

HOUSE No. 02092

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to mandated benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>Donald Wong</i>	<i>9th Essex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>
<i>Nicholas Boldyga</i>	<i>3rd Hampden</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>David Vieira,</i>	<i>3rd Barnstable</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>

<i>Paul Adams</i>	<i>17th Essex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>

HOUSE No. 02092

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2092) of Adams and others relative to mandated health benefits Joint Committee on Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to mandated benefits.

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 38C of chapter 3 of the General Laws, as most recently amended by section
2 1 of chapter 288 of the Acts of 2010, is hereby further amended by striking subsection (a) and
3 inserting in place thereof the following:-
4 “(a) For the purposes of this section, a mandated health benefit proposal is one that mandates
5 health insurance coverage for specific health services, specific diseases or certain providers of
6 health care services or that affects the operations of health insurers in the administration of
7 health insurance coverage as part of a policy or policies of group life and accidental death and
8 dismemberment insurance covering persons in the service of the commonwealth, and group
9 general or blanket insurance providing hospital, surgical, medical, dental, and other health
10 insurance benefits covering persons in the service of the commonwealth, and their dependents
11 organized under chapter 32A , individual or group health insurance policies offered by an
12 insurer licensed or otherwise authorized to transact accident or health insurance organized under

13 chapter 175 , a nonprofit hospital service corporation organized under chapter 176A, a nonprofit
14 medical service corporation organized under chapter 176B , a health maintenance organization
15 organized under chapter 176G , or an organization entering into a preferred provider
16 arrangement under chapter 176I , any health plan issued, renewed, or delivered within or without
17 the commonwealth to a natural person who is a resident of the commonwealth, including a
18 certificate issued to an eligible natural person which evidences coverage under a policy or
19 contract issued to a trust or association for said natural person and his dependent, including said
20 person's spouse organized under chapter 176M.”.

21

22 SECTION 2. Subsection (d) of said section 38C of said chapter 3, as so appearing, is hereby
23 amended by striking subdivision (1) and inserting in place thereof the following:-

24 “(1) the financial impact of mandating the benefit, including the extent to which the proposed
25 insurance coverage would increase or decrease the cost of the treatment or service over the next
26 5 years, the extent to which the proposed coverage might increase the appropriate or
27 inappropriate use of the treatment or service over the next 5 years, the extent to which the
28 mandated treatment or service might serve as an alternative for more expensive or less expensive
29 treatment or service, the extent to which the insurance coverage may affect the number and types
30 of providers of the mandated treatment or service over the next 5 years, the effects of mandating
31 the benefit on the cost of health care, particularly the premium, administrative expenses and
32 indirect costs of municipalities, large employers, small employers, employees and nongroup
33 purchasers, the potential benefits and savings to municipalities, large employers, small
34 employers, employees and nongroup purchasers, the effect of the proposed mandate on cost

35 shifting between private and public payors of health care coverage, the cost to health care
36 consumers of not mandating the benefit in terms of out of pocket costs for treatment or delayed
37 treatment and the effect on the overall cost of the health care delivery system in the
38 commonwealth;”.

39 SECTION 3. Chapter 118G of the General Laws, as appearing in the 2008 Official Edition, is
40 hereby amended by inserting the following section:-

41 “Section 42. (a) For the purposes of this section, a mandated health benefit is a statutory or
42 regulatory requirement that mandates health insurance coverage for specific health services,
43 specific diseases or certain providers of health care services as part of a policy or policies of
44 group life and accidental death and dismemberment insurance covering persons in the service of
45 the commonwealth, and group general or blanket insurance providing hospital, surgical, medical,
46 dental, and other health insurance benefits covering persons in the service of the commonwealth,
47 and their dependents organized under chapter 32A , individual or group health insurance policies
48 offered by an insurer licensed or otherwise authorized to transact accident or health insurance
49 organized under chapter 175 , a nonprofit hospital service corporation organized under chapter
50 176A , a nonprofit medical service corporation organized under chapter 176B , a health
51 maintenance organization organized under chapter 176G , or an organization entering into a
52 preferred provider arrangement under chapter 176I , any health plan issued, renewed, or
53 delivered within or without the commonwealth to a natural person who is a resident of the
54 commonwealth, including a certificate issued to an eligible natural person which evidences
55 coverage under a policy or contract issued to a trust or association for said natural person and his
56 dependent, including said person's spouse organized under chapter 176M.

