

# HOUSE . . . . . No. 5905

---

---

## *The Commonwealth of Massachusetts*

---

HOUSE OF REPRESENTATIVES, July 1, 1992.

The committee on Insurance, to whom was referred so much of the recommendations of the Executive Office of Elder Affairs (House, No. 90) as relates to the notification of third parties on non-renewal and cancellation of certain insurance policies held by elderly consumers (accompanied by bill, House, No. 92), reports recommending that the accompanying bill (House, No. 5905) ought to pass.

For the committee,

FRANCIS G. MARA.

## The Commonwealth of Massachusetts

---

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

---

AN ACT RELATIVE TO THE NOTIFICATION OF THIRD PARTIES IN NONRENEWAL AND CANCELLATION OF CERTAIN INSURANCE POLICIES HELD BY ELDERLY CONSUMERS.

*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 one hundred seventy-five of the General  
2 Laws, as appearing in the 1988 Official Edition, is hereby  
3 amended by adding after section one hundred ninety-three T the  
4 following new section: —

5 Section 193U. Notwithstanding any other law or regulation to  
6 the contrary, any insurer that issues, delivers or renews an  
7 individual, general or blanket policy or certificate of life or  
8 accident and sickness insurance to an elderly insured shall permit  
9 such elderly insured to designate a third party to whom, the insurer  
10 shall send a final notice of payment due. For the purposes of this  
11 section, "elderly insured" shall mean a Massachusetts resident  
12 who is sixty-five years of age or older at the time the policy or  
13 certificate is issued, delivered or renewed.

14 An elderly insured may designate a third party to receive the  
15 final notice of payment due by forwarding such designation in  
16 writing to the insurer. Such third-party designation shall take  
17 effect upon receipt by the insurer. The designation, on a form  
18 prescribed by the Commissioner, shall include a signed, written  
19 agreement by the third-party designee to receive notification of  
20 final notice of payment due on policy or certificate. No cause of  
21 action in connection with cancellation or nonrenewal of a policy  
22 or certificate shall arise against any person for serving as a third  
23 party designee. A third party designee may terminate his or her  
24 status as a third-party designee by providing written notice of the  
25 insurer. Such termination shall take effect upon receipt by the  
26 insurer, provided that the insurer notifies the elderly insured in  
27 writing that the third-party designation is no longer in effect. An

28 elderly insured may revoke a third-party designation by providing  
29 written notice to the insurer. Such revocation shall take effect  
30 upon receipt by the insurer.

31 The insurer shall notify its elderly insureds who have not made  
32 a third-party designation annually in writing of the availability  
33 of the option to designate a third party to receive any final notices  
34 of payment due and shall provide information and assistance on  
35 the manner in which the elderly insured may make the designation.

36 If an insurer fails to send any final notice of payment due to  
37 the third-party designee, the policy shall remain in effect until such  
38 notice is effectuated in accordance with the terms of the policy  
39 and applicable law.

40 The Commissioner may promulgate regulations to implement  
41 this section.

1 SECTION 2. Insurers shall notify elderly insureds of the  
2 provisions of section 193U of chapter one hundred seventy-five  
3 no later than 120 days after its effective date.

1 SECTION 3. Chapter one hundred seventy-six A of the  
2 General Laws, as appearing in the 1988 Official Edition, is hereby  
3 amended by adding after section 8L the following new section: —

4 Section 8M. Notwithstanding any other law or regulation to  
5 the contrary, any corporation that issues, delivers or renews an  
6 individual direct billed Medicare supplement contract under a  
7 hospital service plan to an elderly subscriber or member, shall  
8 permit such elderly subscriber or member to designate a third  
9 party to whom, the corporation shall send any final notice of  
10 payment due. For the purposes of this section, “elderly subscriber  
11 or member” shall mean a Massachusetts resident who is sixty-five  
12 years of age or older at the time the contract or certificate is issued,  
13 delivered or renewed.

14 An elderly subscriber or member may designate a third-party  
15 to receive any final notice of payment due by forwarding such  
16 designation in writing to the corporation. Such third-party  
17 designation shall take effect upon receipt by the corporation. The  
18 designation, on a form prescribed by the Commissioner, shall  
19 include a signed, written agreement by the third-party designee  
20 to receive final notice of payment due. No cause of action in

21 connection with the cancellation or nonrenewal of the contract  
22 or certificate shall arise against any person for serving as third-  
23 party designee. A third-party designee may terminate his or her  
24 status as a third-party designee by providing written notice to the  
25 corporation. Such termination shall take effect upon receipt by  
26 the corporation, provided that the corporation notifies the elderly  
27 subscriber or member in writing that the third-party designation  
28 is no longer in effect. An elderly subscriber or member may revoke  
29 a third-party designation by providing written notice to the  
30 corporation. Such revocation shall take effect upon receipt by the  
31 corporation.

32 The corporation shall notify its elderly subscribers or members  
33 who have not made a third-party designation annually in writing  
34 of the availability of the option to designate a third-party to  
35 receive any final notice of payment due and shall provide  
36 information and assistance on the manner in which the elderly  
37 subscriber or member may make the designation.

38 If a corporation fails to send any final notice of payment due  
39 to the third-party designee in accordance with this section, the  
40 contract or certificate shall remain in effect until such notice is  
41 effectuated in accordance with the terms of the contract or  
42 certificate and applicable law.

43 The Commissioner may promulgate regulations to implement  
44 this section.

1 SECTION 4. The corporation shall notify elderly subscribers  
2 and members of the provisions of section 8M of chapter one  
3 hundred and seventy-six A no later than 120 days after its  
4 effective date.

