

HOUSE No. 1166

By Representative Scibak of South Hadley and Senator Montigny, joint petition of John W. Scibak and others for legislation to make certain changes in the “health reform” laws of the Commonwealth. Health Care Financing.

The Commonwealth of Massachusetts

PETITION OF:

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Benjamin Swan	Linda Dorcena Forry
Timothy J. Toomey, Jr.	Allen J. McCarthy
Eric Turkington	Stephen L. DiNatale

In the Year Two Thousand and Seven.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

AN ACT STRENGTHENING HEALTH REFORM.

1 SECTION 1. Subsection (8) of Section 9A of Chapter 118E of
2 the General Laws, as appearing in the 2004 Official Edition, is
3 hereby amended by adding the following sentence:— Premiums
4 shall not be charged for medical benefits for children in households
5 in which an adult is enrolled in the Commonwealth Care Health
6 Insurance Program established in Chapter 118H.

1 SECTION 2. The second sentence of subsection (4) of Section
2 16C of said Chapter 118E, is hereby amended by inserting after the
3 word “level” the following words:— ; provided, that no premiums
4 shall be required of households in which an adult is enrolled in
5 Commonwealth Care Health Insurance Program established in
6 Chapter 118H.

1 SECTION 3. Subsection (d) of Section 10F of said Chapter 118E
2 is hereby amended by adding the following sentence:— Premium
3 contributions shall not be charged for children in households in
4 which an adult is enrolled in the Commonwealth Care Health Insur-
5 ance Program established in Chapter 118H.

1 SECTION 4. Section 3 of Chapter 118H of the General Laws, as
2 appearing in Section 45 of Chapter 58 of the Acts of 2006, is hereby
3 amended by adding after subsection (b) the following subsection:—
4 (c) Insurance plans made available by the program shall include,
5 but not be limited to: (1) inpatient services; (2) outpatient services
6 and preventive care by participating providers; (3) prescription
7 drugs; (4) medically necessary inpatient and outpatient mental health
8 services and substance abuse services; (5) medically necessary
9 dental services, including preventive and restorative procedures; (6)
10 smoking and tobacco use cessation treatment and information bene-

11 fits, including nicotine replacement therapy, other evidence-based
12 pharmacologic aids to quitting smoking and accompanying coun-
13 seling by a physician, certified tobacco use cessation counselor or
14 other qualified clinician; and (7) all emergency ambulance calls
15 which result in a transport and all medically-necessary, non-emer-
16 gency ambulance and wheelchair van trips.

1 SECTION 5. Subsection (a) of Section 6 of Chapter 118H of the
2 General Laws, as appearing in the 2004 Official Edition, is hereby
3 amended by striking the words: “and (5) medically necessary dental
4 services, including preventive and restorative procedures.” and
5 inserting in place thereof the following:— ; (5) medically necessary
6 dental services, including preventive and restorative procedures; (6)
7 smoking and tobacco use cessation treatment and information bene-
8 fits, including nicotine replacement therapy, other evidence-based
9 pharmacologic aids to quitting smoking and accompanying coun-
10 seling by a physician, certified tobacco use cessation counselor or
11 other qualified clinician; and (7) all emergency ambulance calls
12 which result in a transport and all medically-necessary, non-emer-
13 gency ambulance and wheelchair van trips.

1 SECTION 6. Section 108 of Chapter 58 of the Acts of 2006 is
2 hereby repealed.

1 SECTION 7. Chapter 118E of the General Laws, as appearing in
2 the 2004 Official Edition, is hereby amended by inserting after
3 Section 10F the following section:—

4 Section 10G. The division shall provide coverage for smoking and
5 tobacco use cessation treatment, information, and education,
6 including relevant promotional activities, within its
7 MassHealth-covered services. Smoking and tobacco use cessation
8 treatment and information benefits shall include nicotine replace-
9 ment therapy, and other evidence-based pharmacologic aids to quit-
10 ting smoking and accompanying counseling by a physician, dentist,
11 certified tobacco use cessation counselor or other qualified clinician.
12 The executive office shall report annually on the number of enrollees
13 who participate in smoking cessation services, number of enrollees
14 who quit smoking, and Medicaid expenditures tied to tobacco use by
15 Medicaid enrollees. The comptroller shall transfer not less than \$7

16 million from the Health Care Security Trust, established by Section
17 1 of Chapter 29D, to the General Fund in each fiscal year to fund
18 this program.

