

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

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Patricia D. Jehlen**

*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 promoting efficient revenue use by certain health service providers. .

PETITION OF:

NAME:

Patricia D. Jehlen

DISTRICT/ADDRESS:

Second Middlesex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT PROMOTING EFFICIENT REVENUE USE BY CERTAIN HEALTH SERVICE PROVIDERS. .

*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. Section 110 of chapter 175 of the General Laws, as most recently amended  
2 by section 6 of chapter 256 of the acts of 2008, is hereby further amended by adding the  
3 following subdivision:-

4 (Q) (a) Each insurer authorized to issue or deliver within the commonwealth any general  
5 or blanket policy of insurance described in subdivision (A), (C) or (D) and that has a contract  
6 with MassHealth, Commonwealth Care or the Group Insurance Commission shall expend the  
7 percentage as herein provided of its Massachusetts-associated revenue as its Massachusetts care  
8 share for the purpose of providing health services to persons insured under such policies. The  
9 Massachusetts care share for an insurer shall be no less than 90 per cent of Massachusetts-  
10 associated revenue and non-health expenditures shall not exceed 10 per cent of Massachusetts-  
11 associated revenue for each calendar year.

12 (b) Each insurer shall report annually to the commissioner its total revenues,  
13 Massachusetts-associated revenue, total premiums, Massachusetts premiums, total health

14 expenditures, Massachusetts-associated health expenditures, total non-health expenditures, care  
15 share and Massachusetts care share. Such information shall be reported on forms provided by  
16 the commissioner which shall include all information required by the National Association of  
17 Insurance Commissioners' Health Maintenance Organization Financial Report of Affairs and  
18 Conditions Form" and such other information as the commissioner shall deem relevant for  
19 determining compliance with this section. The commissioner shall issue regulations specifying  
20 the methods for calculating the information to be reported in accordance with this section. The  
21 commissioner shall publish annually the care share and the Massachusetts care share of each  
22 health maintenance organization doing business in the Commonwealth. All written materials  
23 used for advertising and marketing blanket or general policies of insurance to prospective  
24 insured persons or groups shall include a statement of the insurer's care share and its  
25 Massachusetts care share.

26 (c) Any insurer that fails to comply with this section shall refund to the persons insured  
27 by it a percentage of its Massachusetts-associated revenues equal to the Massachusetts care share  
28 required by subsection (a) for the calendar year less the Massachusetts care share actually  
29 expended for the calendar year. The refund payable for any calendar year shall be paid on or  
30 before April 30 of the next calendar year. An insurer that reports a shortfall in its Massachusetts  
31 care share may, upon written notice to the commissioner, pay the refund owed by reducing the  
32 total premiums payable by its insureds for the calendar year in which the shortfall is reported by  
33 an amount equal to the total shortfall.

34 The commissioner shall prepare an annual budget of the costs of monitoring and  
35 determining compliance with this section and such costs shall be paid by each insurer on a  
36 prorata basis.

37 (d) The knowing violation of any of the requirements of this section by any insurer shall  
38 be punished by imprisonment for not more than 5 years or by a fine of not more than 20 per cent  
39 of the Massachusetts-associated revenue. A violation of this section shall also be deemed to be a  
40 violation of chapter 93A.

41 (e) For the purposes of this section, the following terms shall have the following  
42 meanings:

43 “Care share”, the percentage obtained by dividing total health expenditures by total  
44 revenue for a calendar year.

45 “Massachusetts-associated health expenditures”, that proportion of total health  
46 expenditures paid for the delivery of health services rendered to members pursuant to a blanket  
47 or group insurance policy sold in the commonwealth by the insurer.

48 “Massachusetts-associated revenue”, Massachusetts premiums plus a proportion of total  
49 revenues less total premiums, where said proportion equals Massachusetts premiums divided by  
50 total premiums.

51 “Massachusetts care share”, the percentage obtained by dividing Massachusetts-  
52 associated health expenditures by Massachusetts-associated revenue for a calendar year.

53 “Massachusetts premiums”, all revenue derived from the sale in Massachusetts of blanket  
54 and group insurance policies for health services.

55 “Total health expenditures”, all expenditures by or on behalf of an insurer for the  
56 purchase of health services or to reimburse an insured for the purchase of health services,  
57 including physicians and other professional health services, hospital and other health facility  
58 services, pharmacy services, health education and capital expenditures for the construction or  
59 rehabilitation of medical facilities for the delivery of health care.

60 “Total premiums”, all revenue derived from the sale within or outside the  
61 commonwealth of blanket or group insurance policies for coverage for health services.

