

The Commonwealth of Massachusetts



IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT FURTHER REGULATING HEALTH CARE ACCESS.

*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. Subsection (e) of section 16L of chapter 6A of the General Laws, as
2 appearing in the 2006 Official Edition, is hereby amended by adding the following 4 sentences:-
3 Data submitted to the council under this section and the regulations promulgated hereunder shall
4 not be a public record under clause Twenty-sixth of section 7 of chapter 4 and under chapter 66,
5 except as specifically provided otherwise in the regulations or as approved by the council for
6 display on the council's website. The council shall promulgate regulations providing access to
7 such data, provided that such regulations take into account the need to: (1) achieve the goals
8 identified by the council; (2) protect patient privacy; (3) prevent collusion or anti-competitive
9 conduct; and (4) prevent the release of data that could reasonably be expected to increase the
10 cost of health care. The regulations may limit access to data based on its proposed use, the
11 credentials of the requesting party, the type of data requested or other criteria required to make a
12 determination regarding the appropriate release of the data. The regulations shall also provide
13 for limitations on the requesting party's use and release of any data to which that party has been
14 given access by the council.

15 SECTION 2. Said chapter 6A is hereby further amended by striking out section 16O, as so
16 appearing, and inserting in place thereof the following section:—

17 Section 16O. (a) There shall be a health disparities council located within, but not subject
18 to the control of, the executive office of health and human services. The council shall make
19 recommendations to reduce and eliminate racial and ethnic disparities in access to quality health
20 care and in health outcomes within the commonwealth, including disparities related to breast,
21 cervical, prostate and colorectal cancers, strokes, and heart attacks, heart disease, diabetes,
22 infant mortality, lupus, HIV/AIDS, asthma and other respiratory illnesses. The council may
23 consider environmental, housing and other relevant matters contributing to these disparities.
24 The council shall make recommendations to increase racial and ethnic diversity in the health
25 care workforce, including doctors, nurses and physician assistants. The council shall maintain
26 ongoing communication and coordination with the health care quality and cost council,
27 established in section 16K of chapter 6A.

28 (b) The council shall consist of 37 members and shall be comprised of: 3 members of the
29 house of representatives, 1 of whom shall be designated as co-chair by the speaker; 3 members
30 of the senate, 1 of whom shall be designated as co-chair by the senate president; the secretary of
31 health and human services or his designee, who shall serve ex-officio; the commissioner of
32 public health or his designee, who shall serve ex officio; the director of multicultural health in
33 the department of public health or his designee, who shall serve ex officio; the director of
34 Medicaid or his designee, who shall serve ex officio; the attorney general or her designee, who
35 shall serve ex officio; 8 persons from communities disproportionately affected by health
36 disparities, 4 of whom shall be appointed by the speaker of the house of representatives and 4 of
37 whom shall be appointed by the senate president; and 18 persons appointed by the co-chairs, 1
38 from each list of nominees submitted by each of the following organizations: the American
39 Cancer Society, Massachusetts Division, Inc.; the American Heart Association, Massachusetts
40 Affiliate, Inc.; the Massachusetts General Hospital; Brigham and Women's/Faulkner Hospitals,
41 Inc.; the Dana Farber Cancer Institute, Inc.; the Massachusetts League of Community Health
42 Centers, Inc.; the Massachusetts Medical Society; the Massachusetts Hospital Association; the
43 Boston public health commission established in chapter 147 of the acts of 1995; the health
44 department of the city of Springfield; the health department of the city of Worcester; the
45 Massachusetts School Nurse Organization, Inc.; the Massachusetts Association of Public Health
46 Nurses, Inc.; the Massachusetts Association of Health Plans, Inc.; Blue Cross Blue Shield of
47 Massachusetts, Inc.; the Program to Eliminate Health Disparities at the Harvard School of

48 Public Health; the Boston Medical Center Corporation; and the Massachusetts Public Health
49 Association. The representatives of nongovernmental organizations shall serve staggered 3-year
50 terms. Vacancies of unexpired terms shall be filled within 60 days by the appropriate
51 appointing authority.

