
10 that allows payment of billed charges on other than a lump sum or  
11 a delayed basis.

12 “Division,” the division of Health Care Finance and Policy

13 “Health facility,” any hospital or ambulatory surgical center as  
14 defined in section 1 of Chapter 118G of the General Laws.

15 “Self-pay patient,” a patient who is a resident of the common-  
16 wealth and who does not have coverage under a health insurance  
17 plan, Medicare, Medicaid, or other government program, and is

18 not eligible for free care or partial free care in the Uncompensated  
19 Care Pool under Chapter 118G. For the purpose of this section,  
20 “Self-pay patient” hereon will be referred to as “patient”.

21 “Reduced charges,” a charge established by the division of  
22 Health Care Finance and Policy which is no more than the max-  
23 imum allowable charge for a particular health care service for the  
24 category of self-pay patients.

25 “Self-pay program,” a program administered by a health facility  
26 which at minimum includes, reduced charges for self-pay patients  
27 and alternative payment arrangements for self-pay individuals.

28 (B) Self-pay patient program

29 (1) Each health facility shall develop a self-pay program and  
30 shall provide each patient with information on its self-pay patient  
31 program as a condition of admission for the provision of non-  
32 emergency health care services and as soon as reasonably practi-  
33 cable for the provision of emergency health care services.

34 (2) A health facility shall develop and implement procedures  
35 for self-pay patients to apply for reduced charges or an alternative  
36 payment arrangement. The health care facility shall design the  
37 application form and procedures in a manner calculated to  
38 encourage participation in the program by eligible self-pay  
39 patients.

40 (C) Publication of self-pay program; reports

41 (1) A health facility shall make available to the public on its  
42 Internet website, in a format that can be downloaded, a copy of its  
43 self-pay program. It shall post a clear and conspicuous notice in  
44 its (a) reception areas open to the public, in its admissions office,  
45 if applicable, and (b) in its billing office informing patients of the  
46 health facility’s self-pay program and the ability to obtain a copy  
47 of educational materials regarding the program upon request.

48 (2) Each health facility shall, on a quarterly basis, report to the  
49 division the number of patients applying for the self-pay program  
50 and the number of patients accepted for reduced charges under the  
51 self-pay program.

52 (D) Charges for Services

53 (1) A health facility shall not, as a condition of admission or the  
54 provision of non-emergency services, require a patient or a  
55 patient’s representative to sign any form that requires or binds the  
56 patient or the patient’s representative to make an unspecified or

57 unlimited financial payment to the health facility or to waive the  
58 patient's right to appeal charges billed.

59 (2) A health facility may require a financial commitment from a  
60 patient or a patient's representative for non-emergency services  
61 only if it provides a prior written estimate of charges for the  
62 health facility, its contractors, and facility-based physicians for the  
63 items and services generally required to treat the patient's condi-  
64 tion. The health facility shall notify the patient or the ay patient's  
65 representative of any revision to the estimate in a timely manner.  
66 If the health facility makes a revision to the estimate that exceeds  
67 the lesser of either 20% of the original estimate or \$1,000.00, any  
68 financial commitment made by the self-pay patient or the self-pay  
69 patient's representative shall be null and void.

70 (3) In the event of any unanticipated complications or unfore-  
71 seen circumstances in providing non-emergency services to a self-  
72 pay patient, the health facility may charge the patient for  
73 additional treatment, services, or supplies rendered in connection  
74 with the complication or unforeseen circumstance, if such charges  
75 are itemized on the patient's billing statement.

76 (4) Each health facility shall provide a patient with an itemized  
77 bill for the medical service or item rendered to the patient  
78 detailing the following:

79 (a) the original full charge for each medical service or item ren-  
80 dered;

81 (b) the reduced charge to be paid by the patient for each med-  
82 ical service or item rendered; and

83 (c) the expected amount that would be paid under the Medicare  
84 program for that item or service, including the amount of any  
85 required cost-sharing, and excluding the amount of any add-on or  
86 supplemental Medicare payments, such as for graduate medical  
87 education or the disproportionate share or critical access hospital  
88 adjustment.

89 (5) A health facility shall not condition the provision of health  
90 care services to a self-pay patient based upon the patient waiving  
91 any provision of this Act.

92 (E) Right to contest billings

93 (1) A patient or a patient's representative shall have the right to  
94 appeal any charges in their health facility bill, including charges  
95 for any of the health facility's contractors or facility-based med-

96 ical providers. All health facility bills shall conspicuously display  
97 at the bottom of each bill in at least twelve-point boldface capital  
98 letters a prominent notice of the patient or patient's representative  
99 right to appeal any of the charges in the bill.

100 (2) A patient or a patient's representative with appropriate  
101 authorization shall have unlimited access to the patient's complete  
102 medical record and all health facility billing records relating to the  
103 patient's bill to enable the patient or the patient's representative to  
104 determine the appropriateness and correctness of all charges. A  
105 health facility may not charge any fee for this access, but may  
106 charge reasonable fee for copies of these records.

107 (3) A health facility shall establish an impartial method for  
108 reviewing billing complains that includes, at a minimum:

109 (a) review by an individual who was not involved in the initial  
110 billing; and

111 (b) the provision of a written decision with a clear explanation  
112 of the grounds for the decision to (i) the patient or patient's repre-  
113 sentative making the appeal and (ii) the division within thirty (30)  
114 days of the receipt of the appeal.

115 (4) A health facility shall maintain a complete and accurate log  
116 of all appeals that includes, at a minimum, the name of the patient  
117 or patient's representative making the appeal, the basis for the  
118 appeal, the charges and the amount of the charges under appeal,  
119 and the disposition of the appeal.

120 (5) A health facility shall annually report to the division the  
121 number of appeals, the total of the charges subject to appeal, and a  
122 summary of the dispositions of the appeals.

123 (F) Investigations and penalties

124 (1) The division may fine a health facility up to five thousand  
125 dollars (\$5,000) per violation of this section.

126 (2) Actions taken by the division pursuant to this section shall  
127 not preclude any other remedy by an individual, a health insur-  
128 ance plan, or other party that is available under contract or any  
129 other provision of law.

130 (3) Any person may file a claim with the division alleging a  
131 violation of Act. The division shall investigate and inform the  
132 complaining person of its determination of whether a violation has  
133 occurred and what action it will take.

134 (G) Division reports

135 (1) The division shall make public and post on its Internet web-  
136 site, information regarding the reports submitted by each health  
137 facility under sections (C) and (D).

138 (2) Upon enactment, on or before March 1 of each year, the  
139 division shall issue a report to the general court and the governor  
140 that includes all of the following:

141 (a) the total number of patients applying for reduced charges  
142 under a health facility's self-pay program;

143 (b) the total number receiving reduced charges under a health  
144 facility's self-pay program;

145 (c) the number of investigations it has conducted for alleged  
146 violations of this Act;

147 (d) the number of violations the division determined occurred;  
148 and

149 (e) the name of each health facility that has violated this article  
150 and

151 (f) the actions it has taken against these facilities.

152 (3) Copies of reports prepared pursuant to this section shall be  
153 made available free of charge to the public upon request.

154 (H) Privacy

155 Any patient data collected or reported pursuant to this Act must  
156 be consistent with state and federal law, including, but not limited  
157 to, the Gramm-Leach-Bliley Act (12 U.S.C. §1811 et. seq.) and  
158 the Health Insurance Portability and Accountability Act privacy  
159 regulations (45 C.F.R. Part 164).