

By Mr. Doran of Lexington, petition of Stephen W. Doran and other members of the General Court for legislation to further regulate non-group insurance health plans. Insurance.

The Commonwealth of Massachusetts

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

AN ACT TO REFORM NON-GROUP HEALTH INSURANCE.

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. The General Laws, as appearing in the 1992
2 Official Edition, are hereby amended by adding, following
3 Chapter 176J, a new chapter, Chapter 176K.

4 **CHAPTER 176K.**

5 **DEFINITIONS:**

6 The following terms, as used in this chapter, shall, unless the
7 context requires otherwise, have the following meanings:

8 "Carrier", an insurer licensed or otherwise authorized to trans-
9 act accident and health insurance under chapter one hundred and
10 seventy-five; a non-profit hospital service corporation organized
11 under Chapter one hundred and seventy-six A; a non-profit med-
12 ical service corporation organized under Chapter one hundred and
13 seventy-six B; a health maintenance organization organized under
14 chapter one hundred and seventy-six G; and an insured group
15 health benefit plan that includes a preferred provider arrangement
16 organized under Chapter one hundred and seventy-six I; which
17 issues health benefit plans.

18 "Commissioner", the commissioner of the Division of
19 Insurance.

20 "Community rating", a rating methodology in which the premi-
21 um for all persons covered by a policy or contract form is the

22 same based on the experience of the entire pool of risks covered
23 by that policy or contract form.

24 “Health benefit plan”, a policy of health, accident and sickness
25 insurance issued by an insurer licensed under Chapter one hun-
26 dred and seventy-five; a hospital service plan issued by a non-
27 profit hospital service corporation under Chapter one hundred and
28 seventy-six A; a medical service plan issued by a non-profit med-
29 ical service corporation under Chapter one hundred and seventy-
30 six B; a health maintenance contract issued by a health mainte-
31 nance organization under Chapter one hundred and seventy-six G;
32 an insured health benefit plan that includes a preferred provider
33 arrangement under Chapter one hundred and seventy-six I; and
34 any multiple employer welfare arrangement required to be
35 licensed under Chapter one hundred and seventy-five. The term
36 “health benefit plan” shall not include accident only, credit, dental
37 or disability income insurance, coverage issued as a supplement to
38 liability insurance, insurance arising out of a workers’ compensa-
39 tion or similar law, automobile medical payment insurance, insur-
40 ance under which beneficiaries are payable with or without regard
41 to fault and which is statutorily required to be contained in a li-
42 ability insurance policy or equivalent self-insurance, long-term
43 care only insurance, or any policy which provides supplemental
44 coverage to medicare or other governmental programs.

45 “Health Maintenance Organization”, an organization under and
46 subject to the provisions of Chapter 176 G of the General Laws.

47 “Non-group major plan” a non-group policy which provides
48 coverage as set forth in the division of insurance regulations codi-
49 fied at 211 CMR 42.10 with a deductible of not more than 250
50 dollars per calendar year and an out-of-pocket maximum of not
51 more than fifteen hundred dollars per calendar year.

52 “Non-group managed care plan”, a non-group policy which
53 meets criteria established by the commissioner. These criteria
54 shall include benefit and cost sharing levels consistent with the
55 basic method of operation and the benefit plans of health mainte-
56 nance organizations, including any restrictions imposed by federal
57 law.

58 “Non-group policy”, a health benefit plan for an individual sub-
59 scriber and/or his/her family.

60 “Benefit level”, the health benefits provided by, and the benefit
61 payment structure of, a health benefit plan.

62 “Pre-existing conditions provision”, a health benefit plan provi-
63 sion which excludes or limits coverage as a result of a condition
64 that manifested itself prior to the insured’s effective date of
65 coverage.

1 SECTION 2. Applicability. This chapter applies to all non-
2 group policies issued to, made effective for, delivered to, or
3 renewed by residents of the Commonwealth of Massachusetts.
4 Nothing in this chapter shall be construed to require a carrier
5 which does not issue non-group policies to issue said policies
6 except as provided in Section three.

1 SECTION 3. Issuance of regulated Non-group policies. (a) All
2 carriers, which themselves are corporations established pursuant
3 to Chapters one hundred and seventy-six A and one hundred and
4 seventy-six B, or which are health maintenance organizations
5 organized under Chapter one hundred and seventy-six G, shall be
6 required to offer a Managed Care Plan or Major Medical Plan pre-
7 sent in the non-group market. A Health Maintenance Organization
8 may be exempted by the commissioner from the requirements of
9 this section, if the commissioner makes the determination that
10 compliance by such organization would create a risk of financial
11 impairment. Such findings shall be a public record. (b) All non-
12 profit hospital service corporations and all non-profit medical
13 service corporations organized under Chapter 176 A and Chap-
14 ter 176 B, respectively, shall be required to offer a managed
15 medical plan. (c) A carrier shall not impose a lifetime maximum
16 of benefits on any non-group products.

1 SECTION 4. Enrollment. All carriers shall limit the time dur-
2 ing which they accept individuals for coverage under non-group
3 policies to the period commencing January 1 and ending Febru-
4 ary 28 of each year. Notwithstanding the preceding sentence, car-
5 riers shall be required to accept for coverage at all times through-
6 out the year, individuals who have held, but are no longer eligible
7 for, coverage under another health benefit plan which previous
8 coverage was continuous to a date not more than ninety days prior
9 to the effective date of the new coverage and such other condi-
10 tions as may be defined by the Commissioner.

