

By Mr. Buckley of Abington, petition of John R. Buckley for legislation to establish a program of medical care and assistance for certain residents of the Commonwealth. Social Welfare.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT TO ESTABLISH A PROGRAM OF MEDICAL CARE AND ASSISTANCE FOR CERTAIN RESIDENTS OF THE COMMONWEALTH.

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by
2 inserting after chapter 118D the following new chapter:—

3 CHAPTER 118E.

4 (MEDICAID)

5 *Section 1.* There is hereby established, in conjunction with
6 and in conformity to the provisions of Title XIX of the
7 Social Security Act (P.L. 74-271, as most recently amended)
8 a program of medical care and assistance for certain residents
9 of the commonwealth.

10 Benefits of such program shall be available to all persons
11 eligible for financial assistance under the provisions of Gen-
12 eral Laws, chapters one hundred and seventeen, one hundred
13 and eighteen, one hundred and eighteen A, and one hundred
14 and eighteen D.

15 *Section 2.* For the purposes of this program the following
16 terms and phrases as used in this chapter and department
17 rules and regulations shall have the following meanings
18 unless the context clearly requires otherwise.

19 (a) "Person", any individual who resides in the common-
20 wealth, or any individual residing outside the commonwealth
21 who is deemed to be a resident of the commonwealth under
22 the regulations of the Secretary of Health, Education, and

23 Welfare promulgated under the Social Security Act of 1966
24 with respect to medical services.

25 (b) "Reside", to occupy an established place of abode with
26 no present intention of definite and early removal, but not
27 necessarily with the intention of remaining permanently, but
28 in no event shall the word "reside" be construed more
29 restrictively than as defined by the Secretary of Health,
30 Education and Welfare under the Social Security Amend-
31 ments of 1966 as a basis for eligibility, provided, that such
32 definition shall not be construed less restrictively than per-
33 mitted by the Secretary of Health, Education and Welfare.

34 (c) "Institution", any licensed hospital, and licensed nurs-
35 ing home, any public medical institution, or any medical
36 facility operated by municipal, county, state or federal gov-
37 ernments.

38 (d) "Public medical institution", any medical institution
39 supported in whole or in part by public funds, staffed by
40 professional medical and nursing personnel and providing
41 medical care, including nursing and convalescent care, in
42 accordance with standards established through licensing or
43 approval by the department of public health.

44 (e) "Medical Assistance", shall be limited to payment of
45 part or all of the cost of

46 (1) inpatient hospital services, other than services in an
47 institution for tuberculosis or mental diseases;

48 (2) outpatient hospital and clinic services;

49 (3) laboratory and x-ray services;

50 (4) skilled nursing home services, other than services in an
51 institution for tuberculosis or mental diseases;

52 (5) physicians' services;

53 (6) prescribed drugs, eyeglasses, dentures, hearing aids,
54 whole blood, oxygen, and prosthetic devices;

55 (7) dental services;

56 (8) physical therapy and related services;

57 (9) home health care services;

58 (10) diagnostic screening and preventive and rehabilitative
59 services;

60 (11) inpatient hospital services and skilled nursing home
61 services for individuals sixty-five years of age or over in a pub-

- 62 lie medical institution for tuberculosis or mental diseases;
63 (12) transportation to obtain medical care;
64 (13) home nursing services in acute and chronic cases;
65 (14) special nursing services in hospitals when prescribed
66 by a physician;
67 (15) chiropractic services.

68 *Section 3.* The department of public welfare shall cooperate
69 with the appropriate federal authorities in the administration
70 of Title XIX of the Social Security Act (P.L. 74-271), under
71 which grant funds are available to the commonwealth of Massa-
72 chusetts for medical assistance program, and accept for the
73 commonwealth the benefits thereof. The state treasurer shall be
74 the custodian of the funds allotted to the commonwealth under
75 the provisions of said act.

76 *Section 4.* Participation in the program shall be limited to
77 providers of service who accept, as payment in full, the
78 amounts paid in accordance with fee schedules established by
79 the rate setting board.

