

By Mr. Kennedy of Brockton, petition of Thomas P. Kennedy relative to the medical eligibility criteria established by the Division of Medical Assistance for nursing facilities serving pediatric patients. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO ELIGIBILITY CRITERIA FOR NURSING HOMES SERVING PEDIATRIC RESIDENTS.

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 4J of Chapter 111 of the General Laws is
2 hereby repealed.

1 SECTION 2. Section 71 of Chapter 111 of the General Laws is
2 hereby amended by inserting after the last paragraph the following
3 paragraphs:—

4 Notwithstanding any general or special law or regulation to the
5 contrary, no nursing home licensed by the department in whole or
6 in part as a skilled nursing care facility for children shall admit an
7 individual under twenty-two years of age for a period of one hun-
8 dred days or less unless said individual meets the medical eligi-
9 bility criteria for nursing facility services established by the
10 division of medical assistance, or receives prior authorization by
11 said individual's private third party health insurer.

12 Notwithstanding any general or special law or regulation to the
13 contrary, no nursing home licensed by the department in whole or
14 in part as a skilled nursing care facility for children shall admit an
15 individual under twenty-two years of age for a period to exceed
16 one hundred days unless said individual meets the medical eligi-
17 bility criteria for nursing facility services established by the divi-
18 sion of medical assistance and is determined by said division to be
19 a multiply-handicapped child, defined as a person under

20 twenty-two years of age with physical manifestations of neuro-
21 logic, musculoskeletal, or organic dysfunction, irrespective of eti-
22 ology, with the prognoses of significant impairment of growth and
23 development and severe limitation of independent functioning, or
24 unless said individual receives prior authorization by said individ-
25 ual's private third party health insurer. Any individual initially
26 admitted to a skilled nursing care facility for children upon
27 meeting the medical eligibility criteria of the division of medical
28 assistance for a period of one hundred days or less must obtain
29 approval for continued eligibility by said division in order to con-
30 tinue residency in said facility beyond one hundred days. Any
31 individual initially admitted into a skilled nursing facility for chil-
32 dren under authorization by a private third party health insurer
33 must obtain approval from the division of medical assistance
34 under the division's medical eligibility criteria for continued resi-
35 dency at said facility prior to the expiration of the third party
36 health insurance coverage.

1 SECTION 3. Chapter 118E of the General Laws is hereby
2 amended by inserting after Section 14A the following section:—

3 Section 14B. Notwithstanding any general or special law or
4 regulation to the contrary, the division shall determine medical
5 eligibility for admittance of children under the age of twenty-two
6 to a skilled nursing care facility for children pursuant to regula-
7 tions codified at 130 Code Mass. Regs. 456.252 as in effect on
8 December 4, 1996.

1 SECTION 4. Chapter 118E of the General Laws as appearing in
2 the 2002 Official Edition is hereby amended by adding after
3 Section 52 the following section:—

4 Section 53. Notwithstanding the provisions of any general or
5 special law or regulation to the contrary, the authority of the office
6 of medicaid and of the division of health care finance and policy
7 to audit a provider rendering services to any person(s) eligible for
8 MassHealth benefits shall be subject to the following limita-
9 tions:—

10 (1) Any audit shall be concluded within four years from the
11 date a provider renders a service(s) or submits a completed cost
12 report affecting the provider's payment for a service(s), whichever

13 is earlier. An audit shall be deemed concluded by the issuance of a
14 final audit report by the agency conducting the audit.

15 (2) A provider in receipt of a final audit report within the time
16 frame specified in subsection (1) may serve on the agency issuing
17 said final audit report a Notice of Objection to Audit Findings.
18 Said Notice of Objection to Audit Findings shall specify each
19 audit finding or item with respect to which the provider objects
20 and shall be served on the agency issuing the final audit report
21 within thirty (30) days of the provider's receipt of said final audit
22 report.

23 A provider may serve a Notice of Objection to Audit Findings
24 regardless of whether any audit finding or item in a final audit
25 report has been incorporated into a rate of payment applicable to
26 the provider.

27 (3) So long as a provider has timely served a Notice of Objec-
28 tion to Audit Findings under subsection (2), the office of Med-
29 icaid shall neither directly nor indirectly recoup or recover from
30 the provider any monies relating to any finding or item in the final
31 audit report to which the Notice of Objection to Audit Findings
32 applies until the provider, if it has filed a Notice of Claim for an
33 Adjudicatory Hearing under subsection (4), has been afforded an
34 adjudicatory hearing as provided for in said subsection (4), and a
35 decision has issued following said adjudicatory hearing.

36 (4) A provider timely serving a Notice of Objection to Audit
37 Findings under subsection (2) shall be entitled to an adjudicatory
38 hearing before the division of administrative law appeals with
39 respect to any audit finding or item challenged in said Notice of
40 Objection to Audit Findings if said provider, within the thirty (30)
41 day period set forth in said subsection (2), files a Notice of Claim
42 for an Adjudicatory Hearing before said division of administrative
43 law appeals to which is appended said Notice of Objection to
44 Audit Findings. The division of administrative law appeals shall
45 expedite an adjudicatory hearing on any Notice of Claim for an
46 Adjudicatory Hearing filed under this subsection (4) so that said
47 adjudicatory hearing and the division's decision thereon is con-
48 cluded within three (3) months of said filing. A party aggrieved by
49 a decision of the division of administrative law appeals under this
50 subsection (4) shall be entitled to seek judicial review of said
51 decision under Section 14 of Chapter 30A of the General Laws. A

52 provider afforded an adjudicatory hearing under this subsection
53 (4) shall not be entitled to relitigate in the context of a rate appeal
54 under Section 9 of Chapter 118G of the General Laws, any audit
55 finding or item set forth in the final audit report giving rise to the
56 provider's Notice of Objection to Audit Findings appended to its
57 Notice of Claim for an Adjudicatory Hearing.

58 (5) The office of medicaid and the division of health care
59 finance and policy shall not subject a provider of services to
60 duplicative audits.

61 (6) An agency issuing a final audit report under subsection (1)
62 may at any time, in writing, reverse an audit finding or item to
63 which a provider has raised objection. A final audit report issued
64 under subsection (1) may not be amended by the issuing agency to
65 add any new or additional audit finding or item unless said new
66 additional finding or item corrects a mechanical error or is neces-
67 sary to redress a provider's fraud.