

An Initiative Petition for the
“Massachusetts Quality Affordable Health Care Act”

Be it enacted by the People, and by their authority:

SECTION 1: Policies and Purposes

(a) The citizens of the Commonwealth of Massachusetts hereby find and declare:

(1) Lack of affordable and quality health insurance is contrary to the values of the people of the Commonwealth, causes harm to individuals and families and hurts the medical care system and the economy. Since 2000, the number of Massachusetts residents without health insurance has risen from 365,000 to 532,000 persons.

(2) Unsustainable and excessive increases in the cost of health insurance and medical care are causing serious harm to individuals, families, employers and government. Since 2000, the average cost of health insurance in Massachusetts has risen by more than 50 percent.

(3) Solutions to our health care crisis must be fair and balanced, involving government, employers, the medical care industry, and individuals in a manner that distributes burdens and benefits in an equitable way.

(b) It is therefore the intent of this act to:

(1) Reduce the cost of health insurance to individuals and to public and private employers.

(2) Increase access by residents of the Commonwealth to affordable, quality health insurance coverage provided by government and private employers.

(3) Spread the burden of paying for health insurance and health costs fairly among government, private employers, medical care providers and individuals.

SECTION 2: Establishing the Quality Affordable Health Care Program to assist small businesses and moderate income families with health care costs

Chapter 6A of the General Laws is hereby amended by inserting after section 16G the following section:

“Section 16H. (a) The Secretary of Health and Human Services shall establish the Massachusetts Quality Affordable Health Care program to assist small businesses and moderate income households below 400 per cent of the federal poverty level with the purchase of affordable quality health care insurance.

(b) The Massachusetts Quality Affordable Health Care program shall be subject to appropriation from the Affordable Health Care Fund and shall consist of components as determined by the Secretary that most efficiently increase access to affordable quality health care insurance. The program may include:

(1) increased eligibility and benefits to employees and small employers in the insurance reimbursement program known as the Insurance Partnership, pursuant to section 9C of chapter 118E, including an increase in the maximum number of employees permitted for employer eligibility, an increase in the payments to eligible employers, and an increase in the maximum employee income level permitted for eligibility;

(2) a program of targeted reinsurance to lower the cost of coverage for individuals and eligible small businesses; and

(3) a program of sliding scale premium reductions or, if authorized by law, refundable tax credits, to lower the cost of quality health care for households below 400 per cent of the federal poverty level.”

SECTION 3: Affordable Health Care Fund

Chapter 29 of the General Laws is hereby amended by inserting after section 2NNN the following section:

“Section 2000. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Affordable Health Care Fund. There shall be credited to the fund (1) all revenues collected pursuant to the cigarette excise under section 7D of chapter 64C; (2) all revenues collected pursuant to the Affordable Health Care Fair Share assessment established in section 16I of chapter 6A; (3) all amounts transferred by appropriation from the Uncompensated Care Trust Fund or any other fund of the commonwealth; (4) any federal reimbursement received as a result of the operation of programs funded by the expenditures from the fund; (5) any fees, premiums, co-payments, assessments or other revenues collected as a result of the operation of programs funded by expenditures from the fund; (6) any appropriation, grant, gift or other contribution explicitly made to the fund; and (7) any income derived from the investment of amounts credited to the fund.

Amounts credited to the fund may be expended, subject to appropriation, for the Massachusetts Quality Affordable Health Care program for moderate income residents of the commonwealth authorized by section 16H of chapter 6A, the MassHealth health insurance program pursuant to subsection (2A) of section 9A of chapter 118E, and for MassHealth benefits added pursuant to subsection (15) of said section 9A, and may be transferred by appropriation to the Uncompensated Care Trust Fund.”

SECTION 4: Expanding coverage for low income working adults and children

Section 9A of chapter 118E of the General Laws is hereby amended by inserting after subsection 2 the following subsection:

“(2A) MassHealth is authorized to provide medical benefits to adults below age 65 whose income, as determined by the division, is not more than 200 per cent of the federal poverty level, and to children and adolescents below age 21 whose income, as determined by the division, is not more than 300 per cent of the federal poverty level. These benefits shall be provided subject to appropriation from the Affordable Health Care Fund and the availability of federal Medicaid reimbursement. The division may require persons eligible under this subsection to enroll in employer-sponsored health insurance if it is cost-effective to purchase such coverage, as provided in section 18.”

