

By Mr. White, petition (accompanied by bill, Senate, No. 484) of W. Paul White, Charles E. Shannon and Michael J. Barrett for legislation to assure access to free care and adequate financing of the uncompensated care pool. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT TO ASSURE ACCESS TO FREE CARE AND ADEQUATE FINANCING OF THE UNCOMPENSATED CARE POOL.

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 Section 87 and inserting in place thereof the
3 following section: —

4 Section 87. For purposes of this section, terms used herein
5 shall have the meanings given them in section one of chapter one
6 hundred and eighteen F.

7 (1) For the fiscal years commencing with hospital fiscal year
8 nineteen hundred and ninety-two, there shall be a surcharge
9 calculated by the department of medical security required to be
10 added by acute care hospitals to otherwise applicable gross
11 charges to all third-party payors and other purchasers of acute
12 care hospital services, excluding governmental payors, which shall
13 be designated as the statewide uniform allowance for uncompen-
14 sated care. For hospital fiscal year nineteen ninety-two, such
15 surcharge shall be set at thirteen percent of projected gross patient
16 service revenues attributable to private payors, and thereafter such
17 surcharge shall be increased annually according to the projected
18 medical inflation rate for the operative hospital fiscal year.

19 (2) Prior to the beginning of each hospital fiscal year, the
20 department of medical security, using the most appropriate and
21 accurate data available, shall estimate the statewide uniform

22 allowance for uncompensated care. These estimates shall be
23 updated, on a timely basis, as significant new information
24 becomes available.

1 SECTION 2. Chapter 118F of the General Laws is hereby
2 amended by striking Section 15 and inserting in place thereof the
3 following section: —

4 Section 15. Uncompensated care pool; administration

5 (1) The department shall administer an uncompensated care
6 pool consisting of the revenues produced by the uniform statewide
7 allowance for uncompensated care included in gross patient
8 service revenues of acute hospitals pursuant to section eighty-
9 seven of chapter six A. Not less than eight million dollars of the
10 uncompensated care pool revenues shall be obligated on an annual
11 basis for the vaccine trust fund established pursuant to section
12 one hundred and forty-one of chapter six hundred and fifty-three
13 of the acts of nineteen hundred and eighty-nine and not less than
14 seven million dollars shall be obligated on an annual basis from
15 the uncompensated care pool for the community health centers
16 managed care trust fund established pursuant to section five A
17 of chapter eleven of the General Laws.

18 (2) Notwithstanding the provisions of any general or special
19 law to the contrary, any acute hospital eligible to receive payments
20 from the uncompensated care pool established under this chapter
21 shall be paid for all allowable uncompensated care at the level
22 of its established charges for such care, except that bad debt, as
23 defined by the department by regulation, shall be reimbursed at
24 a rate of sixty percent of established charges. In the event that
25 the funds in the pool are insufficient to pay for all uncompensated
26 care and to meet the obligations to the vaccine and health center
27 trust funds, compensation to hospitals for bad debt shall be
28 reduced accordingly. In the event that the pool revenues are in
29 excess of the reimbursable charges for uncompensated care and
30 the obligations to the vaccine and health center trust funds, the
31 department shall offset any such excess by reducing the uniform
32 statewide allowance in the following fiscal year.

33 (3) The department shall establish an appropriate mechanism
34 for enforcing a hospital's obligation to the pool in the event that

35 any hospital does not make a scheduled payment to the pool. Such
36 enforcement mechanism may include the assessment of a five per
37 cent surcharge on any withheld amount. The department shall not
38 at any time make payments from the pool for any period in excess
39 of amounts that have been paid into or are available in the pool
40 for such period; provided, however, that the department may
41 temporarily prorate payments from the pool for cash flow
42 purposes. The department shall establish a final settlement of the
43 pool for each fiscal year to adjust for audit findings the differences
44 between any interim payments to or from the pool and the actual
45 liability of each acute hospital to the pool or of the pool to the
46 hospital.

47 (4) The department shall promulgate regulations establishing
48 criteria for hospital credit and collection policies, after
49 consultation with concerned organizations as identified by the
50 department, to ensure that hospitals make reasonable efforts to
51 collect payment for hospital services prior to attributing those
52 services to bad debt or free care. "Bad debt" as defined by the
53 department in regulations shall not include expenses for hospital
54 services that are beyond the ability of patients to pay. "Ability
55 to pay" shall be defined in regulations as a function of such
56 patients' income, assets, size of family and other criteria deemed
57 to be relevant and in a manner which shall be no more restrictive
58 than the standards set forth in sections 2.07, 2.08 and 2.09 of
59 volume one hundred and seventeen of the code of Massachusetts
60 regulations in effect as of September 30, 1991. All expenses for
61 service that such patients cannot afford, according to the criteria
62 developed by the department, will be defined as "free care." No
63 person who is eligible for free care shall be denied hospital services,
64 including inpatient and outpatient services, based either on such
65 person's ability to pay for such care or on the source of payment
66 for such care.

67 (5) Notwithstanding any general or special law to the contrary,
68 the department, in conjunction with the department of public
69 welfare, shall make all reasonable efforts to ensure that federal
70 financial participation under title XIX of the federal social
71 security act is available to match costs of the uncompensated pool
72 established under this chapter. Such federal matching funds will

73 be used exclusively to pay for health care services or health
74 insurance furnished to low income individuals without health
75 insurance.

1 SECTION 3. Section 5A of Chapter 11 of the General Laws
2 is hereby amended by adding at the end thereof the following: —
3 Notwithstanding the provisions of any general or special law
4 to the contrary, there shall be established by the department of
5 medical security upon the books of the commonwealth a separate
6 fund to be known as the community health centers managed care
7 trust fund. This fund shall consist of monies paid or contributed
8 to the fund from the “uncompensated care pool,” as defined by
9 section fifteen of chapter one hundred and eighteen F of the
10 General Laws.

11 The treasurer of the commonwealth is authorized to transfer
12 not less than seven million dollars in each fiscal year from the
13 “uncompensated care pool” to said community health centers
14 managed care trust fund. For each succeeding fiscal year, the
15 department shall determine the necessary funding needed to
16 maintain and expand said trust fund as deemed necessary to the
17 department. The department shall promulgate regulations to
18 distribute monies from said trust fund.

19 The revenue received from payments made under this section
20 shall be retained in a trust on behalf of the beneficiaries of said
21 program and shall be kept in the trust fund separate and apart
22 from all other monies received by the commonwealth. The
23 treasurer of the commonwealth shall be the custodian of the trust
24 fund. The monies in the trust fund shall be invested by the
25 treasurer in accordance with law; provided, however, that the
26 treasurer shall make no investments that prevent the treasurer
27 from making timely payment of disbursements. Interest income
28 and dividends from such investments shall be credited to the fund.
29 The treasurer shall make payments from the trust fund, without
30 further appropriation, on the submission of a warrant listing all
31 payments to be made, which has been approved in writing by the
32 commissioner of the department of medical security.