

CORRECTED REPRINT

**HOUSE . . . . . No. 4310**

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House bill No. 4290, as amended by the House, as changed by the committee on Bills in the Third Reading and as passed to be engrossed. October 18, 2007.

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**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Seven.

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AN ACT RELATIVE TO HEALTH CARE ACCESS.

1     *Whereas*, The deferred operation of this act would tend to  
2 defeat its purpose, which is to provide forthwith access to health  
3 care, therefore it is hereby declared to be an emergency law, nec-  
4 essary for the immediate preservation of the public convenience.

*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. Chapter 6A of the General Laws is hereby  
2 amended by striking out Section 16O, as appearing in the 2006  
3 Official Edition, and inserting in place thereof the following  
4 section:—

5     Section 16O. (a) There shall be a health disparities council  
6 located within, but not subject to the control of, the executive  
7 office of health and human services. The council shall make rec-  
8 ommendations to reduce and eliminate racial and ethnic dispari-  
9 ties in access to quality health care and in health outcomes within  
10 the Commonwealth, including disparities related to breast, cer-  
11 vical, prostate and colorectal cancers, strokes, and heart attacks,  
12 heart disease, diabetes, infant mortality, lupus, HIV/AIDS, asthma  
13 and other respiratory illnesses. The council may consider environ-  
14 mental, housing and other relevant matters contributing to these  
15 disparities. The council shall make recommendations to increase  
16 racial and ethnic diversity in the health care workforce, including  
17 doctors, nurses and physician assistants. The council shall main-  
18 tain ongoing communication and coordination with the health care

19 quality and cost council, established by Section 16K of  
20 Chapter 6A.

21 (b) The council shall consist of 35 members and shall be com-  
22 prised of:—

23 (i) 3 members of the house of representatives who shall be  
24 appointed by the speaker of the house, 1 of whom is designated  
25 co-chair by the speaker, and 3 members of the senate appointed by  
26 the senate president, 1 of whom is designated co-chair by the  
27 senate president;

28 (ii) the secretary of health and human services, ex officio, the  
29 commissioner of public health, ex officio, the director of the  
30 office of multicultural health in the department of public health,  
31 ex officio, the director of Medicaid, ex officio, or their designees;

32 (iii) 8 persons from communities disproportionately affected by  
33 health disparities, 4 of whom are appointed by the speaker and 4  
34 of whom are appointed by the senate president; and (iv) 17 per-  
35 sons appointed by the co-chairs, 2 of whom are experts in health  
36 disparities from foundations or academic institutions and 1 from  
37 each list of nominees submitted by each of the following organi-  
38 zations:— the American Cancer Society, Massachusetts Division,  
39 Inc.; the American Heart Association, Massachusetts Affiliate,  
40 Inc.; the Massachusetts General Hospital; Brigham and Wom-  
41 en's/Faulkner Hospitals, Inc.; the Dana Farber Cancer Institute,  
42 Inc.; the Massachusetts League of Community Health Centers,  
43 Inc.; the Massachusetts Medical Society; the Boston public health  
44 commission, established by Chapter 147 of the acts of 1995; the  
45 health department of the city of Springfield; the health department  
46 of the city of Worcester; the Massachusetts School Nurse Organi-  
47 zation, Inc.; the Massachusetts Association of Public Health  
48 Nurses, Inc.; the Massachusetts Association of Health Plans, Inc.;  
49 the Boston Medical Center Corporation; and the Massachusetts  
50 Public Health Association.

51 The representatives of nongovernmental organizations shall  
52 serve staggered 3-year terms. Vacancies of unexpired terms shall  
53 be filled within 60 days by the appropriate appointing authority.

54 (c) The council shall meet at least bimonthly, at other times as  
55 determined by its rules, and when requested by either by both co-  
56 chairs or by 1 co-chair and any 9 members.

57 (d) The council shall submit a report annually by July 1st to the  
58 governor, the health care cost and quality council, established by  
59 Section 16K of Chapter 6A and the general court, by filing the  
60 report with the clerk of the house of representatives, the clerk of  
61 the senate, the joint committee on health care financing, and the  
62 joint committee on public health. The report shall include:— (i)  
63 data on disparities in health care access and health outcomes,  
64 (ii) data on diversity in the health care workforce,  
65 (iii) recommendations for designing, implementing and  
66 improving programs and services,  
67 (iv) proposals for statutory and regulatory changes to reduce  
68 and eliminate disparities in access to quality health care services  
69 and health outcomes in the Commonwealth, and  
70 (v) recommendations for improving diversity and cultural com-  
71 petency in the health care workforce.