57 (b) Joint committees of the general court and the house and senate committees on ways and
58 means when reporting favorably on mandated health benefits bills referred to them shall include
59 a review and evaluation conducted by the division of health care finance and policy pursuant to
60 this section.

61 (c) Upon request of a joint standing committee of the general court having jurisdiction or the
62 committee on ways and means of either branch, the division of health care finance and policy
63 shall conduct a review and evaluation of the mandated health benefit proposal, in consultation
64 with other relevant state agencies, and shall report to the committee within 90 days of the
65 request. If the division of health care finance and policy fails to report to the appropriate
66 committee within 45 days, said committee may report favorably on the mandated health benefit
67 bill without including a review and evaluation from the division.

68 (d) Any state agency or any board created by statute, including but not limited to the Board of
69 the Commonwealth Connector, the Department of Health, the Division of Medical Assistance or
70 the Division of Insurance that proposes to add a mandated health benefit by rule, bulletin or other
71 guidance must request that a review and evaluation of that proposed mandated health benefit be
72 conducted by the division of health care finance and policy pursuant to this section. The report
73 on the mandated health benefit by the division of health care finance and policy must be received
74 by the agency or board and available to the public at least 30 days prior to any public hearing on
75 the proposal. If the division of health care finance and policy fails to report to the agency or
76 board within 45 days of the request, said agency or board may proceed with a public hearing on
77 the mandated health benefit proposal without including a review and evaluation from the
78 division.

79 (e) Any party or organization on whose behalf the mandated health benefit was proposed shall
80 provide the division of health care finance and policy with any cost or utilization data that they
81 have. All interested parties supporting or opposing the proposal shall provide the division of
82 health care finance and policy with any information relevant to the division's review. The
83 division shall enter into interagency agreements as necessary with the division of medical
84 assistance, the group insurance commission, the department of public health, the division of
85 insurance, and other state agencies holding utilization and cost data relevant to the division's
86 review under this section. Such interagency agreements shall ensure that the data shared under
87 the agreements is used solely in connection with the division's review under this section, and that
88 the confidentiality of any personal data is protected. The division of health care finance and
89 policy may also request data from insurers licensed or otherwise authorized to transact accident
90 or health insurance under chapter 175 , nonprofit hospital service corporations organized under
91 chapter 176A , nonprofit medical service corporations organized under chapter 176B , health
92 maintenance organizations organized under chapter 176G , and their industry organizations to
93 complete its analyses. The division of health care finance and policy may contract with an
94 actuary, or economist as necessary to complete its analysis.

95 The report shall include, at a minimum and to the extent that information is available, the
96 following: (1) the financial impact of mandating the benefit, including the extent to which the
97 proposed insurance coverage would increase or decrease the cost of the treatment or service over
98 the next 5 years, the extent to which the proposed coverage might increase the appropriate or
99 inappropriate use of the treatment or service over the next 5 years, the extent to which the
100 mandated treatment or service might serve as an alternative for more expensive or less expensive
101 treatment or service, the extent to which the insurance coverage may affect the number and types

102 of providers of the mandated treatment or service over the next 5 years, the effects of mandating
103 the benefit on the cost of health care, particularly the premium, administrative expenses and
104 indirect costs of municipalities, large employers, small employers, employees and nongroup
105 purchasers, the potential benefits and savings to municipalities, large employers, small
106 employers, employees and nongroup purchasers, the effect of the proposed mandate on cost
107 shifting between private and public payors of health care coverage, the cost to health care
108 consumers of not mandating the benefit in terms of out of pocket costs for treatment or delayed
109 treatment and the effect on the overall cost of the health care delivery system in the
110 commonwealth; (2) the medical efficacy of mandating the benefit, including the impact of the
111 benefit to the quality of patient care and the health status of the population and the results of any
112 research demonstrating the medical efficacy of the treatment or service compared to alternative
113 treatments or services or not providing the treatment or service; and (3) if the proposal seeks to
114 mandate coverage of an additional class of practitioners, the results of any professionally
115 acceptable research demonstrating the medical results achieved by the additional class of
116 practitioners relative to those already covered and the methods of the appropriate professional
117 organization that assures clinical proficiency.”.