62 “Total revenues”, all income and revenues, however derived, including, but not limited  
63 to, revenues derived from premium sales, interest, dividends, and other investments, but  
64 excluding only income in the form of compensation for administrative services pursuant to a  
65 contract or other arrangement for rendering administrative services only to self-funded health  
66 plans that are not owned or controlled by the insurer.

67 SECTION 2. Chapter 176B of the General Laws is hereby amended by inserting after  
68 section 12 the following section:-

69 Section 12A. (a) Each medical service corporation licensed to operate in the  
70 commonwealth that has a contract with the Group Insurance Commission, MassHealth or  
71 Commonwealth Care shall expend the percentage as herein provided of its Massachusetts-  
72 associated revenue as its Massachusetts care share for the purpose of providing health services to  
73 its members. The Massachusetts care share for a medical service organization shall be no less  
74 than 90 per cent of Massachusetts-associated revenue and non-health expenditures shall not  
75 exceed 10 per cent of Massachusetts-associated revenue for each calendar year.

76 (b) Each medical service corporation shall report annually to the commissioner its  
77 total revenues, Massachusetts-associated revenue, total premiums, Massachusetts premiums,  
78 total health expenditures, Massachusetts-associated health expenditures, total non-health  
79 expenditures, care share and Massachusetts care share. Such information shall be reported on  
80 forms provided by the commissioner, which shall include all information required by the  
81 National Association of Insurance Commissioners’ Health Maintenance Organization Financial  
82 Report of Affairs and Conditions Form and such other information as the commissioner shall

83 deem relevant for determining compliance with the requirements of this section. The  
84 commissioner shall issue regulations specifying the methods for calculating the information to be  
85 reported in accordance with this section. The commissioner shall publish annually the care share  
86 and the Massachusetts care share of the medical service corporation doing business in the  
87 commonwealth. All written materials used for advertising and marketing health services  
88 contracts to prospective subscribers or groups of subscribers shall include a statement of the  
89 corporation's care share and its Massachusetts care share.

90 (c) Any medical service corporation that fails to comply with this section shall refund to  
91 its subscribers a percentage of its Massachusetts-associated revenues equal to the Massachusetts  
92 care share required by subsection (a) hereof for the calendar year less the Massachusetts care  
93 share actually expended for the calendar year. The refund payable for any calendar year shall be  
94 paid on or before April 30 of the next calendar year. A corporation that reports a shortfall in its  
95 Massachusetts care share may, upon written notice to the commissioner, pay the refund owed by  
96 reducing the total premiums payable by its subscribers for the calendar year in which the  
97 shortfall is reported by an amount equal to the total shortfall.

98 The commissioner shall prepare an annual budget of the costs of monitoring and  
99 determining compliance with this section and such costs shall be paid by each medical service  
100 corporation on a prorata basis.

101 The knowing violation of any of the requirements of this section by a medical service  
102 corporation shall be punished by imprisonment for not more than 5 years or by a fine of not more  
103 than 20 per cent of Massachusetts-associated revenue. A violation of this section shall also be  
104 deemed to be a violation of chapter 93A.

105 For the purposes of this section, the following terms shall have the following meanings:

106

107           “Care share”, the percentage obtained by dividing total health expenditures by total  
108 revenue for a calendar year.

109           “Massachusetts-associated health expenditures”, that proportion of total health  
110 expenditures paid for the delivery of health services rendered to members pursuant to medical  
111 service contracts sold in the commonwealth by the medical service corporation.

112           “Massachusetts-associated revenue”, Massachusetts premiums plus a proportion of total  
113 revenues less total premiums, where said proportion equals Massachusetts premiums divided by  
114 total premiums.

115           “Massachusetts care share”, the percentage obtained by dividing Massachusetts-  
116 associated health expenditures by Massachusetts-associated revenue for a calendar year.

117           “Massachusetts premiums”, all revenue derived from the sale in Massachusetts of  
118 medical service contracts and contracts showing evidence of coverage for health services.

119           “Total health expenditures”, all expenditures by or on behalf of a medical service  
120 corporation for the purchase of health services, including physicians and other professional  
121 health services, hospital and other health facility services, pharmacy services, health education  
122 and capital expenditures for the construction or rehabilitation of medical facilities for the  
123 delivery of health care.

124           “Total premiums”, all revenue derived from the sale within or outside the  
125 commonwealth of medical service contracts and contracts showing evidence of coverage for  
126 health services.