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

54 (d) The council shall submit a report annually by July 1 to the governor, the health care
55 cost and quality council and the general court, by filing the same with the clerks of the senate
56 and house of representatives, the joint committee on health care financing and the joint
57 committee on public health. The report shall include: (i) data on disparities in health care access
58 and health outcomes; (ii) data on diversity in the health care workforce; (iii) recommendations
59 for designing, implementing and improving programs and services; (iv) proposals for statutory
60 and regulatory changes to reduce and eliminate disparities in access to quality health care
61 services and health outcomes in the commonwealth; and (v) recommendations for improving
62 diversity and cultural competency in the health care workforce.

63 SECTION 3. Section 7B of chapter 26 of the General Laws, as so appearing, is hereby
64 amended by striking out subsection (b) and inserting in place thereof the following subsection:

65 (b) Upon request, carriers licensed under chapters 175, 176A, 176B and 176G and the
66 office of Medicaid shall make information available to the bureau for the purposes of chapter
67 111M. Such information shall be limited to the minimum amount of personal information
68 necessary, shall not include information about diagnoses or treatments and, except for the office
69 of Medicaid, shall not include social security numbers. The information acquired under this
70 section shall be confidential and shall not constitute a public record.

71 SECTION 4. Section 2PPP of chapter 29 of the General Laws, as so appearing, is hereby
72 amended by striking out, in line 16, the words “paragraph (b) of section 56” and inserting in
73 place thereof the following words:- subsection (b) of section 35 of chapter 118G.

74 SECTION 5. Section 2 of chapter 32A of the General Laws, as so appearing, is hereby
75 amended by striking out, in lines 49 and 50, the words “following loss of dependent status under
76 the Internal Revenue Code” and inserting in place thereof the following words:- after the end of
77 the calendar year in which such persons last qualified as dependents under 26 U.S.C. 106.

78 SECTION 6. Paragraph (2) of subsection (a) of section 2 of chapter 62 of the General
79 Laws, as so appearing, is hereby amended by adding the following subparagraph:-

80 (Q) If an employee participates in an employer-provided health insurance plan, any amount
81 which, but for this section, would be included in gross income of the employee by reason of
82 coverage under the plan of any person other than the employee, to the extent such coverage is
83 mandated by law.

84 SECTION 7. Section 8B of chapter 62C of the General Laws, as so appearing, is hereby
85 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

86 (c) The statements and reports shall identify the carrier or employer, the covered
87 individual and covered dependents, the insurance policy or similar numbers and the dates of
88 coverage during the year and shall provide other information as required by the commissioner
89 of revenue for the purposes of chapter 111M. Such information shall be limited to the minimum
90 amount of personal information necessary, shall not include information about diagnoses or
91 treatments and, except for the office of Medicaid, shall not include social security numbers.
92 The commissioner of revenue, in consultation with the commissioner of insurance, may specify
93 the content and format of the statements and reports. The commissioner of revenue may
94 disclose the information in the statements and reports to the division of insurance, the division
95 of health care finance and policy and the commonwealth health insurance connector. The
96 information in the statements and reports shall be confidential and shall not constitute a public
97 record.

98 SECTION 8. Subsection (b) of section 21 of said chapter 62C, as so appearing, is hereby
99 amended by adding the following clause:-

100 (23) the disclosure of information contained in a return filed pursuant to this chapter to the
101 division of health care finance and policy to allow the department to determine if a taxpayer
102 who claimed an exemption under section 3 of chapter 111 received health services that were
103 reimbursed from the Health Safety Net Trust Fund under section 39 of chapter 118G or to the
104 executive office of health and human services, in its capacity as the single state agency for the
105 purposes of Title XIX of the Social Security Act, to allow the department to verify MassHealth
106 coverage.