SECTION 5: Lowering health care premiums by repealing the Uncompensated Care Surcharge paid by insurers and other health care purchasers

Section 18A of chapter 118G of the General Laws is hereby repealed.

SECTION 6: Cigarette tax earmarked to fund affordable health care programs

Chapter 64C of the General Laws is hereby amended by inserting after section 7C the following section:

“Section 7D. Every licensee who files a return under section 16 of chapter 62C shall pay to the commissioner an additional excise of \$.60 for each 20 cigarettes sold during the month covered by the return. All of this chapter and chapter 62C relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall, so far as pertinent, be applicable to the excise imposed by this section.

All revenues received pursuant to this section, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the commissioner of revenue, shall be credited to the Affordable Health Care Fund.”

SECTION 7: Affordable Health Care Fair Share Assessments

Chapter 6A of the General Laws is hereby amended by inserting after section 16H the following section:

“Section 16I. The Secretary of Health and Human Services shall implement an Affordable Health Care Fair Share assessment. Employers with more than 100 workers shall be assessed at the rate of 7 per cent of their adjusted payroll. Employers with 100 or fewer workers shall be assessed at the rate of 5 per cent of their adjusted payroll. For the purposes of the section, “adjusted payroll” shall mean the annual payroll of an employer minus \$50,000. An employer shall be allowed a credit against its assessment equal to the employer’s expenses for employee health insurance benefits in the commonwealth that are or would be deductible as medical care under federal tax law. The credit shall not reduce an employer’s assessment below zero, and shall not entitle an employer to a refund.

The secretary, in consultation and cooperation with the director of workforce development and the commissioner of revenue, shall promulgate regulations to enforce the provisions of this section. The regulations shall include reasonable exemptions, including exemptions for substantial hardship, penalties for late payment and failure to pay, reporting forms and procedures, and other matters as the secretary may determine.

Assessments shall be deposited in the Affordable Health Care Fund. Unless otherwise provided, terms used in this section shall have the same meaning as provided in chapter 151A.”

SECTION 8: Restoring MassHealth benefits and eligibility

Section 9A of chapter 118E of the General Laws is hereby amended by adding the following subsection:

“(15) MassHealth medical benefits shall include all services that were included in the MassHealth state plan in effect on January 1, 2002, including dental services, dentures and eyeglasses, and smoking and tobacco use cessation treatment and information. Notwithstanding any general or special law to the contrary, all residents of Massachusetts who are lawfully present in the United States or permanently residing in the United States under color of law shall be eligible for MassHealth benefits on the same terms as United States citizens. Benefits and eligibility pursuant to this subsection shall be subject to appropriation from the Affordable Health Care Fund.”

SECTION 9: MassHealth payment rates shall cover costs

Section 13 of chapter 118E of the General Laws is hereby amended by adding the following paragraph:

“Notwithstanding the foregoing, to ensure the availability of high quality care to Medicaid patients, hospitals, community health centers, and physicians shall be paid for their costs as permitted by federal law and subject to appropriation. For

paying providers for hospital and physician services under this chapter, the division shall, subject to appropriation, adopt the payment systems used by the United States Department of Health and Human Services to administer the Medicare Program, including all Medicare adjustments for relative cost of the services provided, disproportionate share, both direct and indirect graduate medical education, and an annual update for inflation. The division shall modify these payment systems only to the extent required by differences between the programs specified in this chapter and the Medicare program, including the services and benefits covered, the extent and duration of such coverage and the populations served, and to the extent required to maximize federal reimbursement.”

SECTION 10: Severability

The provisions of this law are severable, and if any clause, sentence, paragraph or section of this law or an application thereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid and such clause, sentence, paragraph, section or application shall be reformed and construed so that it would be valid to the maximum extent permitted.

SECTION 11: Effective Dates

Section 7D of chapter 64C of the General Laws shall take effect on January 1, 2007. The commissioner of revenue shall collect the excise imposed by this section on inventories of cigarettes and unused stamps held on January 1, 2007.

Section 16I of chapter 6A of the General Laws shall take effect on July 1, 2007. The last paragraph of section 13 of chapter 118E of the General Laws, as inserted by this act, shall apply to services delivered on or after October 1, 2007.