127           “Total revenues”, all income and revenues, however derived, including, but not limited to,  
128 revenues derived from premium sales, interest, dividends and other investments, but excluding only  
129 income in the form of compensation for administrative services pursuant to a contract or other

130 arrangement for rendering administrative services only to self-funded health plans that are not owned  
131 or controlled by the insurer.

132 SECTION 3. Chapter 176G of the General Laws is hereby amended by inserting after  
133 section 6A the following section:-

134 Section 6B. (a) Each organization licensed to operate a health maintenance organization  
135 in the commonwealth and that has a contract with the Group Insurance Commission, MassHealth  
136 or Commonwealth Care shall expend the percentage as herein provided of its Massachusetts-  
137 associated revenue as its Massachusetts care share for the purpose of providing health services to  
138 its members. The Massachusetts care share for a health maintenance organization as described  
139 in the previous section shall be no less than 90 per cent of the Massachusetts-associated revenue,  
140 and non-health expenditures shall not exceed 10 per cent of Massachusetts-associated revenue  
141 for each calendar year.

142 (b) Each organization operating a health maintenance organization shall report annually  
143 to the commissioner its total revenues, Massachusetts-associated revenue, total premiums,  
144 Massachusetts premiums, total health expenditures, Massachusetts-associated health  
145 expenditures, total non-health expenditures, care share and Massachusetts care share. Such  
146 information shall be reported on forms provided by the commissioner which shall include all  
147 information required by the National Association of Insurance Commissioners' Health  
148 Maintenance Organization Financial Report of Affairs and Conditions Form and such other  
149 information as the commissioner shall deem relevant for determining compliance with the  
150 requirements of this section. The commissioner shall issue regulations specifying the methods  
151 for calculating the information to be reported in accordance with this section. The commissioner  
152 shall publish annually the care share and the Massachusetts care share of each health



153 maintenance organization doing business in the commonwealth. All written materials used for  
154 advertising and marketing health maintenance contracts to prospective members or groups of  
155 members shall include a statement of the health maintenance organization's care share and its  
156 Massachusetts care share.

157 (c) Any organization that fails to comply with this section shall refund to its members a  
158 percentage of its Massachusetts-associated revenues equal to the Massachusetts care share  
159 required by subsection (a) for the calendar year less the Massachusetts care share actually  
160 expended for the calendar year. The refund payable for any calendar year shall be paid on or  
161 before April 30 of the next calendar year. A health maintenance organization that reports a  
162 shortfall in its Massachusetts care share may, upon written notice to the commissioner, pay the  
163 refund owed by reducing the total premiums payable by its members for the calendar year in  
164 which the shortfall is reported by an amount equal to the total shortfall.

165 The commissioner shall prepare an annual budget of the costs of monitoring and  
166 determining compliance with this section and such costs shall be paid by each health  
167 maintenance organization on a prorata basis.

168 (d) The knowing violation of any of the requirements of this section by a carrier or  
169 health maintenance organization shall be punished by imprisonment for not more than 5 years or  
170 by a fine of not more than 20 per cent of Massachusetts-associated revenue. A violation of this  
171 section shall also be deemed to be a violation of chapter 93A.

172 (e) For purposes of this section, the following terms shall have the following meanings:

173 "Care share", the percentage obtained by dividing total health expenditures by total  
174 revenue for a calendar year.

175 “Massachusetts-associated health expenditures”, that proportion of total health  
176 expenditures paid for the delivery of health services rendered to members pursuant to health  
177 maintenance contracts sold in the commonwealth by the health maintenance organization.

178 “Massachusetts-associated revenue”, Massachusetts premiums plus a proportion of total  
179 revenues less total premiums, where said proportion equals Massachusetts premiums divided by  
180 total premiums.

181 “Massachusetts care share”, the percentage obtained by dividing Massachusetts-  
182 associated health expenditures by Massachusetts-associated revenue for a calendar year.

183 “Massachusetts premiums”, all revenue derived from the sale in Massachusetts of health  
184 maintenance contracts and contracts showing evidence of coverage for health services.

185 “Total health expenditures”, all expenditures by or on behalf of a health maintenance  
186 organization for the purchase of health services, including physicians and other professional  
187 health services, hospital and other health facility services, pharmacy services, health education  
188 and capital expenditures for the construction or rehabilitation of medical facilities for the  
189 delivery of health care.

190 “Total premiums”, all revenue derived from the sale within or outside the  
191 commonwealth of health maintenance contracts and contracts showing evidence of coverage for  
192 health services.

