

**SENATE . . . . . No. 607**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Edward J. Kennedy*

*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 adoption of the accompanying bill:

An Act reducing the financial burden of surprise medical bills for patients.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2019</i>

**SENATE . . . . . No. 607**

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By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 607) of Edward J. Kennedy, Patrick M. O'Connor and James B. Eldridge for legislation to reduce the financial burden of surprise medical bills for patients. Financial Services.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 522 OF 2017-2018.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act reducing the financial burden of surprise medical bills for patients.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 176O of the General Laws, as so appearing, is hereby amended by inserting after  
2 Section 27 the following new section:-

3 Section 28. (a) Definitions. For the purposes of this section:

4 (1) "Emergency services" means, with respect to an emergency medical condition: (1) a  
5 medical screening examination as required under section 1867 of the social security act, 42  
6 U.S.C. § 1395dd, which is within the capability of the emergency division of a hospital,  
7 including ancillary services routinely available to the emergency department to evaluate such  
8 emergency medical condition; and (2) within the capabilities of the staff and facilities available

9 at the hospital, such further medical examination and treatment as are required under section  
10 1867 of the social security act, 42 U.S.C. § 1395dd, to stabilize the patient.

11 (2) “Non-participating” means not having a contract with a carrier to provide health care  
12 services to an insured.

13 (3) “Non-participating provider rate” means with respect to payment to a non-  
14 participating provider under this section, 100 percent of the Medicare reimbursement rate or  
15 reasonable approximation thereof for those services as if they were rendered to a Medicare  
16 beneficiary not taking into consideration any beneficiary cost sharing. For services or supplies  
17 for which there is no Medicare reimbursement amount, the amount as determined by the  
18 commissioner of the center for health information and analysis is to be consistent with Medicare  
19 payment policies at a 100 percent level and set in consultation with the commissioner of  
20 insurance.

21 (b) Services that must be covered by law.

22 (1) Emergency services for an insured.

23 (A) When a carrier receives a bill for emergency services from a non-participating  
24 provider, the carrier shall pay a reasonable amount not less than the non-participating provider  
25 rate for the emergency services rendered by the non-participating physician, except for the  
26 insured's co-payment, coinsurance or deductible, if any, and shall ensure that the insured shall  
27 incur no greater out-of-pocket costs for the emergency services than the insured would have  
28 incurred with a participating provider.

29 (B) Any provider that is reimbursed for services pursuant to this section is prohibited  
30 from billing, charging, seeking payment or reimbursement from, or having any recourse against a  
31 insured or a person acting on behalf of insured. This prohibition does not prohibit the provider  
32 from collecting any applicable co-payment, coinsurance or deductible from the insured.

33 (2) Non-participating providers at participating facilities.

34 (A) When a carrier receives a bill for services provided by a non-participating provider at  
35 a participating facility that the carrier is required to pay pursuant to Section 6 of this Chapter, the  
36 carrier shall pay a reasonable rate not less than the non-participating provider rate for the  
37 services rendered by the non-participating provider, except for the insured's co-payment,  
38 coinsurance or deductible, if any, and shall ensure that the insured shall incur no greater out-of-  
39 pocket costs for the implicated services than the insured would have incurred with a participating  
40 provider.

41 (B) Any provider that is reimbursed for services pursuant to this section is prohibited  
42 from billing, charging, seeking payment or reimbursement from, or having any recourse against  
43 an insured or a person acting on behalf of insured. This prohibition does not prohibit the  
44 provider from collecting any applicable co-payment, coinsurance or deductible from the insured.

45 (c) Non-participating provider charges that are not reimbursable by the carrier.

46 (1) Any provider not receiving a non-participating provider rate pursuant this section that  
47 chooses to treat an insured must perform an eligibility check to determine whether such provider  
48 is a participating provider in the insured's carrier network. In the event that the provider is not a  
49 participating provider in the insured's carrier network, the provider must disclose to the insured,  
50 and obtain a written consent confirming the insured's understanding that: (a) the provider is not a

51 participating provider in the insured's network, (b) the insured will be responsible for the cost of  
52 services, (c) the dollar amount or reasonable estimate for cost of services to be provided, and (d)  
53 the insured could seek care from a provider in the insured's carrier network. The provider will  
54 be deemed to have made appropriate disclosures if the provider utilizes the below template.

55 (2) Any non-participating provider that fails either to do an eligibility check or to obtain  
56 the appropriate consent as described in the previous section is prohibited from billing or charging  
57 the insured for services rendered. Nothing in this section shall prohibit a provider from offering  
58 and performing services once the provider has clearly informed the insured of his or her rights  
59 and obligations and obtained a written consent from the insured as set forth above.