

**HOUSE . . . . . No. 1045**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Ronald Mariano***

*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 shoppable health care services.

PETITION OF:

NAME:

*Ronald Mariano*

DISTRICT/ADDRESS:

*3rd Norfolk*

**HOUSE . . . . . No. 1045**

By Mr. Mariano of Quincy, a petition (accompanied by bill, House, No. 1045) of Ronald Mariano for legislation to establish a shared savings incentive payments programs within health insurance plans. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2184 OF 2017-2018.]

**The Commonwealth of Massachusetts**

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

An Act relative to shoppable health care 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. The General Laws are hereby amended by inserting after Chapter 176U the  
2 following new chapter:-

3 CHAPTER 176V

4 THE MASSACHUSETTS RIGHT TO SHOP ACT

5 Section 1. As used in this section, the following words shall, unless the context clearly  
6 requires otherwise, have the following meanings:

7 “Allowed amount”, the contractually agreed upon amount paid by a carrier

8 to a health care entity participating in the carrier's network or the amount the health plan  
9 is required to pay under the health plan policy or Certificate of Insurance for out of network  
10 covered benefits provided to the patient.

11 "Health Care Entity", a provider, provider organization or carrier.

12 "Insurance carrier", the medicare program or an individual or group contract or other  
13 plan providing coverage of health care services and which is issued by a health insurance  
14 company, a hospital service corporation, a medical service corporation or a health maintenance  
15 organization.

16 "Program", the shared savings incentive program established by a carrier pursuant to this  
17 section.

18 "Shoppable health care service" means a health care service for which a carrier offers a  
19 shared savings incentive payment under a program established by the carrier pursuant to this  
20 section. A shoppable health care service includes, at a minimum, health care services in the  
21 following categories:

22 (1) Physical and occupational therapy services;

23 (2) Obstetrical and gynecological services;

24 (3) Radiology and imaging services;

25 (4) Laboratory services;

26 (5) Infusion therapy;

27 (6) Inpatient/Outpatient Surgical procedures;

28 (7) Outpatient non-surgical diagnostic tests or procedures.

29

30 This list may be expanded by the Division of Insurance.

31 Section 2. Prior to a non-emergency admission, procedure or service and upon request by  
32 a patient or prospective patient, a health care entity within the patient's or prospective patient's  
33 insurer network shall, within 2 working days, disclose the allowed amount of the non-emergency  
34 admission, procedure or service, including the amount for any facility fees required.

35 (i) Prior to a non-emergency admission, procedure or service and upon request by a  
36 patient or prospective patient, a health care entity outside the patient's or prospective patient's  
37 insurer network shall, within 2 working days, disclose the amount that will be charged for the  
38 non-emergency admission, procedure or service, including the amount for any facility fees  
39 required.

40 (ii) If a health care entity is unable to quote a specific amount under subsection A or  
41 subsection B in advance due to the health care entity's inability to predict the specific treatment  
42 or diagnostic code, the health care entity shall disclose what is known for the estimated amount  
43 for a proposed non-emergency admission, procedure or service, including the amount for any  
44 facility fees required. A health care entity must disclose the incomplete nature of the estimate  
45 and inform the patient or prospective patient of their ability to obtain an updated estimate once  
46 additional information is determined.

47 (iii) If a patient or prospective patient is covered by insurance, a health care entity that  
48 participates in a carrier's network shall, upon request of a patient or prospective patient, provide,

49 based on the information available to the health care entity at the time of the request, sufficient  
50 information regarding the proposed non-emergency admission, procedure or service for the  
51 patient or prospective patient to receive a cost estimate from their insurance carrier to identify  
52 out-of-pocket costs which could be through an applicable toll-free telephone number, website or  
53 access to a third-party service that meets the requirements of this act. A health care entity may  
54 assist a patient or prospective patient in using a carrier's toll-free number, website or third-party  
55 service.

56           Section 3. A carrier shall establish access to an interactive mechanism on its publicly  
57 accessible website that enables an enrollee to request and obtain from the carrier, or a designated  
58 third-party, information on the payments made by the carrier to network providers for health care  
59 services. The interactive mechanism must allow an enrollee seeking information about the cost  
60 of a particular health care service to compare costs among network providers as established in  
61 section 5, subsection (iii).