118 SECTION 4. Section 1 of chapter 175, as so appearing, is hereby amended by inserting the
119 following definitions:—

120 ““Flexible health benefit policy” means a health insurance policy that in whole or in part, does
121 not offer state mandated health benefits.

122 “State mandated health benefits” means coverage required or required to be offered in the
123 general or special laws as part of a policy of accident or sickness insurance that:

- 124 1. includes coverage for specific health care services or benefits;
- 125 2. places limitations or restrictions on deductibles, coinsurance, copayments, or
- 126 any annual or lifetime maximum benefit amounts; or
- 127 3. includes a specific category of licensed health care practitioner from whom an
- 128 insured is entitled to receive care.

129 “Policy of Accident and Sickness Insurance,” any policy or contract covering the kind or kinds

130 of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47 of this

131 chapter.”.

132

133 SECTION 5. Section 108 of said chapter 175, as so appearing, is hereby amended by inserting

134 after subsection 12 the following subsection:—

135 “13. A carrier authorized to transact individual policies of accident or sickness insurance under

136 this section may offer a flexible health benefit policy, provided however, that for each sale of a

137 flexible health benefit policy the carrier shall provide to the prospective policyholder written

138 notice describing the state mandated health benefits that are not included in the policy and

139 provide to the prospective individual policyholder the option of purchasing at least one health

140 insurance policy that provides all state mandated health benefits.”.

141

142 SECTION 6. Section 110 of said chapter 175, as so appearing, is hereby amended by inserting

143 after subsection (P) the following:—

144 “(Q) A carrier authorized to transact group policies of accident or sickness insurance under this
145 section may offer one or more flexible health benefit policies; provided however, that for each
146 sale of a flexible health benefit policy the carrier shall provide to the prospective group
147 policyholder written notice describing the state mandated benefits that are not included in the
148 policy and provide to the prospective group policyholder the option of purchasing at least on
149 health insurance policy that provides all state mandated benefits. The carrier shall provide each
150 subscriber under a group policy upon enrollment with written notice stating that this a flexible
151 health benefit policy and describing the state mandated health benefits that are not included in
152 the policy.”.

153 SECTION 7. Said chapter 175, as so appearing, is hereby amended by inserting after section
154 111H the following:-

155 “Section 111I. (a) Except as otherwise provided in this section, the commissioner shall not
156 disapprove a policy of accident and sickness insurance which provides hospital expense and
157 surgical expense insurance solely on the basis that it does not include coverage for at least 1
158 mandated benefit.

159 (b) The commissioner shall not approve a policy of accident and sickness insurance which
160 provides hospital expense and surgical expense insurance unless it provides, at a minimum,
161 coverage for:

162 (1) pregnant women, infants and children as set forth in section 47C;

163 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;

164 (3) cytologic screening and mammographic examination as set forth in section 47G;

165 (3A)diabetes-related services, medications, and supplies as defined in section 47N;

166 (4) early intervention services as set forth in said section 47C; and

167 (5) mental health services as set forth in section 47B; provided however, that if the policy
168 limits coverage for outpatient physician office visits, the commissioner shall not disapprove the
169 policy on the basis that coverage for outpatient mental health services is not as extensive as
170 required by said section 47B, if the coverage is at least as extensive as coverage under the policy
171 for outpatient physician services.

172 (c) The commissioner shall not approve a policy of accident and sickness insurance which
173 provides hospital expense and surgical expense insurance that does not include coverage for at
174 least one mandated benefit unless the carrier continues to offer at least one policy that provides
175 coverage that includes all mandated benefits.

176 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this chapter that
177 requires coverage for specific health services, specific diseases or certain providers of health
178 care.

179 (e) The commissioner may promulgate rules and regulations as are necessary to carry out this
180 section.

181 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
182 commissioner under this section shall be available to an employer who has provided a policy of
183 accident and sickness insurance to any employee within 12 months.”.

184 SECTION 8. Chapter 176A, as so appearing, is hereby amended by adding after section 1D the
185 following two sections:—

186 “Section 1E. Definitions

187 The following words, as used in this chapter, unless the text otherwise requires or a different
188 meaning is specifically required, shall mean-

189 “Flexible health benefit policy” means a health insurance policy that in whole or in part, does not
190 offer state mandated health benefits.

