

By Mr. Mariano of Quincy, petition of Ronald Mariano and Frank M. Hynes relative to notices of termination of health care services contracts. Insurance.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT TO ENSURE FAIR CONTRACTING FOR HEALTH CARE SERVICES.

1 *Whereas*, The deferred operation of this act would tend to defeat
2 its purpose, which is to protect the rights of patients to receive health
3 care services that are not terminated or reduced without appropriate
4 notice during the applicable contracting period, therefore it is hereby
5 declared to be an emergency law, necessary for the immediate
6 preservation of the public convenience.

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 1 of Chapter 176D of the General Laws,
2 as appearing in the 2000 Official Edition, is hereby amended by
3 striking out subsection (a) in its entirety and inserting in place
4 thereof the following new subsection:—

5 (a) "Person", any individual, corporation, association, partner-
6 ship, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal
7 benefit society, operators of any medical service plan and hospital
8 service plan as defined in chapters one hundred and seventy-five,
9 one hundred and seventy-six A, one hundred and seventy-six B,
10 one hundred and seventy-six C, one hundred and seventy-six E,
11 and one hundred and seventy-six F, one hundred and seventy-six G,
12 insurers and sponsors of a legal services plan as defined in chapter
13 one hundred and seventy-six H, one hundred and seventy-six I;
14 any other legal entity or self insurer which is engaged in the busi-
15 ness of insurance, including agents, brokers, and adjusters; the
16 Massachusetts Insurers Insolvency Fund and any joint under-
17 writing association established pursuant to law.

18 For purposes of this chapter, carriers, as so defined under
19 Section 1 of Chapter 176O of the General Laws, shall be deemed
20 to be engaged in the business of insurance and shall comply with
21 the provisions set forth in this chapter. Provided further that the
22 term “person” shall also include organizations that, any contract
23 with a person as defined above, is authorized to act as a subcon-
24 tractor or otherwise to administer on behalf of such person all or
25 part of the services and benefits that are made available to such
26 person’s insureds, whether under such person’s insurance policy
27 or contract, or by a separate policy or contract issued by the orga-
28 nization on behalf of such person.

1 SECTION 2. Section 3 of Chapter 176D of the General Laws,
2 as so appearing, is further amended by adding at the end thereof
3 the following new subsection:—

4 (13) Any change to a contract with a health care facility or
5 provider, including any change to documents that have been incor-
6 porated into the contract by reference, that is material shall
7 require separate consideration and a written amendment that is
8 signed by all of the parties to the contract. Changes shall be
9 deemed to be material if, among other things, they relate to the
10 scope of covered services, fee schedules or capitation rates, or
11 billing, utilization review, or appeals policies and procedures, or
12 payment policies and terms including the use of software by any
13 person to revise or bundle claims codes submitted by providers,
14 and thereby reduce the payment due to a health care facility or
15 provider, through the unilateral substitution by the person of a dif-
16 ferent code, or set of codes, for the medical procedure or service
17 codes rendered by the health care facility or a provider, and other
18 policies, procedures or guidelines which otherwise alter the terms
19 of the written contract. For the purposes of this subsection, a
20 change shall be deemed to have a material adverse financial
21 impact on a health care facility or provider if it is reasonably
22 expected to have the effect of: (a) reducing reimbursement to the
23 health care facility or provider; (b) requiring changes to the busi-
24 ness operations of the health care facility or provider; or (c)
25 increasing the operating costs of the health care facility or
26 provider. For the purposes of this subsection, notice of a proposed
27 material change shall be issued by a person to a health care

28 facility or provider no less than 90 calendar days prior to the pro-
29 posed effective date of the change, unless in their amendment to
30 the contract the parties agree to waive or alter such notice. The
31 person's notice of any proposed material change shall include a
32 clear description of, and the reason for, the proposed change. The
33 person's notice of a proposed material change that is expected to
34 have a material adverse financial impact on a health care facility
35 or provider that is a party to the contract shall include the person's
36 best estimate of the nature and amount of the anticipated impact
37 on said health care facility or provider.

