

By Mr. Petersen of Marblehead, petition of Douglas W. Petersen, Stephen F. Lynch, Louis L. Kafka and Lois G. Pines for legislation to establish a patient choice option for health care coverage. Health Care.

The Commonwealth of Massachusetts

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

AN ACT TO ESTABLISH A PATIENT CHOICE OPTION FOR HEALTH CARE COVERAGE.

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

1 The General Laws are hereby amended by adding, after chapter
2 one hundred seventy-five J, the following new chapter one hun-
3 dred seventy-five K:—

4 Section 1. Definitions. As used in this chapter, the following
5 terms shall have the following meanings:

6 “Commissioner”, the commissioner of insurance.

7 “Eligible person”, any person in the commonwealth eligible to
8 receive health care benefits from a health insurer under the terms
9 and conditions of a policy or contract of the health insurer.

10 “Health care benefits”, medical, surgical or hospital goods and
11 services, or payment or reimbursement for such goods and serv-
12 ices.

13 “Health care provider”, an individual or entity licensed or reg-
14 istered under chapter one hundred eleven or one hundred twelve
15 to provide health care services.

16 “Health insurer”, any person or entity meeting any of the
17 following criteria:

18 (a) a company in the business of insurance in the common-
19 wealth that

20 1. provides health care benefits in the commonwealth pursuant
21 to a contract, or

22 2. issues policies providing benefits or coverage for medical,
23 surgical or hospital expenses within the commonwealth, or

24 3. issues policies of accident or sickness insurance within the
25 commonwealth.

26 (a) a non-profit hospital service corporation governed by
27 chapter one hundred seventy-six A;

28 (b) a non-profit medical service corporation governed by
29 chapter one hundred seventy-six B.

30 (c) a medical service corporation governed by chapter one hun-
31 dred seventy-six C:

32 (d) a non-profit dental service corporation governed by chapter
33 one hundred seventy-six E;

34 (e) a non-profit optometric service corporation governed by
35 chapter one hundred seventy-six F;

36 (f) a health maintenance organization governed by chapter one
37 hundred seventy-six G; and

38 (g) a carrier participating in the medicare supplement market
39 under chapter one hundred seventy-six K.

40 “Network”, a grouping of health care providers who contract
41 with health insurer to provide services for any or all of the health
42 insurer’s plans, policies, contracts, or other arrangements.

43 “Nonparticipating provider”, a health care provider who is not
44 part of a health insurer’s network for a contract or policy for
45 health benefits.

46 “Point of service option”, a choice to be exercised by the
47 person receiving benefits or coverage for medical, surgical or hos-
48 pital expenses to receive services from a nonparticipating provider
49 rather than through a network provider.

50 Section 2. Any health insurer offering to provide health care
51 benefits through a network shall also shall offer to provide such
52 benefits through a point of service option to all eligible persons,
53 subject to the following terms and conditions:

54 (a) the health insurer may require that the eligible person accept
55 or reject the point of service option at the beginning of the term of
56 the contract or policy under which health care benefits are to be
57 provided;

58 (b) where more than one person in a household are eligible per-
59 sons under a single contract or policy for health care benefits, the
60 health insurer may require that all eligible persons in the house-

61 hold accept or reject the point of service option prospectively as
62 previously provided;

63 (c) any additional charge, premium, or cost attributable to the
64 choice by an eligible person to exercise the point of service option
65 shall be just, reasonable and nondiscriminatory;

66 (d) copayments and deductibles for eligible persons exercising
67 the point of service option and receiving goods and services from
68 nonparticipating providers shall not exceed two hundred percent
69 of the copayments and deductibles for health care benefits pro-
70 vided through the health insurer's network;

71 (e) reimbursement to a nonparticipating provider by a health
72 insurer for services shall not be less than reimbursement provided
73 to members of the network in the same locality for the same serv-
74 ices; where, however, there is no fee or rate established for the
75 services provided through the network in the nonparticipating
76 provider's locality, then the nonparticipating provider shall be
77 paid at a level not less than the seventy-fifth percentile of the rea-
78 sonable and customary charge appearing in most recently-pub-
79 lished schedule of fees and charges of the Health Insurance
80 Association of America for the locality in which the service is
81 provided; and

82 (f) the health insurer need not provide reimbursement for a
83 service by a nonparticipating provider that is not covered or reim-
84 bursed when provided through the health insurer's network, nor
85 need a health insurer provide reimbursement for services of a non-
86 participating provider who does not meet the occupational
87 licensing or registration requirements established by the health
88 insurer for participation in its network.

89 Section 3. The commissioner may establish reasonable rules
90 and regulations not inconsistent with this chapter, for health
91 insurers offering point of service options, and may, after notice
92 and hearing revoke the license, charter, or right of any health
93 insurer to do business under chapter one hundred seventy-five,
94 one hundred seventy-six A, one hundred seventy-six B, one hun-
95 dred seventy-six C, one hundred seventy-six E, one hundred
96 seventy six F, one hundred seventy-six G and one hundred seventy
97 six K if such entity or person refuses to comply with the provi-
98 sions of this chapter, and may, after notice and hearing, order any
99 health insurer to comply with the provisions of this chapter.