191 "State mandated health benefits" means coverage required or required to be offered
192 in the general or special laws as part of a policy of accident or sickness insurance that:

- 193 1. includes coverage for specific health care services or benefits;
- 194 2. places limitations or restrictions on deductibles, coinsurance, copayments, or
195 any annual or lifetime maximum benefit amounts; or
- 196 3. includes a specific category of licensed health care practitioner from whom an
197 insured is entitled to receive care.

198 “Policy of Accident and Sickness Insurance,” any policy or contract covering the kind or kinds
199 of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47 of
200 chapter 175 of the general laws.

201

202 Section 1F. (a) Except as otherwise provided in this section, the commissioner shall not
203 disapprove a contract between a subscriber and the corporation under an individual or group

204 hospital services plan solely on the basis that it does not include coverage for at least one
205 mandated benefit.

206 (b) The commissioner shall not approve a contract unless it provides, at a minimum, coverage
207 for:

208 (1) pregnant women, infants and children as set forth in section 47C;

209 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;

210 (3) cytologic screening and mammographic examination as set forth in section 47G;

211 (3A)diabetes-related services, medications, and supplies as defined in section 47N;

212 (4) early intervention services as set forth in said section 47C; and

213 (5) mental health services as set forth in section 47B; provided however, that if the policy
214 limits coverage for outpatient physician office visits, the commissioner shall not disapprove the
215 policy on the basis that coverage for outpatient mental health services is not as extensive as
216 required by said section 47B, if the coverage is at least as extensive as coverage under the policy
217 for outpatient physician services.

218 (c) The commissioner shall not approve a contract that does not include coverage for at least one
219 mandated benefit unless the corporation continues to offer at least one contract that provides
220 coverage that includes all mandated benefits.

221 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this chapter that
222 requires coverage for specific health services, specific diseases or certain providers of health
223 care.

224 (e) The commissioner may promulgate rules and regulations as are necessary to carry out this
225 section.

226 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
227 commissioner under this section shall be available to an employer who has provided a hospital
228 services plan, to any employee within 12 months.”.

229 SECTION 9. Section 8 of chapter 176A, as so appearing, is hereby amended by inserting after
230 subsection (g) the following:—

231 “(h) A non-profit hospital service corporation authorized to transact individual policies of
232 accident or sickness insurance under this section may offer a one flexible health benefit policy,
233 provided however, that for each sale of a flexible health benefit policy the non-profit hospital
234 service corporation shall provide to the prospective policyholder written notice describing the
235 state mandated health benefits that are not included in the policy and provide to the prospective
236 individual policyholder the option of purchasing at least one health insurance policy that
237 provides all state mandated health benefits.

238 (i) A non-profit hospital service corporation authorized to transact group policies of accident or
239 sickness insurance under this section may offer one or more flexible health benefit policies;
240 provided however, that for each sale of a flexible health benefit policy the non-profit hospital
241 service corporation shall provide to the prospective group policyholder written notice describing
242 the state mandated benefits that are not included in the policy and provide to the prospective
243 group policyholder the option of purchasing at least on health insurance policy that provides all
244 state mandated benefits. The non-profit hospital service corporation shall provide each
245 subscriber under a group policy upon enrollment with written notice stating that this a flexible

246 health benefit policy and describing the state mandated health benefits that are not included in
247 the policy.”.

248

249 SECTION 10. Section 1 of Chapter 176B, as so appearing, is hereby amended by inserting the
250 following new definitions:—

251 ““Flexible health benefit policy” means a health insurance policy that in whole or in part, does
252 not offer state mandated health benefits.

253 "State mandated health benefits" means coverage required or required to be offered in the
254 general or special laws as part of a policy of accident or sickness insurance that:

- 255 1. includes coverage for specific health care services or benefits;
- 256 2. places limitations or restrictions on deductibles, coinsurance, copayments, or
257 any annual or lifetime maximum benefit amounts; or
- 258 3. includes a specific category of licensed health care practitioner from whom an
259 insured is entitled to receive care.

