

HOUSE No. 01228

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis and

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 passage of the accompanying bill:

An Act to Establish a Public Health Insurance Option .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Ruth B. Balse</i>	<i>12th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>

HOUSE No. 01228

By Mr. Jason M. Lewis of Winchester, petition (accompanied by bill, House, No. 01228) of Patricia Jehlen and others relative to a public health insurance option. Joint Committee on Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to Establish a Public Health Insurance Option .

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 176Q the
2 following chapter:-

3 CHAPTER 176R

4 PUBLIC HEALTH INSURANCE OPTION

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

7 “Commonwealth Connector Board”, the board of the commonwealth health insurance connector,
8 established by subsection (b) of section 2 of chapter 176Q.

9 “Commonwealth Connector”, the commonwealth health insurance connector authority,
10 established by subsection (a) of section 2 of chapter 176Q.

11 “Connector seal of approval”, the approval given by the board of the connector to indicate that a
12 health benefit plan meets certain standards regarding quality and value, as established by section
13 10 of Chapter 176Q.

14 “Carrier”, an insurer licensed or otherwise authorized to transact accident and health insurance
15 under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a
16 nonprofit medical service corporation organized under chapter 176B; a health maintenance
17 organization organized under chapter 176G.

18 “Health benefit plan”, any individual, general, blanket or group policy of health, accident and
19 sickness insurance issued by an insurer licensed under chapter 175; a group hospital service plan
20 issued by a non-profit hospital service corporation under chapter 176A; a group medical service
21 plan issued by a non-profit medical service corporation under chapter 176B; a group health
22 maintenance contract issued by a health maintenance organization under chapter 176G; a
23 coverage for young adults health insurance plan under section 10 of chapter 176J. The words
24 “health benefit plan” shall not include accident only, credit-only, limited scope vision or dental
25 benefits if offered separately, hospital indemnity insurance policies if offered as independent,
26 non-coordinated benefits which for the purposes of this chapter shall mean policies issued under
27 chapter 175 which provide a benefit not to exceed \$500 per day, as adjusted on an annual basis
28 by the amount of increase in the average weekly wages in the commonwealth as defined in
29 section 1 of chapter 152, to be paid to an insured or a dependent, including the spouse of an
30 insured, on the basis of a hospitalization of the insured or a dependent, disability income
31 insurance, coverage issued as a supplement to liability insurance, specified disease insurance that
32 is purchased as a supplement and not as a substitute for a health plan and meets any requirements
33 the commissioner by regulation may set, insurance arising out of a workers’ compensation law or

34 similar law, automobile medical payment insurance, insurance under which benefits are payable
35 with or without regard to fault and which is statutorily required to be contained in a liability
36 insurance policy or equivalent self insurance, long-term care if offered separately, coverage
37 supplemental to the coverage provided under 10 U.S.C. section 55 if offered as a separate
38 insurance policy, or any policy subject to chapter 176K or any similar policies issued on a group
39 basis, Medicare Advantage plans or Medicare Prescription drug plans. A health plan issued,
40 renewed or delivered within or without the commonwealth to an individual who is enrolled in a
41 qualifying student health insurance program under section 18 of chapter 15A shall not be
42 considered a health plan for the purposes of this chapter and shall be governed by said chapter
43 15A. The commissioner of insurance may by regulation define other health coverage as a health
44 benefit plan for the purposes of this chapter.

45 “Eligible individuals”, an individual who is a resident of the commonwealth; provided however,
46 that the individual is not offered subsidized health insurance by an employer with more than 50
47 employees.

48 “Eligible small groups”, groups, any sole proprietorship, labor union, educational, professional,
49 civic, trade, church, not-for-profit or social organization or firms, corporations, partnerships or
50 associations actively engaged in business that on at least 50 per cent of its working days during
51 the preceding year employed at least one but not more than 50 employees.

52 “Eligible large groups”, groups, any labor union, educational, professional, civic, trade, church,
53 not-for-profit or social organization or firms, corporations, partnerships or associations actively
54 engaged in business that on at least 50 per cent of its working days during the preceding year
55 employed at least 51 employees.

56 "Public Option", the public health benefits plan offered through the Commonwealth Connector,
57 established by section 2.

58 "Trust Fund", the Public Health Insurance Trust Fund, established by section 7.

59 Section 2. The Commonwealth Connector Authority shall provide for the offering a public health
60 benefits plan - the public health insurance option - to eligible individuals and groups, to ensure
61 choice, competition, and stability of affordable, high quality coverage throughout Massachusetts.

62 The public option shall:-

63 (a) be made available exclusively through the Commonwealth Connector, alongside health
64 benefit plans receiving the Connector seal of approval;

65 (b) meet all the requirements established for health benefit plans to receive the Commonwealth
66 Connector seal of approval;

67 (c) meet the Connector's standards for minimum creditable coverage; and

68 (d) comply with subsections (b), (c), and (d) of section 5 of Chapter 176Q.

69 Section 3. The public option shall be made available to eligible individuals and eligible small
70 groups through the Connector no later than January 1, 2011. In addition the public option shall
71 be made available to eligible large groups no later than July 1, 2011.

72 Section 4. The executive director of the commonwealth connector may contract with managed
73 care organizations or other such health benefits administrators to administer aspects of plans
74 offered under the public health insurance option. Notwithstanding any general or special law to
75 the contrary, the executive director shall collaborate with the secretary of health and human
76 services and the commissioner of insurance to ensure that only Medicaid managed care

77 organizations, that have contracted with the commonwealth as of January 1, 2011, to deliver
78 such managed care services, are so contracted with to administer aspects of the public option.
79 The executive director may accept applications from non-Medicaid managed care organizations
80 for the provision of such services after January 1, 2013.

