Massachusetts Governor Deval Patrick signed into law today an expansive range of health care cost-control measures. The new legislation comes six years after former Governor Mitt Romney, the current presumptive Republican presidential nominee, signed the state’s previous major health reform law, which greatly expanded insurance coverage. Many policymakers and stakeholders in Massachusetts consider the newly signed law to be the second phase of health care reform.1 The law will implement a variety of cost control and quality performance measures—global spending targets; payment, delivery system, and malpractice reform; improved data collection and reporting; and new investments in prevention and public health.2

Cost Containment
The legislation establishes cost-growth targets for the state’s health care industry that are no greater than the rate of growth for the Gross State Product (GSP), or the State’s economy as a whole. For 2013-2017, these rates are set at the growth rate of the GSP, and they are set at slightly below the rate of growth for the GSP (between GSP - 0.5% and GSP) in 2018 - 2022. The estimated savings from this measure are $200 billion over the next 15 years.3

Payment Reform
MassHealth, the state’s Medicaid program, the state’s employee health care program, and all other state-funded health care programs will adopt new payment methodologies, e.g. shared savings arrangements, bundled payments, and global payments, in place of fee-for-service payment, to drive greater quality and efficiency.4 The legislation also raises MassHealth payment rates (totaling $20 million) for providers that transition to these new payment methodologies.5

The law establishes a certification process for accountable care organizations (ACOs), which are large provider groups that deliver all of a patient’s care in a coordinated fashion, with a focus on cost-growth reduction, quality improvement, and patient protection. The measure also establishes a certification process for patient-centered medical homes, which are primary care providers that coordinate patients’ care with other providers and provide case management services.6

Enhancing Transparency and Accountability in the Health Care Marketplace
All health care provider systems will be required to register with the state and regularly report financial performance, market share, cost, and quality data to that entity. The Attorney General will be charged with monitoring the health care market with attention to consolidation in the provider market. The law also creates a new “Cost and Market Impact Review” that will examine changes in the health care

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3 Ibid.
4 Massachusetts Senate Bill 2400. Available at: http://www.malegislature.gov/Bills/187/Senate/S02400
6 Ibid.
industry and their impact on cost, quality, and market competitiveness. The findings of this analysis will be provided to the Attorney General for further investigation, if necessary.\footnote{7}

The law provides a framework for tracking price variation among providers and establishes a Special Commission that will determine the acceptable and unacceptable levels and determinants of price variation among providers.\footnote{8}

**Investments in Prevention, Wellness, and Public Health**

The law allocates $60 million over the next four years to community-based prevention, public health, and wellness efforts to reduce the rates of costly preventable chronic diseases (e.g. obesity, diabetes, and asthma). It also includes a new wellness tax credit of up $10,000 for businesses that implement workplace wellness programs. Moreover, the Department of Public Health is charged with developing a “model guide” for wellness programs for businesses and to provide stipends to help businesses establish these programs. Health insurance companies will also be required to provide a premium adjustment for small businesses that adopt approved workplace wellness programs.\footnote{9}

**Delivery System Reform and Investments in the Health Care Workforce**

Massachusetts has dedicated $135 million over the next four years to investments in community hospitals, and this fund will be supported by a one-time surcharge assessment on insurers, as well as on large hospitals and health systems with over $1 billion in total net assets.\footnote{10} This funding is targeted to financially distressed hospitals and will assist in the transition to new payment methodologies and care delivery models. The law also allocates an additional $30 million for investments in other health care providers to accelerate the implementation of interoperable electronic health records. Further, the law establishes a Health Care Workforce Transformation Trust Fund with an initial investment of $20 million in the 2013 fiscal budget to support training, education, and skill development programs necessary to help workers succeed in the health care system of the future.\footnote{11}

**Increasing Access to Care**

Massachusetts will now allow physician assistants and nurse practitioners to act as primary care providers in order to expand access to cost-effective care. In addition, “limited-service clinics” will be able to act as convenient points of access for health care services provided by nurse practitioners.