260

261 “Policy of Accident and Sickness Insurance,” any policy or contract covering the kind or kinds
262 of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47 of
263 chapter 175 of the general laws.”.

264

265 SECTION 11. Section 4 of chapter 176B, as so appearing, is hereby amended by inserting the
266 following paragraphs at the end thereof:—

267 “A medical service corporation authorized to transact individual policies of accident or sickness
268 insurance under this chapter may offer a one flexible health benefit policy, provided however,
269 that for each sale of a flexible health benefit policy the medical service corporation shall provide
270 to the prospective policyholder written notice describing the state mandated health benefits that
271 are not included in the policy and provide to the prospective individual policyholder the option
272 of purchasing at least one health insurance policy that provides all state mandated health
273 benefits.

274 A medical service corporation authorized to transact group policies of accident or sickness
275 insurance under this section may offer one or more flexible health benefit policies; provided
276 however, that for each sale of a flexible health benefit policy the medical service corporation
277 shall provide to the prospective group policyholder written notice describing the state mandated
278 benefits that are not included in the policy and provide to the prospective group policyholder the
279 option of purchasing at least one health insurance policy that provides all state mandated benefits.

280 The medical service corporation shall provide each subscriber under a group policy upon
281 enrollment with written notice stating that this a flexible health benefit policy and describing the
282 state mandated health benefits that are not included in the policy.”.

283 SECTION 12. Said chapter 176B, as so appearing, is hereby amended by inserting after section
284 6B the following section:-

285 “Section 6C. (a) Except as otherwise provided in this section, the commissioner shall not
286 disapprove a subscription certificate solely on the basis that it does not include coverage for at
287 least one mandated benefit.

288 (b) The commissioner shall not approve a subscription certificate unless it provides, at a
289 minimum, coverage for:

290 (1) pregnant women, infants and children as set forth in section 47C;

291 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;

292 (3) cytologic screening and mammographic examination as set forth in section 47G;

293 (3A)diabetes-related services, medications, and supplies as defined in section 47N;

294 (4) early intervention services as set forth in said section 47C; and

295 (5) mental health services as set forth in section 47B; provided however, that if the policy
296 limits coverage for outpatient physician office visits, the commissioner shall not disapprove the
297 policy on the basis that coverage for outpatient mental health services is not as extensive as
298 required by said section 47B, if the coverage is at least as extensive as coverage under the policy
299 for outpatient physician services.

300 (c) The commissioner shall not approve a subscription certificate that does not include coverage
301 for at least 1 mandated benefit unless the corporation continues to offer at least one subscription
302 certificate that provides coverage that includes all mandated benefits.

303 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this chapter that
304 requires coverage for specific health services, specific diseases or certain providers of health
305 care.

306 (e) The commissioner may promulgate rules and regulations as are necessary to carry out this
307 section.

308 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
309 commissioner under this section shall be available to an employer who has provided a
310 subscription certificate, to any employee within 12 months.”.

311 SECTION 13. Section 1 of chapter 176G, as so appearing, is hereby amended by inserting the
312 following new definitions:—

313 ““Flexible health benefit policy” means a health insurance policy that in whole or in part, does
314 not offer state mandated health benefits.

315 "State mandated health benefits" means coverage required or required to be offered in the
316 general or special laws as part of a policy of accident or sickness insurance that:

- 317 1. includes coverage for specific health care services or benefits;
- 318 2. places limitations or restrictions on deductibles, coinsurance, copayments, or
319 any annual or lifetime maximum benefit amounts; or
- 320 3. includes a specific category of licensed health care practitioner from whom an
321 insured is entitled to receive care.

322 “Policy of Accident and Sickness Insurance,” any policy or contract covering the kind or kinds
323 of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47 of
324 chapter 175 of the general laws.”.

325

326 SECTION 14. Section 4 of chapter 176G, as most recently amended by section 97 of chapter
327 131 of the acts of 2010, hereby further amended by adding the following paragraph at the end
328 thereof:—

329 “A health maintenance organization authorized to transact individual policies of accident or
330 sickness insurance under this chapter may offer a one flexible health benefit policy, provided
331 however, that for each sale of a flexible health benefit policy the health maintenance
332 organization shall provide to the prospective policyholder written notice describing the state
333 mandated health benefits that are not included in the policy and provide to the prospective
334 individual policyholder the option of purchasing at least one health insurance policy that
335 provides all state mandated health benefits.”.