193 “Total revenues”, all income and revenues, however derived, including, but not limited  
194 to, revenues derived from premium sales, interest, dividends, and other investments, but  
195 excluding only income in the form of compensation for administrative services pursuant to a  
196 contract or other arrangement for rendering administrative services only to self-funded health  
197 plans that are not owned or controlled by the health maintenance organization.

198 SECTION 4 Chapter 176I of the General Laws is hereby amended by inserting after  
199 section 3A the following section:-

200 Section 3B. (a) Each organization that enters into a preferred provider arrangement in  
201 the commonwealth pursuant to this chapter and that has a contract with the Group Insurance  
202 Commission, MassHealth or Commonwealth Care shall expend the percentage as herein  
203 provided of its Massachusetts-associated revenue as its Massachusetts care share for the purpose  
204 of providing health services to its members. The Massachusetts care share for an organization as  
205 described in the previous section shall be no less than 90 per cent of Massachusetts-associated  
206 revenue, and non-health expenditures shall not exceed 10 per cent of Massachusetts-associated  
207 revenue for each calendar year.

208 (b) Each organization shall report annually to the commissioner its total revenues,  
209 Massachusetts-associated revenue, total premiums, Massachusetts premiums, total health  
210 expenditures, Massachusetts-associated health expenditures, total non-health expenditures, care  
211 share and Massachusetts care share. Such information shall be reported on forms provided by  
212 the commissioner which shall include all information required by the National Association of  
213 Insurance Commissioners' Health Maintenance Organization Financial Report of Affairs and  
214 Conditions Form and such other information as the commissioner shall deem relevant for  
215 determining compliance with the requirements of this section. The commissioner shall issue  
216 regulations specifying the methods for calculating the information to be reported in accordance  
217 with this section. The commissioner shall publish annually the care share and the Massachusetts  
218 care share of each organization doing business in the commonwealth. All written materials used  
219 for advertising and marketing preferred provider arrangements to prospective members or groups

220 of members shall include a statement of the organization's care share and its Massachusetts care  
221 share.

222 (c) Any organization that fails to comply with this section shall refund to its members a  
223 percentage of its Massachusetts-associated revenues equal to the Massachusetts care share  
224 required by subsection (a) for the calendar year less the Massachusetts care share actually  
225 expended for the calendar year. The refund payable for any calendar year shall be paid on or  
226 before April 30 of the next calendar year. An organization that reports a shortfall in its  
227 Massachusetts care share may, upon written notice to the commissioner, pay the refund owed by  
228 reducing the total premiums payable by its members for the calendar year in which the shortfall  
229 is reported by an amount equal to the total shortfall.

230 The commissioner shall prepare an annual budget of the costs of monitoring and  
231 determining compliance with this section and such costs shall be paid by each organization on a  
232 prorata basis.

233 (d) The knowing violation of any of the requirements of this section by any organization  
234 shall be punished by imprisonment for not more than 5 years or by a fine of not more than 20 per  
235 cent of Massachusetts-associated revenue. A violation of this section shall also be deemed to be  
236 a violation of chapter 93A.

237 (e) For purposes of this section, the following terms shall have the following meanings:

238 "Care share", the percentage obtained by dividing total health expenditures by total  
239 revenue for a calendar year.

240 "Massachusetts-associated health expenditures", that proportion of total health  
241 expenditures paid for the delivery of health services rendered to members pursuant to health  
242 services contracts sold in the commonwealth by the organization.

243 “Massachusetts-associated revenue”, Massachusetts premiums plus a proportion of total  
244 revenues less total premiums, where said proportion equals Massachusetts premiums divided by  
245 total premiums.

246 “Massachusetts care share”, the percentage obtained by dividing Massachusetts-  
247 associated health expenditures by Massachusetts-associated revenue for a calendar year.

248 “Massachusetts premiums”, all revenue derived from the sale in Massachusetts of health  
249 services contracts and contracts showing evidence of coverage for health services.

250 “Total health expenditures”, all expenditures by or on behalf of an organization for the  
251 purchase of health services, including physicians and other professional health services, hospital  
252 and other health facility services, pharmacy services, health education and capital expenditures  
253 for the construction or rehabilitation of medical facilities for the delivery of health care.

254 “Total premiums”, all revenue derived from the sale within or outside the  
255 commonwealth of health services contracts and contracts showing evidence of coverage for  
256 health services.

257 “Total revenues”, all income and revenues, however derived, including, but not limited  
258 to, revenues derived from premium sales, interest, dividends and other investments, but  
259 excluding only income in the form of compensation for administrative services pursuant to a  
260 contract or other arrangement for rendering administrative services only to self-funded health  
261 plans that are not owned or controlled by the organization.