

By Mr. Flaherty of Boston, petition of Michael F. Flaherty and John F. Cusack that provision be made for uniform payments by insurance carriers. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT PROVIDING FOR UNIFORM PAYMENTS BY INSURANCE CARRIERS.

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 31 of Chapter 6A of the General Laws,
2 as appearing in section 2 of Chapter 1229 of the acts of 1973, is
3 hereby amended by inserting at the end thereof the following
4 new paragraph:— “hospital,” any facility or distinct part
5 thereof, whether conducted for charity or profit, which provides
6 medical or medically related services, including diagnosis,
7 surgery, rehabilitative services, care and treatment, to in-
8 dividuals admitted thereto, or treated on an out-patient basis
9 through services maintained as either an integral or distinct part
10 of said facility and which is licensed to provide said services by
11 the department of public health under the provisions of chapter
12 one hundred and eleven.

1 SECTION 2. Section 32 of said chapter 6A, as appearing in
2 section 2 of said chapter 1229, is hereby amended by inserting
3 after the first sentence the following new sentence:— The
4 commission shall also have the sole responsibility for es-
5 tablishing fair, reasonable and adequate rates to be paid to
6 hospitals by all purchasers of services from said hospitals.

1 SECTION 3. Said section 32 of said chapter 6A, as so
2 appearing, is hereby further amended by inserting after the
3 fourth paragraph the following new paragraph:— When the

4 provider of services is a hospital, the rate of reimbursement
5 certified hereunder shall be the rate applicable without
6 discrimination to all purchasers of services from said hospital
7 and shall, other provisions of this section notwithstanding, be
8 based on the reasonable cost to the hospital of providing said
9 services, the costs of comparable institutions providing com-
10 parable services, economic factors in the hospital's geographic
11 area, capital requirements, and incentive factors for improving
12 services and gaining economics in the operation of said hospital.
13 Said rate may, in addition, give consideration to depreciation,
14 amortization, interest, occupancy and individual services which
15 are rendered for partial or no payment.

1 SECTION 4. Section 35 of said chapter 6A, as appearing in
2 section 2 of said chapter 1229, is hereby amended by inserting,
3 in line 5 after the word payment, the words:— and every
4 hospital, regardless of its course of payment, shall

1 SECTION 5. Chapter 111 of the General Laws is hereby
2 amended by inserting after section 53 the following new
3 section:—

4 *Section 53A.* Any hospital licensed under the provisions of
5 section fifty-one, as a condition of such licensure, shall accept as
6 payment in full for any and all of its services, whether provided
7 on an in-patient or an out-patient basis, the rate of reimburse-
8 ment certified for such service or services by the rate-setting
9 commission pursuant to the applicable provisions of chapter six
10 A. Said certified rate of reimbursement shall be applicable
11 without discrimination to all purchasers of service from any
12 hospital so licensed.

1 SECTION 6. Chapter 176A of the General Laws is hereby
2 amended by striking out section 5, as most recently amended by
3 section 1 of chapter 874 of the acts of 1969, and inserting in
4 place thereof the following:—

5 Any corporation subject to this chapter may contract with
6 corporations formed under chapter one hundred and seventy-six
7 B for the joint administration of their business and for joint and
8 co-operative writing and issuing of certificates and may enter
9 into reciprocal arrangements with other non-profit hospital

10 service corporations organized in other jurisdictions for the
11 mutual benefit of their subscribers and may contract with any
12 agency of the United States of America, of the commonwealth
13 or any city or town within the commonwealth for the purpose of
14 providing hospital service or reimbursement for other health
15 services.

16 Any hospital service corporation may join with any other
17 hospital service corporation organized either under the laws of
18 the commonwealth or of any other state for the purpose of
19 establishing or maintaining an agency or corporation designed
20 to facilitate the provision of hospital services and other health
21 services for residents of the commonwealth employed by firms
22 having employees located in more than one state and may enter
23 into contracts with such an agency or corporation or with a
24 corporation owned by such an agency or corporation for the
25 joint administration of their business and for the joint and
26 cooperative writing and issuing of certificates, provided that any
27 corporation or agency which is not a non-profit hospital service
28 corporation with which there is joint and cooperative writing
29 and issuing of certificates shall be qualified to do business in the
30 commonwealth.

31 Any corporation subject to this chapter may enter into
32 contracts for the rendering of hospital service only with
33 hospitals referred to in section one.

34 In providing reimbursement for health services other than
35 hospital services, any hospital service corporation may enter into
36 contracts for the furnishing of such health services with
37 providers thereof. All rates of payment to providers of other
38 health services made by such corporation, under such contracts,
39 shall be approved in advance by the rate setting commission
40 established under chapter six A, in this section called the
41 commission. Any such approval may be withdrawn by the
42 commission at any time as hereinafter provided. No rates of
43 payment under any such contract with a provider of other health
44 services shall be approved nor their continuance be permitted by
45 the commission, unless such rates are not excessive, not
46 inadequate and not unfairly discriminatory in relation to other
47 such providers who have entered into such contracts with such
48 corporation.

49 Every contract made by such corporation with a participating

50 hospital or provider of other health services shall contain a
51 provision whereby such hospital or provider of other health
52 services guarantees to subscribers or their dependents or
53 employees, or dependents of employees of employers who
54 contribute the subscription fees in whole or in part the benefits
55 of the subscriber's certificate in effect at the time such services
56 are provided notwithstanding the ability of such corporation to
57 pay therefor. Officers of the commonwealth and of counties,
58 cities and towns within the commonwealth are authorized to
59 execute contracts containing such provision.

60 All rates of payment to a hospital for a service or services
61 provided by said hospital made by such corporation shall be the
62 rate for said service or services certified by the commission for
63 said hospital under section thirty-two of chapter six A.