336

337 SECTION 15. Chapter 176G, as most recently amended by section 5 of chapter 207 of the acts
338 of 2010, is hereby further amended by inserting after section 4V the following section:-

339 “Section 4W. A health maintenance organization authorized to transact group policies of
340 accident or sickness insurance under this chapter may offer one or more flexible health benefit
341 policies; provided however, that for each sale of a flexible health benefit policy the health
342 maintenance organization shall provide to the prospective group policyholder written notice

343 describing the state mandated benefits that are not included in the policy and provide to the
344 prospective group policyholder the option of purchasing at least one health insurance policy that
345 provides all state mandated benefits. The health maintenance organization shall provide each
346 subscriber under a group policy upon enrollment with written notice stating that this is a flexible
347 health benefit policy and describing the state mandated health benefits that are not included in
348 the policy.”.

349

350 SECTION 16. Chapter 176G of the General Laws, as appearing in the 2008 Official Edition, is
351 hereby amended by inserting after Section 16B the following section:-

352 Section 16C. (a) Except as otherwise provided in this section, the commissioner shall not
353 disapprove a health maintenance contract solely on the basis that it does not include coverage for
354 at least one mandated benefit.

355 (b) The commissioner shall not approve a health maintenance contract unless it provides
356 coverage for:

357 (1) pregnant women, infants and children as set forth in section 47C;

358 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;

359 (3) cytologic screening and mammographic examination as set forth in section 47G;

360 (3A) diabetes-related services, medications, and supplies as defined in section 47N;

361 (4) early intervention services as set forth in said section 47C; and

362 (5) mental health services as set forth in section 47B; provided however, that if the policy
363 limits coverage for outpatient physician office visits, the commissioner shall not disapprove the
364 policy on the basis that coverage for outpatient mental health services is not as extensive as
365 required by said section 47B, if the coverage is at least as extensive as coverage under the policy
366 for outpatient physician services.

367 (c) The commissioner shall not approve a health maintenance contract that does not include
368 coverage for at least one mandated benefit unless the health maintenance organization continues
369 to offer at least one health maintenance contract that provides coverage that includes all
370 mandated benefits.

371 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this chapter that
372 requires coverage for specific health services, specific diseases or certain providers of health
373 care.

374 (e) The commissioner may promulgate rules and regulations as are necessary to carry out the
375 provisions of this section.

376 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
377 commissioner under this section shall be available to an employer who has provided a health
378 maintenance contract, to any employee within 12 months.

379 SECTION 17. Section 1 of chapter 176M, as so appearing, is hereby amended by inserting the
380 following new definitions:—

381 ““Flexible health benefit policy” means a health insurance that, in whole or in part, does not
382 offer state mandated health benefits.

383 "State mandated health benefits" means coverage required to be offered any general or special
384 law that:

- 385 1. includes coverage for specific health care services or benefits;
- 386 2. places limitations or restrictions on deductibles, coinsurance, copayments, or
387 any annual or lifetime maximum benefit amounts; or
- 388 3. includes a specific category of licensed health care practitioner from whom an
389 insured is entitled to receive care.”.

390

391 SECTION 18. Section 2 of chapter 176M, as most recently amended by section 35 of chapter
392 288 of the acts of 2010, is hereby further amended by striking out the first sentence of subsection
393 (d) and inserting in place thereof the following:-

394 “A carrier that participates in the nongroup health insurance market shall make available to
395 eligible individuals a standard guaranteed health plan established pursuant to paragraph (c) and
396 may additionally make available to eligible individuals no more than two alternative guaranteed
397 issue health plans, one of which may be a flexible health benefit policy, with benefits and cost
398 sharing requirements, including deductibles, that differ from the standard guaranteed issue health
399 plan.”.

400

401 SECTION 19. Notwithstanding any general or special law to the contrary, it shall be the policy
402 of the general court to impose a moratorium on all new mandated health benefit legislation until

403 the later of July 31, 2012, or until the rate of increase in the Consumer Price Index (CPI) for
404 medical care services as reported by the United States Bureau of Labor Statistics remains at zero
405 or below zero for two consecutive years.