80 *Section 5.* The department of public welfare shall furnish
81 medical assistance to each eligible person. Payment shall be
82 made to the person or institution supplying medical services.
83 Upon receipt of any application for medical assistance related
84 to chapter one hundred and eighteen D, each medical report
85 form and social history will be reviewed by the department's
86 medical review team who shall be responsible for the agency's
87 decision that the applicant does or does not meet the depart-
88 ment's definition of permanent and total disability.

89 *Section 6.* An application or reapplication by an individual
90 for medical assistance shall be made to the department of pub-
91 lic welfare on forms prepared by the department. Any institu-
92 tion furnishing medical assistance under this chapter shall
93 have the right to make such an application on behalf of an in-
94 dividual, or to intervene if such application is made, and either
95 event shall be entitled to notice, hearing and appeal in the same
96 manner as an applicant. Nothing herein contained, however,
97 shall be construed to grant to such institution any rights which
98 supercede the rights of an applicant.

99 *Section 7.* At least once a year, a person receiving medical
100 assistance under this chapter shall be required to reapply to

101 the department for such assistance under the same conditions
102 as required in the preceding section.

103 *Section 8.* Upon the receipt of such application the de-
104 partment of public welfare shall make full inquiry concerning
105 the eligibility of the applicant, his need for medical assistance
106 and his resources and income, if any, and, promptly and
107 within thirty days after receipt of such application, shall
108 make its decision, which shall be entered in its records. At the
109 time of such initial decision and in the event of any subse-
110 quent decision, the applicant or recipient shall be notified in
111 writing of such decision and shall be informed of the reason
112 therefor and of his right to appeal and of the method by
113 which he may appeal under section sixteen of chapter
114 eighteen.

115 *Section 9.* When the application is approved such medical
116 assistance shall be furnished or paid for from the date of the
117 application. In no event shall such payment be made with
118 respect to any period prior to the date of application. To the
119 extent allowed by such rules or regulations of the Secretary of
120 Health, Education and Welfare, payment for such medical
121 assistance rendered shall be made, to the extent otherwise
122 permitted, where an applicant dies before approval of his
123 application.

124 *Section 10.* Each person eligible for medical assistance
125 under this chapter, but not eligible for a money payment
126 under chapter one hundred and eighteen, one hundred and
127 eighteen A or one hundred and eighteen D, in a licensed
128 nursing home, chronic hospital or public medical institution
129 who has no income or a monthly income of less than twenty-
130 three dollars and sixty cents shall be paid an amount for
131 personal needs which together with an income will provide
132 to the person twenty-three dollars and sixty cents, such
133 payment to be made monthly in advance.

134 When such person is granted medical assistance in a
135 licensed nursing home, chronic hospital or public medical
136 institution, the first twenty-three dollars and sixty cents of
137 any monthly income shall be retained by the person for his
138 personal needs and the excess shall be used towards meeting
139 his medical needs.

140 When such person is granted medical assistance in a
141 licensed nursing home, chronic hospital or public medical
142 institution and has a spouse who lives outside of an institu-
143 tion, such married couple may retain up to two hundred and
144 twenty-five dollars of their combined total monthly income
145 for the maintenance of such spouse, and any excess shall be
146 used towards meeting medical needs; provided, further, that
147 any allowance for personal needs aforementioned shall be
148 available in addition to said income exemption in the manner
149 provided. The amounts mentioned herein shall be revised or
150 amended to comply with the requirements of the Secretary of
151 Health, Education and Welfare.

152 *Section 11.* No lien or encumbrance of any kind except as
153 may be permitted by the Secretary of Health, Education and
154 Welfare, will be required from or be imposed against the
155 property of any individual prior to his death because of
156 medical assistance paid or to be paid on his behalf except
157 pursuant to the judgment of a court on account of benefits
158 incorrectly paid on behalf of a recipient.

159 If medical care and services are provided under this chap-
160 ter and arises out of injury, disease or disability for which
161 a third party may have a liability to pay, the department
162 shall require the person receiving such medical care and
163 services to provide for the reimbursement of the common-
164 wealth for the amounts so expended from the proceeds
165 realized. When such proceeds are actually in hand at time of
166 application they shall be considered a resource toward pay-
167 ment of the cost of such care and services. The department
168 shall promulgate rules and regulations for assuring proper
169 reimbursement.