1 SECTION 5. Chapter one hundred seventy-six B of the  
2 General Laws, as appearing in the 1988 Official Edition, is hereby  
3 amended by adding after section 4L the following new section: —

4 Section 4M. Notwithstanding any other law or regulation to  
5 the contrary, any medical service corporation that issues, delivers  
6 or renews an individual direct billed Medicare supplement  
7 certificate to an elderly subscriber or member, shall permit such  
8 elderly subscriber or member to designate a third party to whom,

9 the corporation shall send any final notice of payment due. For  
10 the purposes of this section, "elderly subscriber or member" shall  
11 mean a Massachusetts resident who is sixty-five years of age or  
12 older at the time the certificate is issued, delivered or renewed.

13 An elderly subscriber or member may designate a third-party  
14 to receive any final notice of payment due by forwarding such  
15 designation in writing to the corporation. Such third-party  
16 designation shall take effect upon receipt by the corporation. The  
17 designation, on a form prescribed by the Commissioner, shall  
18 include a signed, written agreement by the third-party designee  
19 to receive the final notice of payment due. No cause of action in  
20 connection with the cancellation or nonrenewal of the certificate  
21 shall arise against any person for serving as a third-party designee.  
22 A third-party designee may terminate his or her status as a third-  
23 party designee by providing written notice to the corporation.  
24 Such termination shall take effect upon receipt by the corporation,  
25 provided that the corporation notifies the elderly subscriber or  
26 member in writing that the third-party designation is no longer  
27 in effect. An elderly subscriber or member may revoke a third-  
28 party designation by providing written notice to the corporation.  
29 Such revocation shall take effect upon receipt by the corporation.

30 The corporation shall notify its elderly subscribers or members  
31 who have not made a third-party designation annually in writing  
32 of the availability of the option to designate a third-party to  
33 receive any final notice of payment due and shall provide  
34 information and assistance on the manner in which the elderly  
35 subscriber or member may make the designation.

36 If corporation fails to send any final notice of payment due to  
37 the third-party designee in accordance with this section, the  
38 certification shall remain in effect until such notice is effectuated  
39 in accordance with the terms of the certificate and applicable law.

40 The Commissioner may promulgate regulations to implement  
41 this section.

1 SECTION 6. The corporation shall notify elderly subscribers  
2 and members of the provisions of section 4M of chapter one  
3 hundred and seventy-six B no later than 120 days after its effective  
4 date.

1 SECTION 7. Chapter one hundred seventy-six G of the  
2 General Laws, as appearing in the 1988 Official Edition, is  
3 hereby amended by adding after section 4D the following new  
4 section: —

5 Section 4L. Notwithstanding any other law or regulation to the  
6 contrary, any health maintenance organization that issues,  
7 delivers or renews an individual or group health maintenance  
8 contract to an elderly member, shall permit such elderly member  
9 to designate a third party to whom, in addition to the elderly  
10 member, the health maintenance organization shall send any final  
11 notice of payment due. For the purposes of this section, “elderly  
12 member” shall mean a Massachusetts resident who is sixty-five  
13 years of age or older at the time the contract is issued, delivered  
14 or renewed.

15 An elderly member may designate a third-party to receive any  
16 final notice of payment due by forwarding such designation in  
17 writing to the health maintenance organization. Such third-party  
18 designation shall take effect upon receipt by the health  
19 maintenance organization. The designation, on a form prescribed  
20 by the Commissioner, shall include a signed, written agreement  
21 by the third-party designee to receive notification of the final  
22 notice of payment due.

23 No cause of action in connection with the cancellation or  
24 nonrenewal of the contract shall arise against any person for  
25 serving as a third-party designee. A third-party designee may  
26 terminate his or her status as a third-party designee by providing  
27 written notice to the health maintenance organization. Such  
28 termination shall take effect upon receipt by the health  
29 maintenance organization, provided that the health maintenance  
30 organization notifies the elderly member in writing that the third-  
31 party designation is no longer in effect. An elderly member may  
32 revoke a third-party designation by providing written notice to  
33 the health maintenance organization. Such revocation shall take  
34 effect upon receipt by the health maintenance organization.

35 The health maintenance organization shall notify its elderly  
36 members who have not made a third-party designation annually  
37 in writing of the availability of the option to designate a third-  
38 party to receive any final notice of payment due and shall provide

39 information and assistance on the manner in which the elderly  
40 member may make the designation.

41 If a health maintenance organization fails to send the third-  
42 party designee any final notice of payment due in accordance with  
43 this section, the contract shall remain in effect until such notice  
44 is effectuated in accordance with the terms of the contract and  
45 applicable law.

46 The Commissioner may promulgate regulations to implement  
47 this section.

1 SECTION 8. The health maintenance organization shall  
2 notify elderly members of the provisions of section 4L of chapter  
3 one hundred and seventy-six G no later than 120 days after its  
4 effective date.

1 SECTION 9. Section 9 of chapter one hundred seventy-six I  
2 of the General Laws, as appearing in the 1988 Official Edition,  
3 is hereby amended by striking out lines 1 through 11 and inserting  
4 in place thereof the following: —

5 An organization which offers or administers a health benefit  
6 plan under a preferred provider arrangement shall be subjected  
7 to all of the provisions of its enabling or licensing statute and of  
8 any other provisions of the General Laws applicable thereto,  
9 including but not limited to any benefits required to be provided  
10 by law. In connection with any preferred provider arrangement  
11 and activities, an organization shall be considered to be an  
12 insurance company for the purposes of sections one hundred and  
13 ninety-three C, one hundred and ninety-three D, one hundred  
14 and ninety-three L, one hundred and ninety-three M, one  
15 hundred and ninety-three N and one hundred and ninety-three U  
16 of chapter one hundred and seventy-five.