62           Section 4.

63           (i)     Within 2 working days of an enrollee's request, a carrier shall provide a good  
64 faith estimate of the allowed amount and the amount the enrollee will be responsible to pay out-  
65 of-pocket for a proposed non-emergency procedure or service that is a medically necessary  
66 covered benefit from a carrier's network provider, including any copayment, deductible,  
67 coinsurance or other out-of-pocket amount for any covered benefit, based on the information  
68 available to the carrier at the time the request is made.

69           (ii)    Nothing in this section shall prohibit a carrier from imposing cost-sharing  
70 requirements disclosed in the enrollee's certificate of coverage for unforeseen health care

71 services that arise out of the non-emergency procedure or service or for a procedure or service  
72 provided to an enrollee that was not included in the original estimate.

73 (iii) A carrier shall notify an enrollee that these are estimated costs, and that the actual  
74 amount the enrollee will be responsible to pay may vary due to unforeseen services that arise out  
75 of the proposed non-emergency procedure or service.

76 Section 5. A carrier shall develop and implement a program that provides incentives for  
77 enrollees in a health plan who elect to receive shoppable health care services that are covered by  
78 the plan from providers that charge less than the average price paid by that carrier for that  
79 shoppable health care service.

80 (i) Incentives may be calculated as a percentage of the difference in price, as a flat  
81 dollar amount, or by some other reasonable methodology approved by the Division of Insurance.  
82 The carrier must provide the incentive as a cash payment to the enrollee.

83 (ii) The incentive program must provide enrollees with at least 50% of the carrier's  
84 saved costs for each service or category of shoppable health care service resulting from shopping  
85 by enrollees. A carrier is not required to provide a payment or credit to an enrollee when the  
86 carrier's saved cost is \$50 or less.

87 (iii) A carrier will base the average price on the average paid to an in-network  
88 provider for the procedure or service under the enrollee's health plan within a reasonable  
89 timeframe not to exceed 1 year. A carrier may determine an alternate methodology for  
90 calculating the average price if approved by the Division.

91           Section 6. A carrier shall make the incentive program available as a component of all  
92 health plans offered by the carrier in this State. Annually at enrollment or renewal, a carrier shall  
93 provide notice about the availability of the program to any enrollee who is enrolled in a health  
94 plan eligible for the program.

95           Section 7. Prior to offering the program to any enrollee, a carrier shall file a description  
96 of the program established by the carrier pursuant to this section with the Division of Insurance  
97 in the manner determined by the Superintendent. The Division may review the filing made by the  
98 carrier to determine if the carrier's program complies with the requirements of this section.  
99 Filings and any supporting documentation, made pursuant to this subsection are confidential  
100 until the filing has been reviewed or the waiver request has been granted or denied by the  
101 Division.

102           Section 8. If an enrollee elects to receive a shoppable health care service from an out-of-  
103 network provider that results in a shared savings incentive payment, a carrier shall apply the  
104 amount paid for the shoppable health care service toward the enrollee's member cost sharing as  
105 specified in the enrollee's health plan as if the health care services were provided by an in-  
106 network provider.

107           Section 9. A shared savings incentive payment made by a carrier in accordance with this  
108 section is not an administrative expense of the carrier for rate development or rate filing  
109 purposes.

110           Section 10. Annually a carrier shall file with the Division of Insurance for the most recent  
111 calendar year the total number of shared savings incentive payments made pursuant to this  
112 section, the use of shoppable health care services by category of service for which shared savings

113 incentives are made, the total payments made to enrollees, the average amount of incentive  
114 payments made by service for such transactions, the total savings achieved below the average  
115 prices by service for such transactions, and the total number and percentage of a carrier's  
116 enrollees that participated in such transactions. Beginning April 1, 2018 and annually by April  
117 1st of each year thereafter, the Division shall submit an aggregate report for all carriers filing the  
118 information required by this subsection to the legislative committee having jurisdiction over  
119 health insurance matters.

120           Section 11. The Division of Insurance may adopt rules as necessary to implement this  
121 section. Rules adopted pursuant to this subsection are routine technical rules as defined in [insert  
122 applicable statute].

123           Section 12. This act shall take effect 6 months from the date of enactment.