64 A provider of other health services or nonprofit hospital
65 service corporation shall file with the commission in accordance
66 with regulations adopted after public hearing such data,
67 statistics, schedules or other information as the commission may
68 reasonable require to enable it to approve or disapprove
69 contracts with or rates of payments to providers of other health
70 services. For the purpose of approving, disapproving, or
71 permitting the continuance of all rates or payment under such
72 contracts, the commission may require an examination of the
73 books of account and statistical records of each provider of
74 other health services and nonprofit hospital service corporation,
75 and such examination shall be made under the direction and
76 supervision of the commission. The commission may enter into
77 an annual agreement with a nonprofit hospital service
78 corporation for the services of such auditors or accountants as
79 may be required in any such examination; provided, that the
80 entire costs of such salaries of auditors or accountants and
81 necessary expenses connected therewith, including related
82 expenses of the commission, shall be borne by such corporation.
83 The commission may also enter into an annual agreement with a
84 nonprofit hospital service corporation for such health care
85 specialists, statisticians and other personnel as may be required
86 by the commission in performing its duties under this chapter.
87 Expenses incurred in connection with any agreement authorized
88 under this paragraph shall be treated as part of the cost of
89 benefits furnished by said corporation.

90 Within thirty days of the filing of any proposed contract or
91 rate of payment between a nonprofit hospital service corpora-
92 tion and a provider of other health services, the commission
93 shall either (1) approve the contract or rate of payment without
94 holding a public hearing; or (2) disapprove the contract or rate
95 of payment without holding a public hearing, filing in its office a
96 statement setting forth its reasons for its disapproval; or (3) hold
97 a public hearing on all or such portion of said proposed contract
98 or rate of payment as it shall designate in the notice of hearing
99 which it shall file in its office.

100 If the commission disapproves a proposed contract or rate of
101 payment, it shall promptly notify, in writing, such corporation
102 and each interested provider of other health services of its
103 disapproval. The disapproval shall be final unless, within ten
104 days of the filing of its statement of disapproval, such
105 corporation or any interested provider of other health services
106 shall file with the commission a written request for a public
107 hearing on the disapproval. The public hearing, at which such
108 corporation and each interested provider of other health services
109 shall be entitled to appear, shall be held within fourteen days of
110 the filing of the request for such hearing with the commission,
111 and the decision thereon shall be made within twenty-eight days
112 of the date of the filing of such request, unless the corporation,
113 each interested provider of other health services involved agree,
114 in writing, to an extension of either date.

115 If the commission decides to hold a public hearing without
116 prior acting on the proposed contract or rate of payment, it shall
117 promptly notify, in writing, such corporation, and each
118 interested provider of its decision. The public hearing, at which
119 such corporation, and each interested provider of other health
120 services shall be entitled to appear, shall be held within twenty-
121 one days of filing of the notice thereof in its office. The decision
122 thereon shall be made within twenty-one days of the commence-
123 ment of the hearing, unless such corporation and each interested
124 provider of other health services involved agree, in writing, on
125 an extension of the date.

126 If the commission disapproves of a previously approved
127 contract or rate of payment, it shall file in its office a statement
128 setting forth its reasons for its disapproval, and it shall promptly
129 notify, in writing, such corporation and each interested provider

130 of other health services of such disapproval. Such notice of
131 disapproval shall state the effective date of the disapproval
132 which shall not be sooner than sixty days from the date of the
133 filing of such disapproval in its office. The disapproval shall be
134 final on the date indicated in said notice unless, within ten days
135 of the filing of its statement of disapproval, such corporation, or
136 interested provider of other health services shall file with the
137 commission a written request for a public hearing on the
138 disapproval. The public hearing, at which such corporation, and
139 each interested provider of other health services shall be entitled
140 to appear, shall be held within fourteen days of the filing of the
141 request for a hearing with the commission, and the decision
142 thereon shall be made within twenty-eight days of the date of the
143 filing of such request, unless the corporation, and each provider
144 of other health services involved agree, in writing, on an
145 extension of either date.

146 Any nonprofit hospital service corporation, or provider of
147 other health services aggrieved by any order, finding, decision or
148 other action made or taken under this section by the commission
149 may, within twenty days of the filing thereof by the commission
150 in its office as a public record, file a petition in the supreme
151 judicial court for the county of Suffolk for a review of such
152 order, finding, decision or other action. In the event that there is
153 an appeal from an order of the commission disapproving a rate
154 of payment between a nonprofit hospital service corporation
155 and a provider of other health services, any level of payment
156 which the commission did approve shall be used pending the
157 determination of the appeal and any difference in the rate
158 established as a result of the appeal and the interim rate shall be
159 adjusted, as the court may determine.

160 Upon the filing of a petition for review under this section, an
161 order of notice returnable not later than twenty days from the
162 filing of such petition shall forthwith issue and be served upon
163 the commission. Within ten days after service of a copy of the
164 petition for review upon the commission or within such further
165 time as the court may allow, the commission shall file in the
166 court the original or a certified copy of the records of the
167 proceeding under review. The review shall be governed by
168 paragraphs (2), (3), (4) with the exception of the first sentence
169 thereof, (5), (6), (7) and (8) of section fourteen of chapter thirty

170 A, and review by the supreme judicial court shall be governed by
171 section fifteen of said chapter thirty A.

172 The commissioner of insurance shall on December thirty-first,
173 nineteen hundred and seventy and annually thereafter require a
174 statement from any nonprofit hospital service corporation
175 relative to the number and type of contracts written hereunder,
176 utilization of extended care facilities and other health services,
177 and such other information, and in the form, as he may require.