107 SECTION 9. Section 1 of chapter 62D of the General Laws, as so appearing, is hereby
108 amended by striking out, in lines 73 and 74, the words “paragraph (c) of section 60 of chapter

109 118E” and inserting in place thereof the following words:— subsection (c) of section 39 of
110 chapter 118G.

111 SECTION 10. Section 13 of said chapter 62D, as so appearing, is hereby amended by
112 striking out clause (viii) and inserting in place thereof the following clause:-

113 (viii) the health safety net office for obligations to the Health Safety Net Trust Fund for
114 the cost of health care services paid from the fund under section 39 of chapter 118G;

115 SECTION 11. Section 12 of chapter 62E of the General Laws, as so appearing, is hereby
116 amended by striking out, in lines 32 and 33, the words “55 to 60, inclusive of chapter 118E” and
117 inserting in place thereof the following words:- 34 to 39, inclusive, of chapter 118G.

118 SECTION 12. The definition of “Creditable coverage” in section 1 of chapter 111M of the
119 General Laws, as so appearing, is hereby amended by striking out clause (d) and inserting in
120 place thereof the following clause:-

121 (d) Title XXI or XIX of the Social Security Act, other than coverage consisting solely of
122 benefits under section 1928 or section 1903 (v) of said Title XIX.

123 SECTION 13. Section 2 of said chapter 111M is hereby amended by striking out paragraph
124 (b), as appearing in section 12 of chapter 58 of the acts of 2006, and inserting in place thereof
125 the following paragraph:-

126 (b) Every person who files or is required to file an individual return as a resident of the
127 commonwealth, either separately or jointly with a spouse, shall indicate on the return, in a
128 manner prescribed by the commissioner of revenue, whether such person, as of the last day of
129 the taxable year for which the return is filed: (i) had creditable coverage in force as required
130 under paragraph (a) whether covered as an individual or as a named beneficiary of a policy
131 covering multiple individuals; (ii) claims an exemption under section 3; or (iii) had a certificate
132 issued under section 3 of chapter 176Q. If the person does not so indicate or indicates that he
133 did not have such coverage in force, then the tax shall be computed on the return without benefit
134 of the personal exemption set forth in paragraph (b) of Part B of section 3 of chapter 62 or, in
135 the case of a person who files jointly with a spouse, without benefit of one-half of the personal
136 exemption set forth in said paragraph (b). If the person indicates that he had such creditable
137 coverage in force but the commissioner determines, based on the information available to him,
138 that the requirement of paragraph (a) was not met, then the commissioner shall compute the tax
139 for the taxable year without benefit of the personal exemption set forth in said paragraph (b) of

140 said Part B of said section 3 of said chapter 62 or, in the case of a person who files jointly with a
141 spouse, without benefit of one-half of the personal exemption set forth in said paragraph (b).
142 The commissioner shall first give notice to such person of his intent to do so and provide an
143 opportunity for a hearing, under rules prescribed by the commissioner. Whenever, under this
144 section, the tax is computed without benefit of the personal exemption or without benefit of
145 one-half of the personal exemption, the difference between the tax so computed and the tax that
146 would be computed in the absence of this section shall constitute a penalty assessed under this
147 section. The commissioner shall have all enforcement and collection procedures available
148 under chapter 62C to collect the penalty assessed under this section.

149 SECTION 14. The first sentence of said subsection (b) of said section 2 of said chapter
150 111M, as appearing in section 13 of chapter 58 of the acts of 2006, is hereby amended by
151 inserting after the word “files” the following words:- or is required to file.

152 SECTION 15. Said section 2 of said chapter 111M, as appearing in the 2006 Official
153 Edition, is hereby further amended by striking out, in line 66, the word “collected” and inserting
154 in place thereof the following words:- assessed under this section that he collects.