1 SECTION 2. Section 7B of Chapter 26 of the General Laws, as  
2 so appearing, is hereby amended by striking out subsection (b)  
3 and inserting in place thereof the following subsection:—  
4 (b) Upon request, carriers licensed under Chapters 175, 176A,  
5 176B, and 176G and the office of Medicaid shall make informa-  
6 tion available to the bureau for the purposes of said Chapter  
7 111M. Such information shall be limited to the minimum amount  
8 of personal information necessary; shall not include information  
9 about diagnoses or treatments; and, except for the office of Med-  
10 icaid, shall not include social security numbers. The information  
11 acquired under this section shall be confidential and shall not con-  
12 stitute a public record.

1 SECTION 3. Section 2PPP of Chapter 29 of the General Laws,  
2 as so appearing, is hereby amended by striking out, in line 16, the  
3 figure “56” and inserting in place thereof the following words:—  
4 35 of Chapter 118G.

1 SECTION 3A. Section 2 of Chapter 32A of the General Laws,  
2 as so appearing, is hereby amended by striking out, in lines 49 and  
3 50, the words “following loss of dependent status under the  
4 Internal Revenue Code” and inserting in place thereof the  
5 following words:— after the end of the calendar year in which

6 such persons would fail to qualify as dependents under 26 U.S.C.  
7 106.

1 SECTION 3B. Paragraph (2) of subsection (a) of Section 2 of  
2 Chapter 62 of the General Laws, as so appearing, is hereby  
3 amended by adding the following subparagraph:—

4 “(Q) If an employee participates in an employer-provided  
5 health insurance plan, any amount which, but for this section,  
6 would be included in gross income of the employee by reason of  
7 coverage under the plan of any person other than the employee, to  
8 the extent such coverage is mandated by Massachusetts law.;

1 SECTION 4. Section 8B of Chapter 62C of the General Laws,  
2 as so appearing, is hereby amended by striking out subsection (c)  
3 and inserting in place thereof the following subsection:—

4 (c) The statements and reports shall identify the carrier or  
5 employer, the covered individual and covered dependents, the  
6 insurance policy or similar numbers and the dates of coverage  
7 during the year, and shall provide other information as required by  
8 the commissioner of revenue for the purposes of said Chapter  
9 111M. Such information shall be limited to the minimum amount  
10 of personal information necessary; shall not include information  
11 about diagnoses or treatments; and, except for the office of Med-  
12 icaid, shall not include social security numbers. The commissioner  
13 of revenue, in consultation with the commissioner of insurance,  
14 may specify the content and format of the statements and reports.  
15 The commissioner of revenue may disclose the information in the  
16 statements and reports to the division of insurance, the division of  
17 health care finance and policy and the Commonwealth health  
18 insurance connector. The information in the statements and  
19 reports shall be confidential and shall not constitute a public  
20 record.

1 SECTION 5. Section 1 of Chapter 62D of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 73 and  
3 74, the words “60 of Chapter 118E” and inserting in place thereof  
4 the following words:— 39 of Chapter 118G.

1 SECTION 6. Section 13 of said Chapter 62D, as so appearing,  
2 is hereby amended by striking out clause (viii) and inserting in  
3 place thereof the following clause:—

4 (viii) the health safety net office for obligations to the Health  
5 Safety Net Fund for the cost of health care services paid from the  
6 fund under Section 39 of Chapter 118G;

1 SECTION 7. Section 12 of Chapter 62E, as so appearing, is  
2 hereby amended by striking out, in lines 32 and 33, the words “55  
3 to 60, inclusive of Chapter 118E” and inserting in place thereof  
4 the following words:— 34 to 39, inclusive, of Chapter 118G.

1 SECTION 8. The definition of “Creditable coverage” in  
2 Section 1 of Chapter 111M of the General Laws, as so appearing,  
3 is hereby amended by striking out clause (d) and inserting in place  
4 thereof the following clause:—

5 (d) Title XXI or XIX of the Social Security Act, other than cov-  
6 erage consisting solely of benefits under Section 1928 or Section  
7 1903 (v) of said Title XIX.

