

# MASSACHUSETTS EQUITABLE HEALTH CARE PRICING ACT

*Be It Enacted By the People and By Their Authority:*

SECTION 1. Chapter 176O of the General Laws of Massachusetts shall be amended by inserting after section 27 thereof the following new section:

## *Section 28 Equitable Health Care Pricing*

As used in this section, the following words shall have the following meanings:

“Base year”, the most recent calendar year for which relative price data is publicly available.

“Carrier”, an insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175, a nonprofit hospital service corporate organized under chapter 176A, a nonprofit medical services corporation organized under chapter 176B, a health maintenance organization organized under chapter 176G, and an organization entering into a preferred provider arrangement under chapter 176I, but not including an employer purchasing coverage or acting on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer; provided that the term “Carrier” shall not include any entity to the extent it offers a policy, certificate, or contract that provides coverage solely for dental care services or vision care services.

“Center”, the center for health information and analysis established under chapter 12C.

“Contracting agent”, an entity that negotiates, represents, or otherwise acts to establish contracts with a carrier for the payment of health care services.

“Disproportionate share hospital”, any acute hospital that exhibits a payer mix where a minimum of sixty-three per cent of the acute hospital’s gross patient service revenue is attributable to Title XVIII and Title XIX of the federal Social Security Act, other government payers, and free care, as certified annually by the Center for Health Information and Analysis.

“Division”, the division of insurance.

“Geographically isolated hospital”, a “Health Care Provider” that is the sole acute care hospital within a 20-mile radius.

“Health Care Provider”, an acute care hospital licensed under the provisions of section 51 of chapter 111 and its contracting agents; and a registered provider organization as defined by the Health Policy Commission in 958 CMR 6.04.

“Specialty hospital”: For purposes of this section, a “Health Care Provider” that is defined by the Center for Health Information and Analysis as a specialty hospital, including but not limited to an acute care hospital that limits its admissions to children or patients under obstetrical care, or to patients under oncology care.

(b) Carriers shall calculate and the center shall certify carrier-specific relative prices that the carrier has agreed to pay each health care provider for every service using the provider categories and uniform methodology for price relativities established by the center under section 10 of chapter 12C and identified on a state-wide basis and by provider type. Carriers shall report relative price to the division of

insurance for the preceding calendar year by April 1, 2017, and annually thereafter. The division of insurance, in consultation with the center, shall review and publish relative price data within 90 days of receipt.

(c) No carrier shall enter into or renew a contract for the provision of a health care service with a health care provider under which the health care provider is paid a rate not in conformity with this subsection:

(1) For the period commencing July 1, 2017 and ending June 30, 2018, no carrier shall pay a health care provider for a provided service at a rate more than 40% above or more than 30% below the base year carrier-specific average relative price for that service.

(2) For the period commencing July 1, 2018 and ending June 30, 2019, no carrier shall pay a health care provider for a provided service at a rate more than 30% above or more than 25% below the base year carrier-specific average relative price for that service.

(3) For the period commencing July 1, 2019, no carrier shall pay a health care provider for a provided service at a rate more than 20% above or more than 20% below the base year carrier-specific average relative price for that service.

For contracts entered into or renewed prior to the effective date of this Act, but on or after July 1, 2016, the provisions of this act shall take effect upon the anniversary date of the contract. No carrier shall increase a rate paid to any health care provider solely by operation of this subsection unless the center has certified that such provider has exceeded the centers for medicare and medicaid services median quality reporting score in the calendar year prior to the year in which any rate increase shall take effect.

(d) Subsection (c) shall apply to a geographically isolated hospital, a specialty hospital, or a disproportionate share hospital only if such hospital's base year carrier-specific relative price is lower than the carrier-specific average.

(e) Any net savings beyond savings required to comply with subsection (c) of this section that are realized by the carrier attributable to the operation of this section shall be reflected in reduced premiums, co-pays and deductibles that are charged to the carrier's subscribers. The division of insurance shall promulgate regulations to ensure that carriers are fully reflecting such savings in the premiums, co-pays, and deductibles charged to subscribers.

(f) A health care provider that provides covered services to a subscriber of a carrier under this section shall provide services as a condition of licensure and shall not refuse payment due the operation of this section. A health care provider shall not balance bill for any amount in excess of the amount paid by a carrier other than applicable co-payments, co-insurance and deductibles and shall not refuse to participate in a carrier's network due to the carrier's compliance with this section.

(g) A health care provider that does not participate in a carrier's network must accept a rate equal to the carrier-specific average relative price for any covered out-of-network charges or the Medicaid fee for service rate for that service, whichever is lower.

(h) The division, in consultation with the center for health information and analysis and the attorney general shall promulgate regulations to monitor and ensure compliance with this section.

(i) No provider shall recoup or attempt to recoup amounts in excess of the amounts charged to carriers due to the operation of this section by increasing charges to other health benefit plans or other payers.

The attorney general may adopt regulations to enforce this section, which may include requirements for identifying and enforcing noncompliance and penalties.

(j) Nothing in this section shall be construed to harm or diminish the quality of medical care provided by a health care provider.

(k) The center in consultation with the division shall make available on its website comparative information on the price of services and the change in the prices of those services by carrier for health care providers subject to this section. Where available, the center shall also include quality scores. Such data shall be initially published not later than six months after the effective date of this act and updated annually thereafter.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

SECTION 3. This act shall take effect on January 15, 2017.

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