

HOUSE No. 3920

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, December 23, 2015.

The committee on Financial Services to whom was referred the joint petition (accompanied by bill, House, No. 871) of Kate Hogan, Karen E. Spilka and others relative to common summary of payments forms for health care services, reports recommending that the accompanying bill (House, No. 3920) ought to pass.

For the committee,

AARON MICHLEWITZ.

HOUSE No. 3920

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to protect access to confidential healthcare.

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.

2 Chapter 176O of the General Laws is hereby amended by striking out section 27
3 and inserting in place thereof the following:-

4 Section 27. (a) The division shall develop a common summary of payments form
5 to be used by all carriers in the commonwealth that is provided to health care consumers with
6 respect to provider claims submitted to a payer and written in an easily readable and
7 understandable format showing the consumer’s responsibility, if any, for payment of any portion
8 of a health care provider claim; provided that the division shall allow the development of forms
9 to be exchanged securely through electronic means; and further provided that carriers shall not
10 be obligated to issue a summary of payments form for provider claims that consist solely of
11 requests for co-payment. The division shall consult with stakeholders to develop these forms.

12 (b) Carriers shall issue common summary of payments forms at the member level for all
13 insureds. Carriers may establish a standard method of delivery of summary of payments forms.

14 All carriers shall permit an insured who is legally authorized to consent to care, or a party legally
15 authorized to consent to care for the insured, to choose an alternative method of receiving the
16 common summary of payments form, which shall include, but not be limited to, the following:
17 (1) sending a paper form to the address of the subscriber; (2) sending a paper form to the address
18 of the insured dependent; (3) sending a paper form to any alternate address upon request of the
19 insured; or (4) allowing only the insured to access said form through electronic means whenever
20 available, provided that such access is provided in compliance with any applicable state and
21 federal laws and regulations pertaining to data security, including without limitation 45 CFR Part
22 160 and 45 CFR Subparts A and C of Part 164, M.G.L. c. 93H, M.G.L. c. 93I , and 201 C.M.R.
23 17.00, as may be amended; and provided further that any insured dependent who is legally
24 authorized to consent to certain care shall have access to said forms through the means described
25 in section 4 of this paragraph for said care. The preferred method of receipt shall be valid until
26 the insured submits a request orally or in writing for a different method, provided that the carrier
27 may request verification of the request in writing following an oral request. Carriers shall comply
28 with an insured's request pursuant to this paragraph within three business days of the request.

29 (c) In the event that the insured has no liability for payment for any procedure or
30 service, including, but not limited to, the United States Preventive Services Taskforce
31 recommended A and B preventive services, a carrier may elect not to provide a common
32 summary of payments form; provided that the carrier shall be required to provide the form for
33 that procedure or service upon request of the insured pursuant to subsection (b).

34 (d) Carriers shall not identify the descriptions for sensitive health care services in
35 a common summary of payments form. The division shall define sensitive health care services
36 for purposes of this section and, in determining such definition, shall consider the National

37 Committee on Vital and Health Statistics and similar regulations in other states, and shall consult
38 with experts in fields including, but not limited to, infectious disease, reproductive and sexual
39 health, domestic violence and sexual assault, and mental health and substance use disorders.

40 (e) In the event that the insured has no liability for payment for any procedure or
41 service, carriers shall permit all insureds who are legally authorized to consent to care, or parties
42 legally authorized to consent to care for the insured, to request suppression of summary of
43 payments forms for a specific service or procedure, in which case summary of payments forms
44 shall not be issued; provided that the insured clearly makes the request orally or in writing.
45 Carriers shall not require an explanation as to the basis for an insured's confidential
46 communications request, unless otherwise required by law or court order.

47 (f) The right to request the preferred method of receipt pursuant to subsection (b)
48 and to request suppression of summary of payments forms pursuant to subsection (e) shall be
49 communicated in plain language and in a clear and conspicuous manner in evidence of coverage
50 documents, member privacy communications and on every summary of payments form, and
51 shall be conspicuously displayed on the carrier's member website and online portals for
52 individual members .

53 (g) The division shall, no later than three months after the effective date of this
54 act, promulgate final regulations necessary to implement and enforce this section, which shall
55 include reasonable reporting by carriers to the division regarding compliance and the number and
56 type of complaints received regarding noncompliance with this section.

57 (h) The division, in collaboration with the department of public health, shall
58 develop and implement a plan to educate providers and consumers regarding the rights of

59 insureds and responsibilities of carriers to promote compliance with this section. The plan shall
60 include, but not be limited to, staff training and other education for hospitals, community health
61 centers, school-based health centers, physicians, nurses and other licensed health care
62 professionals, as well as administrative staff, which shall include all staff involved in patient
63 registration and education about confidentiality, and billing staff involved in processing of
64 insurance claims. The plan shall be developed in consultation with groups representing health
65 care insurers, providers, and consumers, including consumer organizations concerned with the
66 provision of sensitive health services.

67 SECTION 2. Subsection (h) of Chapter 176O shall take effect six months from the
68 effective date of this act.

69 Subsections (b)-(f) of Section 27 of Chapter 176O shall take effect nine months
70 from the promulgation of the final regulations pursuant to subsection (g).