1 SECTION 9. Section 2 of said Chapter 111M, as appearing in  
2 Section 12 of Chapter 58 of the acts of 2006, is hereby amended  
3 by striking out subsection (b) and inserting in place thereof the  
4 following paragraph:—

5 (b) Every person who files or is required to file an individual  
6 return as a resident of the Commonwealth, either separately or  
7 jointly with a spouse, shall indicate on the return, in a manner pre-  
8 scribed by the commissioner of revenue, whether such person, as  
9 of the last day of the taxable year for which the return is filed, (i)  
10 had creditable coverage in force as required under paragraph (a)  
11 whether covered as an individual or as a named beneficiary of a  
12 policy covering multiple individuals, (ii) claims an exemption  
13 under Section 3, or (iii) had a certificate issued under Section 3 of  
14 Chapter 176Q. If the person does not so indicate, or indicates that  
15 he did not have such coverage in force, then the tax shall be com-  
16 puted on the return without benefit of the personal exemption set  
17 forth in paragraph (b) of Part B of Section 3 of Chapter 62, or, in  
18 the case of a person who files jointly with a spouse, without ben-  
19 efit of one-half of the personal exemption set forth in said para-

20 graph. If the person indicates that he had such creditable coverage  
21 in force but the commissioner determines, based on the informa-  
22 tion available to him, that the requirement of paragraph (a) was  
23 not met, then the commissioner shall compute the tax for the tax-  
24 able year without benefit of the personal exemption set forth in  
25 said paragraph (b) of said Part B of said Section 3 of said Chapter  
26 62, or, in the case of a person who files jointly with a spouse,  
27 without benefit of one-half of the personal exemption set forth in  
28 said paragraph. The commissioner shall first give notice to such  
29 person of his intent to do so and provide an opportunity for a  
30 hearing, under rules prescribed by the commissioner. Whenever,  
31 under this section, the tax is computed without benefit of the per-  
32 sonal exemption, or without benefit of one-half of the personal  
33 exemption, the difference between the tax so computed and the  
34 tax that would be computed in the absence of this section shall  
35 constitute a penalty assessed under this section. The Common-  
36 wealth shall have all enforcement and collection procedures avail-  
37 able under Chapter 62C to collect the penalty assessed under this  
38 section.

1 SECTION 10. Said subsection (b) of said Section 2 of said  
2 Chapter 111M, as amended by Section 13 of said Chapter 58, is  
3 hereby further amended by inserting after the word “files”, in line  
4 34, the following words:— or is required to file.

1 SECTION 11. Said Section 2 of said Chapter 111M, as so  
2 appearing, is hereby further amended by striking out, in line 66,  
3 the word “collected” and inserting in place thereof the following  
4 words:— assessed under this section that he collects.

1 SECTION 12. Section 3 of said Chapter 111M, as so appearing,  
2 is hereby amended by striking out, in line 9, the words “penalties  
3 in subsection (b) of” and inserting in place thereof the following  
4 words:— penalty assessed under.

1 SECTION 13. Section 9C of Chapter 118E of the General  
2 Laws, as so appearing, is hereby amended by striking out, in line  
3 29, the figure “200” and inserting in place thereof the following  
4 figure:— 300.

1 SECTION 14. Said Section 9C of said Chapter 118E, as so  
2 appearing, is hereby further amended by striking out, in line 37,  
3 the figure “200” and inserting in place thereof the following  
4 figure:— 300.

1 SECTION 15. Section 23 of said Chapter 118E, as amended by  
2 Section 4 of Chapter 42 of the acts of 2007, is hereby further  
3 amended by striking out, in lines 58 and 59, the words “uncom-  
4 pensated care pool under Chapter 118G” and inserting in place  
5 thereof the following words:—  
6 Health Safety Net Trust Fund under Section 39 of Chapter  
7 118G.

1 SECTION 16. Section 54 of said Chapter 118E, as so  
2 appearing, is hereby amended by striking out the second and third  
3 sentences and inserting in place thereof the following 3 sen-  
4 tences:—  
5 The executive office may reduce MassHealth premiums or  
6 copayments, or offer other incentives to encourage enrollees to  
7 comply with wellness goals. The executive office shall publish a  
8 report annually on the number of enrollees who meet at least 1  
9 wellness goal, any reduction of copayments or premiums, and any  
10 other incentives provided because enrollees met wellness goals.  
11 The report shall be submitted to the general court, by filing it with  
12 the joint committee on health care financing, the house committee  
13 on ways and means, and the senate committee on ways and means.

1 SECTION 17. Section 5 of Chapter 118G of the General Laws,  
2 as so appearing, is hereby amended by striking out, in line 32, the  
3 words “56 of Chapter 118E” and inserting in place thereof the  
4 following figure:— 35.

