

**SENATE . . . . . No. 760**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***John F. Keenan***

*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 relative to behavioral health clinic rates.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2023</i>

**SENATE . . . . . No. 760**

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 760) of John F. Keenan and Michael O. Moore for legislation relative to behavioral health clinic rates. Health Care Financing.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

An Act relative to behavioral health clinic rates.

*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 118E of the general laws, as appearing in the 2020 official edition,  
2 is hereby amended by inserting after 13D the following section:-

3 Section 13D ½.

4 (a) For the purposes of this section, the following words shall have the following  
5 meanings:

6 “Behavioral health clinic”, a clinic licensed by the department of public health pursuant  
7 to section 3 and sections 51 through 56 of chapter 111 of the general laws, as appearing in the  
8 2020 official edition, and regulated pursuant to title 130 of the code of Massachusetts regulations  
9 429.000.

10 “Behavioral health services”, evaluation, diagnosis, treatment, care coordination,  
11 management, or peer support of patients with mental health, developmental or substance use  
12 disorder.

13 “Independent practitioner”, an individual who is licensed by the board to practice  
14 independent clinical social work and who meets the qualifications set forth in section 131 of  
15 chapter 112 of the general laws, as appearing in the 2020 official edition, for an independent  
16 clinical social worker and is regulated pursuant to title 130 of the code of Massachusetts  
17 regulations 462.000.

18 “Minimum payment rates”, rates of payment for services below which managed care  
19 entities may not enter into provider agreements.

20 (b) The division shall increase minimum payment rates for behavioral health services by  
21 5% per procedure code for rates of payment effective as of January 1, 2023.

22 (c) Pursuant to sections 13C and 13D, and notwithstanding applicable state and federal  
23 laws, the division shall ensure that each rate of payment or component payment in a bundled rate  
24 for behavioral health services delivered in behavioral health clinics are no less than 20% above  
25 comparable behavioral health services delivered by independent practitioners.

26 (d) The division shall review behavioral health service rates biennially. This review shall  
27 include, but not be limited to the following: (i) adoption of an inflationary adjustment factor no  
28 less than the total Medicare Economic Index percentage for the past two calendar years; (ii)  
29 where possible, comparison of the wage estimate for each classification of staff position to the  
30 75th percentile wage estate for that position as determined by the most current United States  
31 Bureau of Labor Statistics for the commonwealth; and (iii) consideration of the reasonable cost

32 to providers of any existing or new governmental mandate that has been enacted, promulgated or  
33 imposed by any governmental unit or federal governmental authority.

34 SECTION 2. Said chapter 118E is hereby amended by inserting after section 13K the  
35 following new section:-

36 Section 13L.

37 (a) For the purposes of this section, the following words shall have the following  
38 meanings:

39 “Behavioral health clinic”, a clinic licensed by the department of public health pursuant  
40 to section 3 and sections 51 through 56 of chapter 111 of the general laws, as appearing in the  
41 2020 official edition, and that is regulated pursuant to title 130 of the code of Massachusetts  
42 regulations 429.000.

43 “Behavioral health services”, evaluation, diagnosis, treatment, care coordination,  
44 management or peer support of patients with mental health, developmental or substance use  
45 disorder.

46 “Independent practitioner”, an individual who is licensed by the board to practice  
47 independent clinical social work and who meets the qualifications set forth in section 131 of  
48 chapter 112 of the general laws, as appearing in the 2020 official edition, and who is regulated  
49 pursuant to title 130 of the code of Massachusetts regulations 462.000.

50 “Managed care entity”, all contracted health insurers, health plans, health maintenance  
51 organizations, behavioral health management firms and third party administrators under contract

52 to a Medicaid managed care organization or primary care clinician plan, and accountable care  
53 organizations.

54 “Minimum payment rates”, rates of payment for services below which managed care  
55 entities may not enter into provider agreements.

56 (b) Notwithstanding applicable state and federal laws, the division shall direct its  
57 managed care entities to increase minimum payment rates for behavioral health services by 5%  
58 per procedure code for rates of payment effective as of January 1, 2023.

59 (c) The division shall direct managed care entities to ensure that each rate of payment or  
60 component payment in a bundled rate for behavioral health services delivered in behavioral  
61 health clinics is no less than 20% above comparable behavioral health services delivered by  
62 independent practitioners.

63 (d) The division shall review rates of payment by managed care entities for behavioral  
64 health services biennially. This review shall include, but not be limited to the following: (i)  
65 adoption of an inflationary adjustment factor no less than the total Medicare Economic Index  
66 percentage for the past two calendar years; (ii) where possible, comparison of the wage estimate  
67 for each classification of staff position to the 75th percentile wage estate for that position as  
68 determined by the most current United States Bureau of Labor Statistics for the commonwealth;  
69 and (iii) consideration of the reasonable cost to providers of any existing or new governmental  
70 mandate that has been enacted, promulgated or imposed by any governmental unit or federal  
71 governmental authority.