170 *Section 12.* A convalescent or nursing home furnishing care
171 to an individual who is receiving assistance under the provi-
172 sions of this chapter shall obtain from such individual the
173 name of the pharmacy of his choice, and shall maintain a
174 record of such choice and shall obtain all medicine and drugs
175 prescribed for such individual from such pharmacy and no
176 other, provided that such pharmacy is in the same town as
177 the convalescent or nursing home and maintains a delivery
178 service.

179 *Section 13.* In determining responsibility of any individual
180 for any applicant or recipient of assistance under this
181 chapter, such responsibility shall be limited to spouse for
182 spouse and parents for children under age twenty-one.

183 The department shall formulate standards for determin-
184 ing the extent of such liability.

185 *Section 14.* The department may take such actions as may
186 be necessary for carrying out the purposes of this program in
187 conformity with all requirements governing the allowance of
188 federal aid to the commonwealth as a grant for medical
189 assistance (Title XIX).

190 The department shall adopt, promulgate, amend and
191 rescind rules and regulations suitable or necessary to carrying
192 out the provisions of this chapter and Title XIX of the Social
193 Security Act, as amended, and as interpreted in the policies
194 and requirements of the Secretary of Health, Education and
195 Welfare.

196 The department shall make such reports as may be re-
197 quired by the Secretary of Health, Education and Welfare.

198 *Section 15.* The use or disclosure of information concern-
199 ing applicants and recipients shall be limited to purposes di-
200 rectly connected with the administration of the medical assist-
201 ance program. Publication of lists of names of applicants and
202 recipients is prohibited.

1 SECTION 2. Sections thirteen, fourteen, fifteen, sixteen,
2 seventeen, eighteen, nineteen, twenty-three, twenty-four
3 twenty-seven, thirty, thirty-one, and of chapter one hundred
4 and eighteen A of the general laws are hereby repealed.

1 SECTION 3. Chapter eight hundred and seventy-four of the
2 acts of nineteen hundred and sixty-five is hereby repealed.

1 SECTION 4. All actions, rights of action, proceedings and
2 claims commenced or arising under the provisions of law
3 herein repealed and all rights to reimbursement or adjust-
4 ment accruing under said provisions prior to September first,
5 nineteen hundred and sixty-six shall be enforceable and
6 effective in accordance with the provisions of law in effect at
7 the time such rights or obligations were incurred.

1 SECTION 5. To the extent possible the department of public
2 welfare shall contract with one or more corporations autho-
3 rized to do business in the commonwealth, including non-
4 profit hospital and medical service corporations to carry out
5 the necessary administrative functions of the medical assis-
6 tance program, known as Title XIX. The department may
7 contract for the underwriting of all or any part of the medical
8 assistance program with such corporations.

1 SECTION 6. There shall be a medical assistance advisory
2 council, consisting of not more than thirty members ap-
3 pointed by the governor, including the commissioners of
4 public welfare, public health, mental health, and the commis-
5 sion for the blind and the chairman of the consumer's council,
6 and representatives of each of the following professions and
7 groups:—state level medical, nursing homes, social work,
8 industry, organized labor and the consumers. Terms of each
9 member shall be coterminous with that of the governor
10 although they may continue to serve until their successors are
11 appointed. Members of such council shall serve without
12 compensation, but each member shall be reimbursed by the
13 commonwealth for all expenses incurred in the performance
14 of his official duties.

15 Before March first of each year, the council shall meet for
16 the purpose of organizing and electing from its membership a
17 chairman and a secretary. Notice of such organization shall
18 be made in writing to the secretary of state.

19 Said advisory council shall have the following duties:—

20 (a) It shall advise the governor, the legislature and the
21 state agencies concerned with the administration of the
22 medical care and assistance program as to the efficacy of the
23 program.

24 (b) It shall make such recommendations to the governor
25 and legislature it deems desirable for the improvement of the
26 program.

27 (c) It shall meet at least four times per year and shall
28 convene such special meetings at the call of the chairman of
29 the council, or a majority of the council, and conduct such
30 public hearings as it considers desirable.

1 SECTION 7. This act shall take effect on its passage.