The law expands an existing workforce loan forgiveness program to include providers of behavioral, substance abuse disorder, and mental health services; it also establishes a new primary care residency program supported by the Department of Public Health to increase the pipeline of primary care providers.\footnote{12}

Promoting Administrative Simplification for Health Care Providers
Through this law, Massachusetts will require the development of standard prior authorization forms, which will be available electronically to allow providers to use one form for all payers. The legislation also authorizes penalties for non-compliance with standardized coding and billing requirements, and it streamlines data reporting requirements by designating a single agency as the secure repository for all health care information reported to and collected by the state.13

Reforming Medical Malpractice
To reduce the costs of unnecessary litigation and malpractice claims, the law creates a 182-day cooling-off period to allow both sides to negotiate a settlement. This plank of the legislation also requires the exchange of information between the plaintiff and defense to promote early settlement. Malpractice reforms also allow the health care provider to admit error, and the admission cannot be used in court as an admission of liability. However, if a provider lies under oath about the error, the statement can be used as an admission of liability. This portion of the bill also creates a task force to study defensive medicine and medical overutilization.14

Consumer Transparency of Health Care Costs
New transparency tools will help customers make health care purchasing decisions based on comparative cost and quality. These tools include including the establishment of a consumer health information website with transparent prices and online decision-making tools. Health insurance carriers will also have to disclose out-of-pocket costs for health care services and patients will not be required to pay more than the disclosed amount. Carriers will also be required to provide a summary to consumers in an easily readable and understandable format that displays the consumer’s responsibility for payment of any portion of a health care provider claim.15

Affordability and Efficiency of Health Insurance Products
The Division of Insurance will be charged with reviewing premium filings to ensure that small businesses and individuals receive the most efficient products possible. The Division of Insurance will also have extended authority to help mitigate and stabilize large spikes in premium from year to year. The minimum premium savings for “tiered” or “selective” network health products will increase from 12% to 14%.16 Plans with tiered networks offer lower costs to consumers if they choose to see providers with lower costs and higher quality ratings.

Consumer Access to Necessary Care
ACOs, patient-centered medical homes, and provider organizations that receive a risk-based, or prospective, payment will be required to set up a system of internal appeals. The appeals process will be limited to 14 days. Additionally, certified ACOs will be required to guarantee access to all medically necessary services for patients, either internally or through providers outside of the ACO.17

Integrating Behavioral, Substance Use Disorder, and Mental Health Services
Health insurance companies will have to submit documentation that certifies their compliance with federal mental health parity law. Further, the legislation establishes a special task force to make

13 Ibid.
14 Ibid.
15 Ibid.
16 Ibid.
17 Ibid.
recommendations about how to integrate behavioral health services in the payment and delivery systems developed under this section of the bill.18

New Governance

Health Policy Commission
The Health Care Quality and Cost Council will transform into the Health Policy Commission, which will be governed by an 11-member board within, but not subject to the control of the Executive Office of Administration and Finance. The Commission will oversee policy development for the implementation of the legislation, including setting and enforcing the health care cost growth benchmark, certifying new payment methods and delivery models, and producing “Cost and Market Impact” reviews of market changes.19

Center for Health Information and Analysis
The law reorganizes the Division of Health Care Finance and Policy into the Center for Health Information and Analysis, which will be an independent state agency, governed by an executive director, appointed by a majority vote of the Governor, Attorney General, and State Auditor. The Center will be the primary health care data collection, dissemination, and analysis agency of the State and will provide independent analysis of the effects of state policies on cost trends.20

Pharmaceutical Cost Containment
The legislation directs state agencies that purchase prescription drugs to form a uniform procurement unit to negotiate bulk purchases and creates a commission to review methods to reduce the cost of prescriptions for public and private payers.21

Looking Ahead
Massachusetts has enacted sweeping legislation that uses a host of approaches to tackle growth in health care costs that persistently outpaces growth in the economy as a whole. This multi-faceted approach may greatly increase the law’s chances of success, yet it lacks many specific consequences or penalties if the state fails to meet its health spending goals. Notably, the legislation includes provisions for improved collection and dissemination of cost and quality data, as well as a fine of $500,000 for providers that willfully refuse to implement cost-control plans.22 However, given the ambitious health spending goals of the law, the state may need to establish stronger provider efficiency incentives in the future. For example, earlier versions of the legislation required providers to renegotiate their contracts with insurers if they failed to meet cost growth targets.

In addition, some worry that the provisions to enable smaller community hospitals to compete with larger hospitals are insufficient.23 Although the one-time surcharge on larger hospitals and health systems provides some additional support to smaller community hospitals, earlier proposals included a

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18 Ibid.
19 Ibid.
20 Ibid.
21 Ibid.
tax on more expensive hospitals that provide premium services. Such a tax and additional regulatory interventions would offer more assertive approaches to closing the gap between the rates that different hospitals charge. In any case, the legislation that became law gives providers an opportunity to tackle rising costs in a more self-directed manner.

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