1 SECTION 18. Section 6C of said Chapter 118G, as so  
2 appearing, is hereby amended by striking out, in line 6, the words  
3 “more than 10” and inserting in place thereof the following  
4 words:— 11 or more full-time equivalent.

1 SECTION 19. Said Section 6C of said Chapter 118G, as so  
2 appearing, is hereby further amended by striking out, in line 9, the

3 words “more than 10” and inserting in place thereof the following  
4 words:— 11 or more full-time equivalent.

1 SECTION 20. Section 18B of said Chapter 118G, as so  
2 appearing, is hereby amended by striking out, in line 9, the figure  
3 “90” and inserting in place thereof the following figure:— 180.

1 SECTION 21. Said Section 18B of said Chapter 118G, as so  
2 appearing, is hereby further amended by striking out, in lines 25  
3 and 26, the words “from the uncompensated care pool, under  
4 Chapter 118E” and inserting in place thereof the following  
5 words:— reimbursed by the health safety net office under Section  
6 39.

1 SECTION 22. Section 35 of said Chapter 118G, inserted by  
2 Section 15 of Chapter 61 of the acts of 2007, is hereby amended  
3 by adding the following subsection:—

4 (c) The office shall enter into an interdepartmental service  
5 agreement with the office of Medicaid to develop and implement a  
6 plan to enhance oversight and improve the operations, manage-  
7 ment, payment processes and data integrity of the Health Safety  
8 Net Trust Fund, consistent with clauses (2) to (5), inclusive, of  
9 subsection (b).

10 The plan shall include:—

11 (i) an analysis of free care and emergency bad debt claims sub-  
12 mitted in the most recent 3-year period to determine patterns most  
13 appropriate and promising for targeted audits and reviews;

14 (ii) a cost-effective approach to maximizing the identification  
15 of all sources of third-party liability for patients receiving free  
16 care or emergency services;

17 (iii) a cost-effective approach to establishing an ongoing claims  
18 and utilization review system for uncompensated care claims that  
19 effectively identifies and disallows inappropriate claims, but also  
20 takes into consideration the practicality of said approach consid-  
21 ering the small volume of claims relative to other payers that  
22 make routine use of claims and utilization review systems,

23 (iv) an approach that maximizes the use of existing eligibility  
24 determination and review systems, coordination of benefits,  
25 claims review and provider integrity systems, interdepartmental

26 service agreements and related program and provider integrity  
27 contracts available to the office of Medicaid for achieving the  
28 management improvements required under this section, and

29 (v) a proposed timeline for implementation.

30 The health safety net office shall annually submit a progress  
31 report on the plan to the general court, by filing it with the clerk  
32 of the house and the clerk of the senate, the joint committee on  
33 health care financing, the house committee on ways and means,  
34 and the senate committee on ways and means.

1 SECTION 23. Section 188 of Chapter 149 of the General Laws,  
2 as appearing in the 2006 Official Edition, is hereby amended by  
3 striking out the definition of “Employer” and inserting in place  
4 thereof the following definition:—

5 “Employer”, an employing unit as defined in Section 1 of  
6 Chapter 151A or in Section 1 of Chapter 152.

1 SECTION 24. Subsection (d) of said Section 188 of said  
2 Chapter 149, as so appearing, is hereby amended by adding the  
3 following sentence:—

4 The division of unemployment assistance shall promulgate reg-  
5 ulations necessary to implement this section.

1 SECTION 25. The definition of “Employer” in Section 1 of  
2 Chapter 151F of the General Laws, as so appearing, is hereby  
3 amended by striking the last sentence and inserting in place  
4 thereof the following sentence:—

5 The word “employer” shall not include sole proprietors or tax  
6 exempt organizations, as described in 26 U.S.C. 501, that are  
7 exclusively staffed by volunteers.

1 SECTION 26. Chapter 151F of the General Laws is hereby  
2 amended by striking out Section 2, as so appearing, and inserting  
3 in place thereof the following section:—

4 Section 2. Each employer with 11 or more full-time equivalent  
5 employees in the Commonwealth shall adopt and maintain a cafe-  
6 teria plan that satisfies 26 U.S.C. 125 and the regulations promul-  
7 gated by the connector. The employer shall provide a copy of the  
8 cafeteria plan if requested by the connector.

1 SECTION 26A. Section 108 of Chapter 175 of the General  
2 Laws, as so appearing, is hereby amended by striking out, in lines  
3 33 and 34, the words “following loss of dependent status under the  
4 Internal Revenue Code” and inserting in place thereof the  
5 following words:— after the end of the calendar year in which  
6 such persons would fail to qualify as dependents under 26 U.S.C.  
7 106.