155 SECTION 16. Section 3 of said chapter 111M, as so appearing, is hereby amended by
156 striking out, in line 9, the words “penalties in subsection (b) of” and inserting in place thereof
157 the following words:- penalty assessed under.

158 SECTION 17. Section 9C of chapter 118E of the General Laws, as so appearing, is hereby
159 amended by striking out, in lines 29 and 37, the figure “200” and inserting in place thereof, in
160 each instance, the following figure:- 300.

161 SECTION 18. Subclause (ii) of clause (a) of the first sentence of the eighth paragraph of
162 section 23 of said chapter 118E, as appearing in section 4 of chapter 42 of the acts of 2007, is
163 hereby amended by striking out the words “uncompensated care pool under” and inserting in
164 place thereof the following words:- Health Safety Net Trust Fund under section 39 of.

165 SECTION 19. Said eighth paragraph of said section 23 of said chapter 118E, as so
166 appearing, is hereby further amended by inserting after the first sentence the following
167 sentence:- Upon request from the department of revenue, the division shall make information
168 received from holders of health insurance information available to the department to determine
169 whether a person is covered by insurance as required by chapter 111M

170 SECTION 20. Section 54 of said chapter 118E, as appearing in the 2006 Official Edition,
171 is hereby amended by striking out the second and third sentences and inserting in place thereof
172 the following 3 sentences:— The executive office may reduce MassHealth premiums or
173 copayments or offer other incentives to encourage enrollees to comply with wellness goals. The
174 executive office shall publish a report annually on: (1) the number of enrollees who meet at
175 least 1 wellness goal; (2) any reduction of copayments or premiums; and (3) any other
176 incentives provided because enrollees met wellness goals. The report shall be submitted to the
177 general court by filing it with the joint committee on health care financing and the house and
178 senate committees on ways and means.

179 SECTION 21. Section 5 of chapter 118G of the General Laws, as so appearing, is hereby
180 amended by striking out, in line 32, the words “56 of chapter 118E” and inserting in place
181 thereof the following figure:- 35.

182 SECTION 22. Section 6C of said chapter 118G, as so appearing, is hereby amended by
183 striking out, in line 6, the words “more than 10” and inserting in place thereof the following
184 words:— 11 or more full-time equivalent.

185 SECTION 23. Said section 6C of said chapter 118G, as so appearing, is hereby further
186 amended by striking out, in line 9, the words “more than 10” and inserting in place thereof the
187 following words:— 11 or more full-time equivalent.

188 SECTION 24. Section 18B of said chapter 118G, as so appearing, is hereby amended by
189 striking out, in line 9, the figure "90" and inserting in place thereof the following figure:- 180.

190 SECTION 25. Said section 18B of said chapter 118G, as so appearing, is hereby further
191 amended by striking out, in lines 25 and 26, the words “from the uncompensated care pool,
192 under chapter 118E” and inserting in place thereof the following words:- reimbursed by the
193 health safety net office under section 39.

194 SECTION 26. Section 35 of said chapter 118G, inserted by section 15 of chapter 61 of the
195 acts of 2007, is hereby amended by adding the following subsection:-

196 (c) The office shall enter into an interdepartmental service agreement with the office of
197 Medicaid to develop and implement a plan to enhance oversight and improve the operations,
198 management, payment processes and data integrity of the Health Safety Net Trust Fund,
199 consistent with clauses (2) to (5), inclusive, of subsection (b).

200 The plan shall include: (i) an analysis of free care and emergency bad debt claims
201 submitted in the most recent 3-year period to determine patterns most appropriate and promising
202 for targeted audits and reviews; (ii) a cost-effective approach to maximizing the identification of
203 all sources of third-party liability for patients receiving free care or emergency services; (iii) a
204 cost-effective approach to establishing an ongoing claims and utilization review system for
205 uncompensated care claims that effectively identifies and disallows inappropriate claims, but
206 also takes into consideration the practicality of that approach considering the small volume of
207 claims relative to other payers that make routine use of claims and utilization review systems;
208 (iv) an approach that maximizes the use of existing eligibility determination and review
209 systems, coordination of benefits, claims review and provider integrity systems,
210 interdepartmental service agreements and related program and provider integrity contracts
211 available to the office of Medicaid for achieving the management improvements required under
212 this section; and (v) a proposed timeline for implementation.

