

AN ACT IMPROVING THE QUALITY OF HEALTH CARE AND CONTROLLING COSTS BY REFORMING HEALTH SYSTEMS AND PAYMENTS

The Massachusetts health care reform law enacted in 2006 made Massachusetts the national leader in providing access to health care coverage.

Governor Patrick's legislation is the second chapter of that story. Health care coverage is universally accessible, but still too expensive for families and businesses. This bill will lower health care costs in the Commonwealth by improving the quality of care and delivery of service.

Improving the Quality of Health Care Service:

The existing fee-for-service payment system is outdated in the medical field. Providers who emphasize wellness or help individuals manage chronic medical issues both improve health and reduce system costs, but are not rewarded for those outcomes. Through this legislation, the Commonwealth will change the incentives in the payment system by providing the necessary infrastructure and support for global and other alternative payment methods and innovations.

Specifically, this legislation:

- Encourages the formation of integrated care organizations (commonly referred to as Accountable Care Organizations or "ACOs") by providing standard criteria for ACOs;
- Requires that an ACO be certified by DHCFP, with financial oversight by DOI, and directs DHCFP to standardize alternative payment methodologies;
- Requires that if a contract between payers and ACOs includes a provision for shared savings, requires that savings be shared with consumers;
- Provides that the Attorney General will use existing authority to monitor ACOs to ensure no anti-trust violations occur;

- Aims to expand the use of alternative payment methods and significantly reduce fee-for-service payments by the end of 2015.

Lowering the Cost of Health Care:

Building on the Governor's successful strategy of directing the Commissioner of Insurance to disapprove excessive insurance rate increases for small businesses last year, this legislation clarifies the Commissioner's authority to reject premium increases where the underlying provider rates are themselves excessive. Specifically, the Commissioner will disapprove rates that contain provider increases inconsistent with the following criteria:

- The rate of increase in the state's GDP;
- The rate of increase in total medical expenses in the region as reported by the division of health care finance and policy;
- A provider's rate of reimbursement with a carrier, especially in relation to the carrier's statewide average relative price;
- Whether the carrier and a contracting provider are transitioning from a fee-for-service contract to an alternate contract.

As provider rates decline, carriers are required to factor such savings into the premiums charged to consumers.

Encouraging Further Innovations:

Governor Patrick's legislation recognizes the need to leave room for new ideas for lowering the cost of health care and improving the quality of services. So, this legislation facilitates the use of pilot programs to test other solutions to reduce health care costs. Tapping into the wealth of talent and creativity in our medical community, this bill creates an advisory committee, consisting of 18 members from providers to carriers to organized labor, to ensure an ongoing dialogue about solutions and to assess progress towards the goal of cost reduction to consumers.

This bill ensures transparency of payer and provider costs, provider payments, clinical outcomes, quality measures, and other information necessary to identify and discern the value of health services. This enhanced transparency guarantees that consumers and businesses will have accurate and available information about their health care.

Medical Malpractice Reform:

The Governor's legislation also reforms the medical malpractice liability system to emphasize prompt resolution, de-emphasize "defensive medicine," reduce the number of costly lawsuits and improve care. Specifically, the bill:

- Makes providers' apologies inadmissible in evidence (many studies show that an apology can prevent a lawsuit, but due to the threat of litigation, providers remain silent);
- Establishes a 180-day cooling off period before a party may institute suit;
- Amends the peer review laws to include ACOs;
- Creates a process for providers and aggrieved patients to communicate openly and exchange documents prior to litigation to resolve disputes.