SENATE DOCKET, NO. 1206 FILED ON: 1/20/2011

SENATE . . . . . No. 500

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 establishing a public health insurance option.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	☐ *[District]* ☐
Jason M. Lewis	*31st Middlesex*
Tom Sannicandro	*7th Middlesex*
Patricia D. Jehlen	☐ *[District]* ☐
Frank I. Smizik	*15th Norfolk*
Carl M. Sciortino, Jr.	*34th Middlesex*
Kay Khan	*11th Middlesex*
Sonia Chang-Diaz	☐ *[District]* ☐
Daniel A. Wolf	☐ *[District]* ☐

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SENATE . . . . . No. 500

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 500) of James B. Eldridge, Jason M. Lewis, Tom Sannicandro, Patricia D. Jehlen and other members of the General Court for legislation to establish a public health insurance option. Health Care Financing.

The Commonwealth of Massachusetts

An Act establishing 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:

SECTION 1. The General Laws are hereby amended by inserting after chapter 176Q the following chapter:-

CHAPTER 176R

PUBLIC HEALTH INSURANCE OPTION

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

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

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

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

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

"Health benefit plan", any individual, general, blanket or group policy of health, accident and sickness insurance issued by an insurer licensed under chapter 175; a group hospital service plan issued by a non-profit hospital service corporation under chapter 176A; a group medical

21 service plan issued by a non-profit medical service corporation under chapter 176B; a group
22 health 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
46 however, that the individual is not offered subsidized health insurance by an employer with more
47 than 50 employees.

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

56 "Public Option", the public health benefits plan offered through the Commonwealth
57 Connector, 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
60 public health benefits plan - the public health insurance option - to eligible individuals and
61 groups, to ensure choice, competition, and stability of affordable, high quality coverage
62 throughout Massachusetts. The public option shall:-

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

65 (b) meet all the requirements established for health benefit plans to receive the
66 Commonwealth 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
70 small groups through the Connector no later than January 1, 2011. In addition the public option
71 shall 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
73 managed care organizations or other such health benefits administrators to administer aspects of
74 plans offered under the public health insurance option. Notwithstanding any general or special
75 law to the contrary, the executive director shall collaborate with the secretary of health and
76 human 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
82 option shall be included in the Commonwealth Connector's annual reports and shall be subject to
83 the 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
86 health 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
90 Insurance Option for services and providers based on parts A and B of Medicare. The

91 Commonwealth Connector Board may determine the extent to which adjustments to base
92 Medicare payment rates shall be made in order to fairly reimburse providers and medical goods
93 and device makers, as well as to maintain a a strong provider network.

94 Section 8. Health care providers (including physicians and hospitals) participating in
95 Medicare are participating providers in the public option unless they opt out through a process to
96 be 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
98 insurance option;

99 (b) the connector shall include information on how providers participating in Medicare
100 who 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
104 chapter.

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

107 Section 8K. Risk Adjustment

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

116 (b) Using the criteria and methods developed under subsection (c), the commissioner of
117 insurance shall provide a payment to risk-adjusted health plans (with respect to health insurance
118 coverage) if the actuarial risk of the enrollees of such plans or coverage for a year is greater than
119 the average actuarial risk of all enrollees in all risk-adjusted health plans for such year that are
120 not self-insured group health plans (which are subject to the provisions of the Employee
121 Retirement Income Security Act of 1974).

122 (c) The commissioner shall establish criteria and methods to be used in carrying out the
123 risk adjustment activities under this section. In calculating the actuarial risk of risk-adjusted
124 health plans, the commissioner may utilize data including but not limited to enrollee

125 demographics, inpatient and outpatient diagnoses (in similar fashion as such data are used under
126 parts C and D of title XVIII of the Social Security Act), and such other information as the
127 commissioner determines may be necessary such as the actual medical costs of enrollees during
128 the previous year. Upon request, such risk-adjusted health plans shall make information available
129 to the division of insurance for the purposes of risk adjustment under this section. Such
130 information shall be limited to the minimum amount of personal information necessary, shall be
131 confidential, and shall not constitute a public record.

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

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

137 Section 2YYY. There is hereby established and set up on the books of the commonwealth
138 a separate fund to be known as the Public Health Insurance Option Trust Fund, in this section
139 called the trust fund. Amounts credited to the trust fund shall be expended without further
140 appropriation for operation of the public health insurance option. Not later than January 1, the
141 comptroller shall report an update of revenues for the current fiscal year. The comptroller shall
142 file this report with the secretary of administration and finance, the office of Medicaid, the joint
143 committee on health care financing, and the house and senate committees on ways and means.

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

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

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

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

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

157 SECTION 8. Effective no later than July 1, 2011, the board of the Commonwealth
158 Connector shall, consistent with the Board's powers and duties as enumerated in Section 3 of

159 Chapter 176J, extend its seal of approval to large group plans and offer such plans, alongside a
160 public health insurance option for large groups, through the Connector.