1 SECTION 8. Chapter 118H of the General Laws, as appearing in
2 Section 45 of Chapter 58 of the Acts of 2006, as amended by
3 Chapter 324 of the Acts of 2006, is hereby amended by striking out
4 Section 5 and inserting in place thereof the following section:—

5 Section 5. Premium assistance payments shall be made under a
6 schedule set annually by the board, in consultation with the office of
7 Medicaid and the health safety net office; provided that this schedule
8 shall be published on or before September 30, starting in 2006. Pre-
9 mium assistance payments shall not be subject to appropriation from
10 the fund, established by Section 2000 of Chapter 29, and shall be
11 made directly by the connector to eligible health insurance plans,
12 under Chapter 176Q. If the board, after a public hearing, determines
13 that amounts in the fund are insufficient to meet the projected costs
14 of enrolling new eligible individuals, the director may impose a cap
15 on enrollment in the program.

1 SECTION 9. Notwithstanding any general or special law to the
2 contrary, all agencies and instrumentalities of the Commonwealth,
3 including, but not limited to the Commonwealth health insurance
4 connector authority, the executive office of health and human serv-
5 ices and its constituent agencies, the division of insurance and the
6 executive office of administration and finance shall fully cooperate
7 with any independent evaluations of the health reform policies
8 enacted by Chapter 58 of the acts of 2006, as amended and imple-
9 mented, including by providing all available data reports and infor-
10 mation relating to the implementation of said Chapter 58, including
11 enrollment statistics, cost and spending statistics and raw survey
12 results.

1 SECTION 10. Section 21 of Chapter 118E of the General Laws,
2 as appearing in the 2004 Official Edition, is hereby amended by
3 adding the following paragraph:—

4 The division shall assist applicants and recipients to obtain at no
5 cost to said applicant or recipient any verification of citizenship
6 required for purposes of obtaining federal reimbursement for Med-

7 icaid expenditures. A U.S. citizen who has not provided verification
8 of citizenship required for a MassHealth determination but who sat-
9 isfies all other conditions of eligibility for medical benefits,
10 including benefits provided through the Commonwealth Care Health
11 Insurance Program, Uncompensated Care Trust Fund or the Health
12 Safety Net Trust Fund shall not have a determination of eligibility
13 for such benefits denied or delayed so long as the applicant or recip-
14 ient is making a good faith effort to obtain such verification; an indi-
15 vidual who is unable to comply due to a physical or mental
16 incapacity shall be deemed to be making such a good faith effort and
17 the Division shall provide such further assistance as may be neces-
18 sary to obtain required verifications for such an individual.

1 SECTION 11. Chapter 46 of the General Laws, as appearing in
2 the 2004 Official Edition, is hereby amended by inserting after
3 Section 19C the following new section:—

4 Section 19D. The state registrar shall exempt from payment of a
5 fee any person requesting a copy of a birth certificate for the purpose
6 of establishing eligibility for benefits under Chapter 118E or Chapter
7 118H, and payments so exempted shall be considered expenses of
8 the executive office in administering said benefits.

1 SECTION 12. The third sentence of Section 2 of Chapter 118H of
2 the General Laws, as appearing in Section 45 of Chapter 58 of the
3 Acts of 2006, is hereby amended by striking out the words, “as
4 determined by the board of the connector” and inserting in place
5 thereof the following words:— as determined by the board of the
6 connector, subject to Section 7.

1 SECTION 13. Chapter 118H of the General Laws, as appearing in
2 the 2004 Official Edition,, as so appearing, is hereby further
3 amended by adding the following section:—

4 Section 7. (a) Enrollee premium contributions for the Common-
5 wealth care health insurance program shall be subject to the
6 following schedule:—

7 (1) an eligible individual with financial eligibility that exceeds
8 100 percent of the federal poverty level and does not exceed 150
9 percent of the federal poverty level shall not pay enrollee premium
10 contributions.

11 (2) an eligible individual with financial eligibility that exceeds
12 150 percent of the federal poverty level and does not exceed 200
13 percent of the federal poverty level shall pay an enrollee premium
14 contribution that does not exceed 1 percent of the household's
15 income.

16 (3) an eligible individual with financial eligibility that exceeds
17 200 percent of the federal poverty level and does not exceed 250
18 percent of the federal poverty level shall pay an enrollee premium
19 contribution that does not exceed 1.5 percent of the household's
20 income.

21 (4) an eligible individual with financial eligibility that exceeds
22 250 percent of the federal poverty level and does not exceed 300
23 percent of the federal poverty level shall pay an enrollee premium
24 contribution that does not exceed 2 percent of the household's
25 income.

26 (b) Notwithstanding subsection (a),

27 (1) the connector board may set a single enrollee premium contri-
28 butions for a range of incomes of not more than 50 percentage
29 points, provided that the enrollee premium contribution does not
30 exceed the level specified in subsection (a) for an individual at the
31 middle point of the range of incomes; and

32 (2) if a member of a household is enrolled in the Commonwealth
33 care health insurance program, the enrollee premium contribution
34 for additional persons in the household shall not exceed 75% of the
35 enrollee premium contribution otherwise applicable to the additional
36 person.

