

**HOUSE . . . . . No. 2086**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Kate Hogan*

*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 establish criteria for MassHealth hardship waivers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/24/2011</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>2/3/2011</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>	<i>2/3/2011</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>2/3/2011</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2011</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>2/4/2011</i>
<i>Thomas P. Kennedy</i>		<i>2/4/2011</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/4/2011</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>	<i>1/26/2011</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>2/3/2011</i>

**HOUSE . . . . . No. 2086**

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By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 2086) of Kate Hogan and others for legislation to establish criteria for MassHealth hardship waivers. Health Care Financing.

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act to establish criteria for MassHealth hardship waivers.

*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 28 of Chapter 118E of the General Laws is hereby amended by inserting at the  
2 end thereof the following sections:

3           In accordance with P.L. 109-171 amending Section 1917(c)(2)(D) of the Social Security  
4 Act, the division shall establish criteria and procedures for determining whether undue hardship  
5 exists as a result of the imposition of a period of ineligibility, which shall include written notice  
6 to said individual that an undue hardship waiver shall be granted and an opportunity to appeal.

7           An individual shall have no fewer than 30 days after the date of the final decision including court  
8 appeals to impose a period of ineligibility to request an undue hardship waiver.

9           There shall be a rebuttable presumption that an institutionalized individual is eligible for  
10 an undue hardship waiver if the individual provides documentation that all of the following  
11 criteria are met:

12           1) the individual has insufficient available resources (excluding the community spouse  
13 resource allowance) to provide medical care, food, shelter, clothing and other necessities of life  
14 such that the individual would be at risk of serious deprivation or harm;

15           2) the individual has made reasonable attempts to retrieve the transferred resources or  
16 receives adequate compensation. Reasonable attempts shall not include the filing of frivolous  
17 lawsuits;

18           3) there is no available least costly alternative to institutional care that would meet the  
19 individual's care needs; and

20           4) the period of ineligibility will not be a mere inconvenience to the applicant but rather  
21 will create a situation that would subject the applicant to risk of serious deprivation. A nursing  
22 facility does not have to express an intent to discharge the individual for nonpayment in order for  
23 a hardship waiver to be granted.

24           The division shall promulgate regulations incorporating these criteria for consideration of  
25 an undue hardship waiver request.