HOUSE DOCKET, NO. 704 FILED ON: 1/19/2011

HOUSE . . . . . No. 304

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 passage of the accompanying:

An Act to define the use of observation services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ronald Mariano	*3rd Norfolk*

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HOUSE . . . . . No. 304

By Mr. Mariano of Quincy, a petition (accompanied by bill, House, No. 304) of Ronald Mariano relative to clinically appropriate ongoing short term treatment, assessment and reassessment health care observation services coverage and assistance. Financial Services.

The Commonwealth of Massachusetts

An Act to define the use of observation services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 8 of Chapter 118E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the definition of "Medical benefits" the following new definition:

"Observation Services", a defined set of clinically appropriate healthcare services which include ongoing short term treatment, assessment, reassessment, furnished while a decision is being made regarding whether recipients of medical assistance will require further treatment as hospital inpatients or whether they are able to be discharged from the hospital.

SECTION 2. Section 12 of chapter 118E of the General Laws, as so appearing, is further amended by inserting at the end thereof the following new paragraph:

The division and its contractors shall classify a medical assistance recipient as requiring or receiving observation services based on the medical judgment of the treating healthcare provider after due consideration of the recipient's presenting signs and symptoms. The recipient shall be deemed as meeting observation status if the treating healthcare provider determines that the recipient's diagnosis and treatment course remains unclear, or requires short-term monitoring and diagnostic assessment by clinical staff. For services extending beyond 24 hours in duration, should the recipient require active treatment of his condition, the recipient shall be deemed admitted to the facility as an inpatient; provided however, that the treating healthcare provider may authorize observation status for services provided beyond 24 hours based on the need for continued short-term monitoring and diagnostic assessment. The division and its contractors shall not retroactively reclassify the recipient from an approved inpatient authorization to observation, for either a portion or the entire stay, after the determination by the treating healthcare provider and authorization by the division that the recipient shall be admitted as an inpatient.

24 SECTION 3. Section 1 of chapter 176O of the General Laws, as so appearing, is hereby
25 amended by inserting after the definition of "network" the following new definition:

26 "Observation Services", a defined set of clinically appropriate services which include
27 ongoing short term treatment, assessment, reassessment, that are furnished while a decision is
28 being made regarding whether the insured will require further treatment as hospital inpatients or
29 whether they are able to be discharged from the hospital.

30 SECTION 4. Section 12 of chapter 176O, as so appearing, is further amended by
31 inserting the following new subsection (f):

32 (f) The carrier and its contractors shall classify an insured as requiring or receiving
33 observation services based on the medical judgment of the treating healthcare provider after due
34 consideration of the insured's presenting signs and symptoms. The insured shall be deemed as
35 meeting observation status if the treating healthcare provider determines that the insured's
36 diagnosis and treatment course remains unclear, or requires short-term monitoring and diagnostic
37 assessment by clinical staff. For services extending beyond 24 hours in duration, should the
38 insured require active treatment of his condition, the insured shall be deemed admitted to the
39 facility as an inpatient; provided however, that the treating healthcare provider may authorize
40 observation status for services provided beyond 24 hours based on the need for continued short-
41 term monitoring and diagnostic assessment. The carrier and its contractors shall not retroactively
42 reclassify the insured from an approved inpatient authorization to observation, for either a
43 portion or the entire stay, after the determination by the treating healthcare provider and
44 authorization by the insurer that the insured shall be admitted as an inpatient.

45 SECTION 5. The Division of Insurance and the Office of Medicaid shall promulgate
46 regulations implementing the provisions of this Act no later than 90 days following the effective
47 date. The regulations as set forth, shall be effective in contracts between carriers, the Office of
48 Medicaid, and their contractors, with health care providers that are entered into, renewed, or
49 amended on or after the effective date of this Act.