37 (c) total Commonwealth care health insurance program enrollee
38 costs for covered medical services, including, but not limited to,
39 enrollee premium contributions and maximum co-payments, shall
40 not exceed a schedule set by the board of the connector, provided
41 that the schedule for individuals who have a gross income that is
42 greater than 100 percent of the federal poverty level to individuals
43 with gross income that does not exceed 300 percent of the federal
44 poverty level shall range from 0 percent to 4 percent of the individu-
45 al's income along a graduated scale that increases in increments of
46 the federal poverty level; and provided further, that the total of pre-
47 mium contributions and maximum co-payments shall not exceed the
48 level determined affordable pursuant to subsection (q) of Section (3)
49 of Chapter 176Q.

1 SECTION 14. Subsection (a) of Section 2 of Chapter 111M of the
2 General Laws, as appearing in Section 12 of Chapter 58 of the Acts
3 of 2006, is hereby amended by inserting after the words “established
4 by Chapter 176Q” the following:— , in accordance with the require-
5 ments of subsection (f).

1 SECTION 15. Subsection (b) of said Section 2 of said Chapter
2 111M of the General Laws, as so appearing, is further amended by
3 striking out clauses subsections (ii) and (iii) of Section (b) and
4 inserting in place thereof the following clauses:— (ii) claims an
5 exemption under Section 3, (iii) had a certificate issued under
6 Section 3 of Chapter 176Q, or (iv) had gross income as shown on
7 the individual’s state tax return such that the percentage of said
8 income required to purchase the lowest cost insurance on the market
9 for which an individual would be eligible for creditable coverage,
10 taking into consideration the deductibles, as shown in the schedule
11 created pursuant to subsection (p) of Section 3 of Chapter 176Q,
12 exceeds the percentage of income which an individual could be
13 expected to contribute towards the purchase of insurance in the
14 report published pursuant to subsection (q) of Section 3 of Chapter
15 176Q.

1 SECTION 16. Said Section 2 of Chapter 111M of the General
2 Laws, as so appearing, is hereby further amended by inserting after
3 subsection (c) the following subsections:—

4 (d) For the purposes of subsection (b) only, creditable coverage
5 that begins on January 1, 2008 shall constitute coverage as of the last
6 day of the taxable year of 2007.

7 (e) All health plans providing creditable coverage shall require all
8 employers with whom they contract for group coverage to have open
9 enrollment periods for coverage effective on July 1, 2007 and on
10 January 1, 2008.

11 (f) The affordability schedule set by the board of the connector
12 pursuant to subsection (a) shall be subject to the following require-
13 ments:

14 (1) for individuals with gross income up to 100 percent of poverty
15 the affordability schedule for premium contributions shall be 0, and
16 for individuals who have a gross income that is greater than 100
17 percent of the federal poverty level but does not exceed 400 percent

18 of the federal poverty level, the affordability schedule for all
19 expected enrollee expenditures shall range from 0% to 5% of the
20 individual's income along a graduated scale that increases in 50 per-
21 centage point increments of the federal poverty level;

22 (2) in determining whether creditable coverage is affordable, the
23 board of the connector shall consider expected enrollee expenditures
24 as the 90th percentile of out of pocket costs and premiums for those
25 enrolled in creditable coverage;

26 (3) For the purposes of this section, "out-of-pocket costs" shall
27 mean the total amount paid by an enrollee to satisfy the applicable
28 annual deductible, co-payments and co-insurance, not including
29 monthly premiums.

1 SECTION 17. The definition of "Contributing employer" in sub-
2 section (a) of Section 188 of Chapter 149 of the General Laws, as
3 appearing in Section 47 of Chapter 58 of the Acts of 2006, as
4 amended by Chapter 324 of the Acts of 2006, is hereby amended by
5 inserting after the words "the division of health care finance and
6 policy" the following words:— subject to the requirements of this
7 section.

1 SECTION 18. Said subsection (a) of said Section 188 of said
2 Chapter 149, as so appearing, is hereby further amended by inserting
3 after the definition of "Employee" the following definition:—

4 "Fair and Reasonable", an employer will be deemed to make a
5 fair and reasonable employee contribution if more than: (1) 50 per-
6 cent of the employer's employees enroll in the employer's group
7 health plan; or (2) the employer offers to contribute 50 percent or
8 more of the premium cost of a group health plan offered to
9 employees. Group health plans for purposes of this section shall sat-
10 isfy the standard for minimum creditable coverage pursuant to
11 Chapter 111M. Calculations of the percentage of enrolled employees
12 shall include the pro-rata allocation of part time and seasonal
13 employees.