

HOUSE No. 905

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia and John F. Keenan

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 to expand coverage and access to behavioral health services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>

HOUSE No. 905

By Representative Malia of Boston and Senator Keenan, a joint petition (accompanied by bill, House, No. 905) of Elizabeth A. Malia and others for legislation to expand coverage and access to behavioral health services. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 948 OF 2013-2014.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
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An Act to expand coverage and access to behavioral health 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. Section 19 of Chapter 118E, as appearing in the 2012 Official Edition, is
2 hereby amended by adding after the first paragraph, the following new paragraph:-

3 “The division and its contracted health insurers, health plans, health maintenance
4 organizations, behavioral health management firms and third party administrators under contract
5 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
6 medically necessary mental health services within an inpatient psychiatric facility licensed by the
7 Department of Mental Health for up to 14 days and shall not require preauthorization prior to
8 obtaining said mental health services; provided that the facility shall provide the division or its
9 contractors notification of admission within 48 hours of admission; provided further, that
10 utilization review procedures may be initiated on day 7; and provided further, that Emergency

11 Service Program teams, so-called, as contracted through MassHealth to conduct behavioral
12 health screenings, shall not be considered a preauthorization requirement pursuant to any
13 admission under this section. Medical necessity shall be determined by the treating licensed
14 mental health professional and noted in the member's medical record."

15 SECTION 2. Section 12 of Chapter 123 of the general laws, as so appearing, is hereby
16 amended by striking the first sentence of subsection (b) in its entirety and inserting in place
17 thereof the following:-

18 "Only if the application for hospitalization under the provisions of this section is made by
19 a physician specifically designated by the facility to have the authority to order an admission to a
20 facility in accordance with the regulations of the department, shall such person be admitted to the
21 facility immediately after his reception."

22 SECTION 3. Section 16 of Chapter 176O, as so appearing, is hereby amended by adding
23 at the end thereof the following new subsection:-

24 (d) A carrier shall provide coverage for medically necessary mental health services within
25 an inpatient psychiatric facility licensed by the Department of Mental Health for up to a total of
26 14 days when such treatment is determined to be medically necessary by the treating licensed
27 mental health professional, and shall not require preauthorization prior to obtaining said mental
28 health services; provided that the facility shall provide the carrier both notification of admission
29 and the initial treatment plan within 48 hours of admission; provided further, that utilization
30 review procedures may be initiated on day 7.

31 SECTION 4. Notwithstanding any general or special law, rule or regulation to the
32 contrary, Medicaid contracted health insurers, health plans, health maintenance organizations,

33 behavioral health management firms and third party administrators under contract to a Medicaid
34 managed care organization or the Medicaid primary care clinician plans shall develop a
35 streamlined process that will enhance the current community based behavioral health screening
36 process to allow admission to inpatient behavioral health services from a community based
37 setting where a patient is presenting with a medical condition requires such admission but does
38 not require a medical screening examination in an emergency department. Said process shall be
39 developed after consultation with a working group that includes representatives from the Office
40 of Medicaid, and representatives from organizations that represent and provide expertise in
41 community based mental health, emergency medical care providers, acute care hospitals,
42 inpatient and specialty psychiatric hospitals, insurance carriers, and patient advocacy. The
43 working group shall develop a process that includes, but shall not be limited to (1) additional
44 incentives for community based screening teams that are most successful in placing patients and
45 achieving better patient outcomes for patients screened in the community rather than in an
46 emergency department; and (2) requirements for the Medicaid contracted health insurers, health
47 plans, health maintenance organizations, behavioral health management firms and third party
48 administrators under contract to a Medicaid managed care organization or primary care clinician
49 plan to pay the screening teams for community based screening at not less than the rates for adult
50 emergency and crisis services paid by the Massachusetts Behavioral Health Partnership for
51 emergency services as of January 1, 2010 in the following settings: community-based; mobile
52 response; and community crisis stabilization.

53 SECTION 5. Notwithstanding any general or special law to the contrary, the Office of
54 Medicaid and the Commissioner of Insurance shall develop regulations requiring that carriers, as
55 defined under Section 1 of chapter 176O, and their contractors, and Medicaid contracted health

56 insurers, health plans, health maintenance organizations, behavioral health management firms
57 and third party administrators under contract to a Medicaid managed care organization or a
58 primary care clinician plan to assist the provider in conducting searches for inpatient or
59 community based mental health or substance abuse placements for their members or insured if
60 the individuals suffering from a mental health or substance abuse condition once the
61 determination for treatment has been made by the emergency department physician or
62 psychiatric physician, where such assistance shall include providing 24 hour seven day a week
63 access to staff that are familiar with the applicable networks and who will assist providers in real
64 time to locate appropriate placements within the contracted networks of a Carrier, Medicaid
65 managed care organization or a primary care clinician plan.

66 SECTION 6. Notwithstanding any general or special law to the contrary, the Office of
67 Medicaid and the Commissioner of Insurance shall develop regulations requiring the
68 development of a payment rate by Carriers and their contractors as well as Medicaid contracted
69 health insurers, health plans, health maintenance organizations, behavioral health management
70 firms and third party administrators under contract to a Medicaid managed care organization or
71 primary care clinician plan, that reimburses hospitals and physicians at not less than the
72 Medicaid, carrier's or contractor's average contracted rate for inpatient mental health or
73 substance abuse services, for each calendar day that a patient remains boarded in the emergency
74 department beyond 24 hours after a determination to admit has been made by the emergency
75 department physician or psychiatric physician.