213 The health safety net office shall annually submit a progress report on the plan to the
214 general court by filing it with the clerks of the senate and house or representatives, the joint
215 committee on health care financing and the house and senate committees on ways and means.

216 SECTION 27. Subsection (a) of section 188 of chapter 149 of the General Laws, as
217 appearing in the 2006 Official Edition, is hereby amended by striking out the definition of
218 “Employer” and inserting in place thereof the following definition:-

219 “Employer”, an employing unit as defined in section 1 of chapter 151A or in section 1 of
220 chapter 152.

221 SECTION 28. Subsection (d) of said section 188 of said chapter 149, as so appearing, is
222 hereby amended by adding the following sentence:- The division of unemployment assistance
223 shall promulgate regulations necessary to implement this section.

224 SECTION 29. The definition of “Employer” in section 1 of chapter 151F of the General
225 Laws, as so appearing, is hereby amended by striking the last sentence and inserting in place
226 thereof the following sentence:- The word “employer” shall not include a sole proprietor or tax
227 exempt organization, as described in 26 U.S.C. 501, that is exclusively staffed by volunteers.

228 SECTION 30. Said chapter 151F is hereby amended by striking out section 2, as so
229 appearing, and inserting in place thereof the following section:-

230 Section 2. Each employer with 11 or more full-time equivalent employees in the
231 commonwealth shall adopt and maintain a cafeteria plan that satisfies 26 U.S.C. 125 and the
232 regulations promulgated by the connector. The employer shall provide a copy of the cafeteria
233 plan if requested by the connector.

234 SECTION 31. Section 108 of chapter 175 of the General Laws, as so appearing, is hereby
235 amended by striking out, in lines 33 and 34, the words “following loss of dependent status under
236 the Internal Revenue Code” and inserting in place thereof the following words:- after the end of
237 the calendar year in which such persons last qualified as dependents under 26 U.S.C. 106.

238 SECTION 32. Section 110 of said chapter 175, as so appearing, is hereby amended by
239 striking out, in lines 379 and 380, the words “loss of dependent status under the Internal
240 Revenue Code” and inserting in place thereof the following words:- end of the calendar year in
241 which such persons last qualified as dependents under 26 U.S.C. 106.

242 SECTION 33. Chapter 176A of the General Laws is hereby amended by striking out
243 section 8Z, inserted by section 53 of chapter 58 of the acts of 2006.

244 SECTION 34. Said chapter 176A is hereby further amended by inserting after section
245 8AA the following section:-

246 Section 8BB. Any subscription certificate under a group nonprofit hospital service
247 agreement, except certificates which provide stand-alone dental services, supplemental coverage
248 to Medicare or other governmental programs, that is delivered, issued or renewed in the
249 commonwealth, shall provide, as benefits to all group members having a principal place of
250 employment within the commonwealth, coverage to persons under 26 years of age or for 2 years
251 after the end of the calendar year in which such persons last qualified as dependents under 26
252 U.S.C. 106, whichever occurs first.

253 SECTION 35. Chapter 176B of the General Laws is hereby amended by striking out
254 section 4Z, inserted by section 56 of chapter 58 of the acts of 2000.

255 SECTION 36. Said chapter 176B is hereby further amended by inserting after section
256 4AA the following section:-

257 Section 4BB. Any subscription certificate under an individual or group medical service
258 agreement, except certificates that provide stand-alone dental services, that is delivered or
259 issued or renewed in the commonwealth, shall provide, as benefits to all individual subscribers
260 and members within the commonwealth and to all group members having a principal place of
261 employment within the commonwealth, coverage to persons under 26 years of age or for 2 years
262 after the end of the calendar year in which such persons last qualified as dependents under 26
263 U.S.C. 106, whichever occurs first.

