

KROKIDAS & BLUESTEIN

ATTORNEYS

CLIENT ALERT

CHAPTER 224 HEALTH CARE COST CONTAINMENT UPDATE #1

Chapter 224 of the Massachusetts Acts of 2012, “An Act Improving the Quality of Health Care and Reducing Costs Through Increased Transparency, Efficiency and Innovation,” became effective on November 5, 2012. The law aims to control health care costs through the creation of new agencies, adoption of alternative payment methodologies, investment in prevention, and increased price transparency.

On November 8, 2012, the Department of Public Health (DPH) issued interim guidance under Chapter 224 that will be in place until DPH promulgates further regulations for the Determination of Need (DoN) program consistent with Chapter 224. The DoN program evaluates applications from health care facilities planning substantial changes in facilities, services, or capital expenditures.

Highlights from the guidance are as follows:

- For the time being applicants can continue to rely on DPH’s current list of innovative services and new technology, although DPH can revise the definitions of “innovative services” and “new technology” under Chapter 224.
- DPH must now consider any comments from the new Center for Health Information and Analysis and Health Policy Commission established under Chapter 224, and from any other agency (the Attorney General, for example, may intervene).
- The guidance amends the definition of “ambulatory surgery” to make clear that wherever DoN applies to ambulatory surgery, it does so whether the facility is an ambulatory surgery center (an outpatient facility licensed as a clinic) or a hospital. Thus, an addition or expansion of ambulatory surgery would be a substantial change of service even for a hospital, notwithstanding the language in DPH’s existing regulations.
- Current fees will remain in effect until new fees are established by regulation.

The guidance is available at: <http://www.mass.gov/eohhs/docs/dph/quality/determination-need/chapter-224-info-bulletin.pdf>