81 Section 5. A report on the activities, receipts, expenditures, and enrollments of the public option
82 shall be included in the Commonwealth Connector's annual reports and shall be subject to the
83 prescription and oversight of the Commonwealth Connector Board and State Auditor as per
84 section 14 and section 15 of Chapter 176Q.

85 Section 6. The Commonwealth Connector shall establish premium rates for the public health
86 insurance option at a level sufficient to fully finance the costs of:-

87 (a) health benefits provided by the public option; and

88 (b) administrative costs related to operating the public option.

89 Section 7. The Connector Board shall establish payment rates for the Public Health Insurance
90 Option for services and providers based on parts A and B of Medicare. The Commonwealth
91 Connector Board may determine the extent to which adjustments to base Medicare payment rates
92 shall be made in order to fairly reimburse providers and medical goods and device makers, as
93 well as to maintain a a strong provider network.

94 Section 8. Health care providers (including physicians and hospitals) participating in Medicare
95 are participating providers in the public option unless they opt out through a process to be
96 established by the Commonwealth Connector. This opt-out process must ensure that:

97 (a) no provider shall be subject to a penalty for not participating in the public health insurance
98 option;

99 (b) the connector shall include information on how providers participating in Medicare who
100 chose to opt out of participating in the public health insurance option may opt back in; and

101 (c) there shall be an annual enrollment period in which providers may decide whether to
102 participate in the public health insurance option.

103 Section 9. The Commonwealth Connector may adopt regulations to implement this chapter.

104 SECTION 2. The General Laws are hereby amended by inserting after Section 8J of Chapter 26
105 the following Section:-

106 Section 8K. Risk Adjustment

107 (a) The commissioner of insurance is hereby authorized to make an assessment against all health
108 plans, health insurers, and health maintenance organizations in the Commonwealth, as well as
109 the public health insurance option established by section 2 of Chapter 176R of the General Laws
110 (which shall be referred to herein as "risk-adjusted health plans") , if the actuarial risk of the
111 enrollees of such plans or coverage for a year is less than the average actuarial risk of all
112 enrollees in all risk-adjusted health plans for such year. Self-insured group health plans (which
113 are subject to the provisions of the Employee Retirement Income Security Act of 1974), shall be
114 exempted from such risk adjustment.

115 (b) Using the criteria and methods developed under subsection (c), the commissioner of
116 insurance shall provide a payment to risk-adjusted health plans (with respect to health insurance
117 coverage) if the actuarial risk of the enrollees of such plans or coverage for a year is greater than

118 the average actuarial risk of all enrollees in all risk-adjusted health plans for such year that are
119 not self-insured group health plans (which are subject to the provisions of the Employee
120 Retirement Income Security Act of 1974).

121 (c) The commissioner shall establish criteria and methods to be used in carrying out the risk
122 adjustment activities under this section. In calculating the actuarial risk of risk-adjusted health
123 plans, the commissioner may utilize data including but not limited to enrollee demographics,
124 inpatient and outpatient diagnoses (in similar fashion as such data are used under parts C and D
125 of title XVIII of the Social Security Act), and such other information as the commissioner
126 determines may be necessary such as the actual medical costs of enrollees during the previous
127 year. Upon request, such risk-adjusted health plans shall make information available to the
128 division of insurance for the purposes of risk adjustment under this section. Such information
129 shall be limited to the minimum amount of personal information necessary, shall be confidential,
130 and shall not constitute a public record.

131 (d) SECTION 123 of Chapter 58 of the Session Laws of 2006 is hereby amended by striking out
132 the last two sentences of the section, beginning with “The director shall collaborate with the
133 secretary...”

134 SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after section
135 2XXX the following section:-

136 Section 2YYY. There is hereby established and set up on the books of the commonwealth a
137 separate fund to be known as the Public Health Insurance Option Trust Fund, in this section
138 called the trust fund. Amounts credited to the trust fund shall be expended without further
139 appropriation for operation of the public health insurance option. Not later than January 1, the

140 comptroller shall report an update of revenues for the current fiscal year. The comptroller shall
141 file this report with the secretary of administration and finance, the office of Medicaid, the joint
142 committee on health care financing, and the house and senate committees on ways and means.

143 SECTION 4. Subsection (a) of section 5 of Chapter 176Q is hereby amended by inserting, after
144 the words "underwritten by a carrier," the following words:- , as well as the public health
145 insurance option,

146 SECTION 5. Section 1 of Chapter 176Q is hereby amended by inserting, after the definition of
147 "Eligible Small Groups", the following definition:-

148 "Eligible large groups", groups, any labor union, educational, professional, civic, trade, church,
149 not-for-profit or social organization or firms, corporations, partnerships or associations actively
150 engaged in business that on at least 50 per cent of its working days during the preceding year
151 employed at least 51 employees.'

152 SECTION 6. Section 4(a) of Chapter 176Q is hereby amended by inserting prior to the words
153 "groups as defined," the following words:- eligible small and large

154 SECTION 7. Section 4(b) of Chapter 176Q is hereby amended by striking out the phrase "or
155 small group" and inserting in its place the following words:- , small group, or large group

156 SECTION 8. Effective no later than July 1, 2011, the board of the Commonwealth Connector
157 shall, consistent with the Board's powers and duties as enumerated in Section 3 of Chapter 176J,
158 extend its seal of approval to large group plans and offer such plans, alongside a public health
159 insurance option for large groups, through the Connector.