1 SECTION 26B. Section 110 of said Chapter 175, as so  
2 appearing, is hereby amended by striking out, in lines 379 and  
3 380, the words “loss of dependent status under the Internal Rev-  
4 enue Code” and inserting in place thereof the following words:—  
5 the end of the calendar year in which such persons would fail to  
6 qualify as dependents under 26 U.S.C. 106.

1 SECTION 26C. Section 8Z of Chapter 176A of the General  
2 Laws, as so appearing, is hereby amended by striking out, in lines  
3 7 and 8, the words “following loss of dependent status under the  
4 Internal Revenue Code” and inserting in place thereof the  
5 following words:— after the end of the calendar year in which  
6 such persons would fail to qualify as dependents under 26 U.S.C.  
7 106.

1 SECTION 26D. Section 4Z of Chapter 176B of the General  
2 Laws, as so appearing, is hereby amended by striking out, in lines  
3 7 and 8, the words “following loss of dependent status under the  
4 Internal Revenue Code” and inserting in place thereof the  
5 following words:— after the end of the calendar year in which  
6 such persons would fail to qualify as dependents under 26 U.S.C.  
7 106.

1 SECTION 26E. Section 4R of Chapter 176G of the General  
2 Laws, as so appearing, is hereby amended by striking out, in lines  
3 3 and 4, the words “following loss of dependent status under the  
4 Internal Revenue Code” and inserting in place thereof the  
5 following words:— after the end of the calendar year in which  
6 such persons would fail to qualify as dependents under 26 U.S.C.  
7 106.;

1 SECTION 27. The definition of “Group health plan” in Section  
2 1 of Chapter 176J of the General Laws, as so appearing, is hereby  
3 amended by adding the following sentence:—

4 For purposes of this definition, “partnership” shall include a  
5 limited liability company with more than 1 member, and a  
6 member of such a limited liability company shall be deemed to be  
7 a partner.

1 SECTION 28. Section 10 of said Chapter 176J, as so appearing,  
2 is hereby amended by striking out, in line 5, the words “19 and  
3 26” and inserting in place thereof the words:— 18 and 26.

1 SECTION 28A. Section 4 of chapter 176Q, as so appearing, is  
2 hereby amended in the first sentence by inserting after the words  
3 “as defined in this chapter” the words:— , provided that the con-  
4 nector shall not actively solicit for enrollment in health benefit  
5 plans offered through the connector eligible groups that have been  
6 insured under an employer group health plan during the previous  
7 six months.

1 “SECTION 29. Chapter 58 of the acts of 2006 is hereby  
2 amended by striking out Section 136 and inserting in place thereof  
3 the following section:—

4 Section 136. The website established under Section 16L of  
5 Chapter 6A of the General Laws shall be operational and shall  
6 include links to other websites that display comparative cost and  
7 quality information no later than September 1, 2007. The website  
8 shall include comparative cost information by facility, clinician or  
9 physician group practice for obstetrical services, physician office  
10 visits, high-volume elective surgical procedures, high-volume  
11 diagnostic tests, and high-volume therapeutic procedures no later  
12 than March 1, 2008. Cost information shall include the average  
13 payment made on behalf of insured patients for each service or  
14 category of service received by each facility, clinician or physi-  
15 cian practice. The council shall not publicly release the payment  
16 rates of any individual insurer which shall not be deemed public  
17 record.”

1 SECTION 30. The Commonwealth health insurance connector,  
2 established by Chapter 176Q of the General Laws, shall publish a  
3 report on implementation of subsection (b) of Section 3 of  
4 Chapter 118H of the General Laws, including the number of eli-  
5 gible individuals enrolled in the Commonwealth care health insur-  
6 ance program and the projected premium contribution amounts to  
7 be paid by employers. The report shall be submitted by January 1,  
8 2008 to the general court, by filing it with the clerk of the house,  
9 the clerk of the senate, the joint committee on health care  
10 financing, the house committee on ways and means, and the  
11 senate committee on ways and means.

1 SECTION 31. The first progress report on the plan for over-  
2 sight and improvement of the Health Safety Net Trust Fund,  
3 required under subsection (c) of Section 35 of Chapter 118G of  
4 the General Laws, shall be submitted by April 30, 2008.

1 SECTION 32. Section 3B shall take effect for taxable years  
2 beginning on or after January 1, 2007.

1 SECTION 33. Sections 2, 3A, 4, 10, 26A, 26B, 26C, 26D, and  
2 26E shall take effect on January 1, 2008.