

SENATE No. 2414

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, Thursday, December 18, 2014

The committee on Ethics and Rules, to whom was referred the Senate relative to observation services (Senate, No. 2313),- reports, recommending that the same ought to pass with an amendment substituting a new draft of the same title (Senate, No. 2414).

For the committee,
Stanley C. Rosenberg

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An Act relative to observation services.

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. Chapter 111 of the General Laws is hereby amended by inserting after
2 section 51J the following section:-

3 Section 51K. For the purposes of this section, the term “at-risk patient” shall mean an
4 individual that the department of public health determines to be at-risk of incurring substantial or
5 unexpected financial liability as a result of receiving observation services in a hospital,
6 including, but not limited to, patients eligible for benefits under Medicare.

7 The department of public health, in consultation with the executive office of health and
8 human services, the division of insurance and the group insurance commission, shall promulgate
9 regulations establishing notice standards for at- risk patients who are under observation in a
10 hospital. The regulations shall require that:

11 (a) the notice be provided to at-risk patients receiving observation services or inpatient
12 services;

13 (b) at-risk patients, who are receiving observation services, be provided an explanation of
14 the possible financial liability related to such services and an explanation about how observation
15 status may impact the costs of subsequent treatment after discharge or transfer; and

16 (c) the notice include an explanation that services may be re-classified retroactively by a
17 carrier or their contractors.

18 SECTION 2. Notwithstanding any general or special law to the contrary, the executive
19 office of health and human services shall form an advisory committee of hospital, nursing home
20 and other provider representatives to assist with the development of a statewide 2-year pilot
21 program managed by the executive office of health and human services, which shall waive the
22 requirement that a patient shall complete an inpatient stay lasting at least 3 consecutive days in
23 order to obtain coverage under Medicare for post-hospital extended care services, as defined in
24 42 U.S.C. § 1395x (i), in a skilled nursing facility. The pilot proposal shall be submitted to the
25 federal Centers for Medicare and Medicaid Services, not later than July 1, 2015, for their
26 consideration.

27 The executive office of health and human services shall report to the clerks of the house
28 of representatives and the senate, not later than January 1, 2016, on the status of the pilot
29 program and whether the commonwealth should seek a waiver or other exemption, from the
30 federal Centers for Medicare and Medicaid Services, from the rule that reimbursement of
31 Medicare fee-for-service post-hospital extended care services in a skilled nursing facility is not
32 available unless the admission follows a prior hospital inpatient stay lasting at least 3 consecutive
33 days.