1 SECTION 5. Renewability of policies. (a) Every non-group
2 policy provided pursuant to the provisions of this chapter shall be
3 renewable by all non-group policyholders at their option. (b) A
4 carrier shall not be required to renew the non-group policy if the
5 holder: (i) has not paid the required premiums; (ii) has misrep-
6 sented information necessary to determine his or her eligibility for
7 specific health benefits; or (iii) fails to comply in a material man-
8 ner with non-group policy provisions.

1 SECTION 6. Underwriting. No non-group policy shall exclude
2 any individual person on the basis of an actual or expected health
3 condition of such a person.

1 SECTION 7. Pre-existing conditions. Non-group policies may
2 include pre-existing conditions provisions which exclude cover-
3 age for a period not to exceed twelve months following the hold-
4 er's effective date of coverage, but such exclusions shall only
5 relate to conditions for which during the twelve months immedi-
6 ately preceding the effective date of coverage, medical advice,
7 diagnosis, care or treatment was recommended or received. No
8 other pre-existing condition provisions shall be permitted.
9 Provided, that a pre-existing condition exclusion will not be
10 applicable to a condition of an insured person when such condi-
11 tion was covered under a previous health benefit plan if the previ-
12 ous coverage was continuous to a date not more than ninety days
13 prior to the effective date of the new coverage. If imposed, the
14 twelve month any preexisting condition exclusion shall be inclu-
15 sive of any applicable waiting period.

1 SECTION 8. Eligibility. All Massachusetts residents not eligi-
2 ble for Medicare shall be eligible for the non-group policies, pro-
3 vided that they are not enrolled in a comparable health benefit
4 plan. No carrier shall otherwise restrict eligibility.

1 SECTION 9. Waiting periods. All non-group policies shall
2 impose, at the carriers discretion, a maximum of six months wait-
3 ing period for service benefits not covered in the subscribers' pre-
4 ceding health benefits plan. No other waiting period shall be
5 permitted.

1 SECTION 10. Community rating. Issuers of non-group poli-
2 cies shall utilize community rating. The Commonwealth of
3 Massachusetts shall be considered a single risk pool for the pur-
4 pose of community rating. The commissioner may establish rules
5 to allow for an orderly transition to full community rating.

1 SECTION 11. Rate changes. (a) All requests for rate changes
2 for all non-group policies issued by carriers subject to this chapter
3 shall be filed with the commissioner and are subject to disap-
4 proval by the commissioner. All rate change requests by Blue
5 Cross and Blue Shield of Massachusetts are subject to the provi-
6 sions of section 6 of Chapter 176 A and Section 4 of Chap-
7 ter 176B, respectively. (b) The contracts and rates shall continue
8 in effect for not less than twelve months after said effective date.

1 SECTION 12. Commissioner Enforcement. The Commissioner
2 shall promulgate regulations to enforce provisions of this chapter.

1 SECTION 13. Conforming Amendments. (a) Chapter one hun-
2 dred and seventy-six A of the General Laws is hereby amended by
3 inserting after Section five, Section five A.

4 "All non-profit hospital service corporations shall be required
5 to offer a non-group insurance product subject to the provisions of
6 Chapter one hundred and seventy-six K".

7 (b) Chapter one hundred and seventy-six B of the General Laws
8 is hereby amended by inserting after Section three, Section
9 three A:

10 "All non-profit medical service corporations shall be required
11 to offer non-group health insurance policies subject to the provi-
12 sions of Chapter one hundred and seventy-six K".

13 (c) Section one A of said Chapter one hundred and seventy-
14 six A of the General Laws, as so appearing, is hereby amended by
15 inserting in line fourteen: "Except as provided for in Section five
16 of Chapter one hundred and seventy six K of the General Laws,"
17 any such corporation shall provide for an annual open enrollment
18 period commencing January 1 and ending February 28 of each
19 year. No other enrollment period shall be permissible.

20 (d) Section four of Chapter one hundred and seventy-six B of
21 the General Laws as so appearing is hereby amended by inserting

22 in line ninety "Except as provided for in Section ten of Chapter
23 one hundred and seventy-six K of the General Laws", in approv-
24 ing or disapproving any rate under this section, the Commissioner
25 shall make a finding on the basis of information submitted by a
26 medical service corporation, that such corporation employs a uti-
27 lization review program and other techniques acceptable to him
28 which have had or are expected to have demonstrated impact on
29 the prevention of reimbursement by such corporations for services
30 which are not medically necessary.

31 (f) Chapter one hundred and seventy-six G of the General
32 Laws, as so appearing, is hereby amended by inserting after
33 Section six, Section six A:

34 "All health maintenance organizations organized under this
35 Chapter shall be required to offer a non-group insurance product
36 subject to the provisions of Chapter one hundred and seventy-
37 six K of the General Laws".

38 Notwithstanding health maintenance organizations included
39 above, carriers subject to the provisions of this chapter who offer
40 a non-group product shall be subject to the provisions of Chapter
41 one hundred and seventy-six K of the General Laws".

42 (g) Section sixteen of Chapter one hundred and seventy-six G,
43 as so appearing, is hereby amended by inserting in line one:
44 "Except as provided for in Section ten of Chapter one hundred and
45 seventy-six K of the General Laws," the subscriber contracts,
46 rates and evidence of coverage shall be subject to the disapproval
47 of the commissioner.

48 (h) Section one hundred and ten of Chapter one hundred and
49 seventy-five of the General Laws, as so appearing, is hereby
50 amended by inserting Section one hundred and ten L to read: "All
51 carriers subject to the provisions of this chapter, who offer a non-
52 group health insurance product are subject to the provisions of
53 Chapter 176K of the General Laws".