264 SECTION 37. Chapter 176G of the General Laws is hereby amended by striking out
265 section 4R, inserted by section 58 of chapter 58 of the acts of 2006.

266 SECTION 38. Said chapter 176G is hereby further amended by inserting after section
267 4S the following section:-

268 Section 4T. A health maintenance contract, excluding contracts for stand-alone dental
269 services, shall provide coverage to persons under 26 years of age or for 2 years after the end of
270 the calendar year in which such persons last qualified as dependents under 26 U.S.C. 106,
271 whichever occurs first.

272 SECTION 39. The definition of “Group health plan” in section 1 of chapter 176J of the
273 General Laws, as so appearing, is hereby amended by adding the following sentence:- For
274 purposes of this definition, “partnership” shall include a limited liability company with more
275 than 1 member, and a member of such a limited liability company shall be deemed to be a
276 partner.

277 SECTION 40. Section 10 of said chapter 176J, as so appearing, is hereby amended by
278 striking out, in line 5, the figure “19” and inserting in place thereof the following figure:- 18.

279 SECTION 41. Chapter 176Q of the General Laws is hereby amended by inserting after
280 section 15 the following section:-

281 Section 15A. There shall be a special commission to investigate and study the role of the
282 connector in providing access to health insurance products. The commission shall examine the
283 connector's utilization of private sector entities, including insurance brokers, and shall
284 investigate ways to promote efficient enrollment of uninsured individuals into health insurance
285 and prevent unnecessary duplications in the market. The commission shall consist of the house
286 and senate chairs of the joint committee on financial services and the house and senate chairs of
287 the joint committee on health care financing, 1 member of the house who shall be appointed by
288 the minority leader and 1 member of the senate who shall be appointed by the minority leader.
289 The commission shall report its findings and recommendations, including any recommendations
290 for proposed legislation, at least annually, to the clerks of the senate and house of
291 representatives.

292 SECTION 42. Chapter 58 of the acts of 2006 is hereby amended by striking out section
293 136 and inserting in place thereof the following section:-

294 Section 136. The website established pursuant to section 16L of chapter 6A of the General
295 Laws shall be operational and shall include links to other websites that display comparative cost
296 and quality information not later than September 1, 2007. The website shall include
297 comparative cost information by facility, clinician or physician group practice for obstetrical
298 services, physician office visits, high-volume elective surgical procedures, high-volume
299 diagnostic tests and high-volume therapeutic procedures not later than March 1, 2008; provided,
300 however, that such cost information shall include the average payment made on behalf of
301 insured patients for each service or category of service received by each facility, clinician or
302 physician group practice.

303 SECTION 43. The commonwealth health insurance connector, established in chapter 176Q
304 of the General Laws, shall publish a report on implementation of subsection (b) of section 3 of
305 chapter 118H of the General Laws, including the number of eligible individuals enrolled in the
306 commonwealth care health insurance program and the projected premium contribution amounts
307 to be paid by employers. The report shall be submitted not later than January 1, 2008 to the
308 general court, by filing the same with the clerks of the senate and house of representatives, the

309 joint committee on health care financing and the house and senate committees on ways and
310 means.

311 SECTION 44. The first progress report on the plan for oversight and improvement of the
312 Health Safety Net Trust Fund, required under subsection (c) of section 35 of chapter 118G of
313 the General Laws, shall be submitted not later than April 30, 2008.

314 SECTION 45. The first report required by section 15A of chapter 176Q shall be made not
315 later than October 1, 2008.

316 SECTION 46. Section 3B shall take effect for taxable years beginning on or after January
317 1, 2007.

318 SECTION 47. Sections 3, 5, 7 and 14 and sections 31 to 38, inclusive, shall take effect on
319 January 1, 2008.