76 SECTION 7. Notwithstanding any general or special law, rule or regulation to the
77 contrary, a Carrier, as defined under Section 1 of Chapter 176O and their contractors, and
78 Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral

79 health management firms and third party administrators under contract to a Medicaid managed
80 care organization or a primary care clinician plan shall implement all Current Procedural
81 Terminology (CPT), as well as evaluation and management codes for mental health and
82 substance abuse services in accordance with the new CPT evaluation and management codes as
83 most recently adopted by the American Medical Association and the Centers for Medicare and
84 Medicaid Services (CMS); provided further, that if a code is covered under a Carrier or Medicaid
85 fee schedule and paid on the medical/surgical benefit, then the code shall reimburse health care
86 providers at the same rate as provided in facility and non-facility settings on the mental health
87 and substance abuse benefit regardless of the location where the services were rendered or the
88 medical specialty of the treating healthcare provider; provided further, that the Carrier and office
89 of Medicaid shall work with its actuary to ensure that capitation rates appropriately account for
90 changes in provider rates for all rate changes associated with incremental increases for mental
91 health and substance abuse services; provided further, that any integrated care organization,
92 managed care entity or behavioral health carve-out entity that manages mental health and
93 substance abuse services on behalf of the Carrier or Medicaid shall implement all CPT
94 evaluation and management codes for behavioral health services in accordance with the new
95 CPT codes for evaluation and management services as well as psychopharmacological services
96 and neuropsychological assessment services as most recently adopted by the American Medical
97 Association and CMS; provided further, that any integrated care organization, managed care
98 entity or behavioral health carve-out entity that manages behavioral health services on behalf of a
99 Carrier or Medicaid shall be required to pay, at a minimum, the Carrier's or Medicaid's rates of
100 payment for all CPT evaluation and management codes for behavioral health services by October
101 1, 2015; and provided further, that the Carrier and Medicaid shall review and adjust all rates of

102 payment accordingly for mental health and substance abuse services provided in hospitals,
103 hospital clinics, outpatient clinics, private practice offices, community health centers and mental
104 health centers by October 1, 2015.

105 SECTION 8. Notwithstanding any general or special law or rule or regulation to the
106 contrary, the Office of Medicaid shall develop a process for providers to receive a supplemental
107 payment from the Office to reimburse the difference between reimbursement from Medicaid fee
108 schedules and/or contract arrangements and 95% of the cost of care provided to MassHealth
109 members for mental health and substance abuse services; provided however that the Center for
110 Health Information and Analysis shall conduct an analysis to determine the actual costs of said
111 care.

112 SECTION 9. Notwithstanding any general or special law or rule or regulation to the
113 contrary, the Office of Medicaid and the Department of Mental Health shall evaluate and
114 coordinate the development a difficult to manage unit, so called, to provide behavioral health
115 services for children and adolescents who also have an intellectual disability at a capacity of at
116 least 15 licensed beds in said unit. Said unit shall be in service at an existing DMH facility or be
117 contracted with a facility licensed by the Department not later than October 1, 2016.

118 SECTION 10. There shall be a special task force convened to identify existing structural
119 or policy-based impediments to streamlining the current judicial reviews for commitment or
120 Rogers guardianship hearings for adults and children/adolescents to an inpatient psychiatric
121 facility. The task force shall consist of the following members: 1 shall be the Secretary of Health
122 and Human Services or a designee, who shall serve as co-chair; 1 shall be the Trial Court
123 Administrator or a designee, who shall serve as co-chair; 1 shall be the commissioner of mental

124 health; 1 shall be a representative of the Massachusetts Hospital Association; 1 shall be a
125 representative of the Massachusetts Psychiatric Society; 1 shall be a representative of the
126 Massachusetts Association of Behavioral Health Systems; 1 of whom shall be a representative of
127 the Massachusetts College of Emergency Physicians; 1 shall be a representative of the
128 Massachusetts Medical Society; 1 shall be a representative of the National Alliance on Mental
129 Illness Massachusetts; 1 shall be a representative of the Children's Mental Health Campaign; 1
130 shall be a representative from the Office of the Child Advocate; 1 shall be a representative of the
131 Committee for Public Counsel Services; 1 shall be a representative of the Center for Public
132 Representation; and additional members may be determined by the Chair. In its examination, the
133 task force shall develop legislative recommendations no later than January 31, 2016, which shall
134 be provided to the Joint Committee on Mental Health and Substance Abuse, the Joint Committee
135 on the Judiciary, the Joint Committee on Health Care Financing, and the House and Senate
136 Committees on Ways and Means.

137 SECTION 11. Notwithstanding any general or special law or rule or regulation to the
138 contrary, the Division of Insurance shall issue regulation no later than October 1, 2015 that
139 requires Carriers, as defined in section 1 of chapter 176O of the General Laws, to cover
140 community based services for children and adolescents using a wraparound model, so called, that
141 are the same or similar to those provided under Section 16S of Chapter 6A of the General Laws.