

SENATE No. 558

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Tolman

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 establishing cost avoidance through care at home.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Steven A. Tolman</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Patricia D. Jehlen</i>	
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Karen E. Spilka</i>	

SENATE No. 558

By Mr. Tolman, a petition (accompanied by bill, Senate, No. 558) of Steven A. Tolman, Sal N. DiDomenico, Patricia D. Jehlen, Brian M. Ashe and others for legislation to establish cost avoidance through care at home. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act establishing cost avoidance through care at home.

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 1. The purpose of this act shall be to implement cost saving strategies though
2 home health care and recognize that the following initiatives can further improve the efficiency
3 of delivering care services to citizens of the Commonwealth in their communities.

4 SECTION 2. Definitions

5 For the purposes of this act, the following terms shall have the following meanings:

6 “Telehealth/telehealth technology,” includes the delivery of medical services and any
7 diagnostic treatment or health management assistance utilizing interactive audio, video and/or
8 interactive data transmission relative to the health care of a patient in a home care setting.
9 Telehealth technology services do not include telephone conversations, electronic mail messages
10 or facsimile transmissions.

11 “Certified home health agency,” includes those home health agencies that are approved
12 for participation in the Medicare and Medicaid programs.

13 “home care services,” are services provided to a home health patient by a certified home
14 health agency.

15 SECTION 3. Notwithstanding any general or special law to the contrary, the executive
16 office of health and human services is hereby directed, pursuant to section 7 of chapter 118G of
17 the General Laws, to establish that health care services delivered by a certified home health
18 agency through telehealth technology are reimbursable when provided to clients receiving home
19 care services that are otherwise eligible for reimbursement under the Medicaid program.
20 Recipients of telehealth services will be those that require home health services of an unusually
21 high frequency, urgency, or duration and that have chronic medical conditions, including, but not
22 limited to congestive heart failure, diabetes, and/or chronic obstructive pulmonary disease.

23 a) Rates of telehealth services shall reflect costs on a monthly basis in order to account
24 for daily variation in the intensity and complexity of patient’s telehealth service needs; provided
25 that such rates shall further reflect the cost of the daily operation and provision of such services,
26 which costs shall include the following functions undertaken by the participating certified home
27 health agency:

28 i) Monitoring of patients vital signs;

29 ii) Patient education;

30 iii) Medication management;

31 iv) Equipment maintenance and comprehension;

32 v) Review of patient trends and/or other changes in patient condition necessitating
33 professional intervention; and

34 vi) Other such activities as the executive office of health and human services deem
35 necessary and appropriate to this section.

36 b) Reimbursement for telehealth services pursuant to this section shall be provided only
37 in connection with Federal Food and Drug Administration-approved devices, and incorporated as
38 part of the patient's plan of care.

39 c) The home health patient's respective Certified home health agency shall be responsible
40 for the accuracy, maintenance and instruction on the usage of telehealth technology.

41 SECTION 4. Section 80B of Chapter 112 of the General Laws, as appearing in the 2002
42 Official Edition is hereby amended by inserting in the last paragraph after the words "licensed
43 practical nurse" the following:

44 "(8) the administration of or assistance with the administration of medications in the
45 home by a home health aide as defined under G.L. c. 111, § 72F, provided that such an aide has
46 completed agency training regulations to be drafted according to regulations promulgated by the
47 Board of Registration in Nursing and the Department of Public Health and that the
48 administration or assistance with administration is performed under the supervision of a
49 registered nurse. The delegation permitted under this subparagraph eight shall be limited to
50 medications which are oral, ophthalmic, otic, topical, intranasal, transdermal, suppository,
51 prefilled, or products which are administered by inhalation. Administration of medications by
52 intramuscular, subcutaneous, intradermal, intraosseous, intravenous shall not be permitted.

53 a) Agencies shall provide training and establish documentation protocols according to the
54 nurse delegation model and regulations to be drafted by the Board of Registration in Nursing and
55 the Department of Public Health. These regulations shall specify that the registered nurse

56 delegator and the home health aide are accountable for their own actions in the delegation
57 process and that no registered nurse shall be required to delegate if the registered nurse
58 determines it is inappropriate to do so. These regulations shall specify that delegation of
59 administration of medication does not alter the responsibility of the home health agency or
60 hospice to teach and the patient/family to participate in learning, self administration of
61 medications, whenever appropriate.

62 A nurse licensed under this chapter who delegates a specific nursing activity or task in
63 compliance with the rules adopted in these regulations shall not be subject to disciplinary action
64 by the board of nursing for the performance of a person to whom the nursing activity or task is
65 delegated.

66 b) Section 9 of Chapter 94 C of the General Laws is hereby amended by inserting in the
67 first paragraph after the words “veterinarian when registered pursuant to the provisions of
68 Chapter 7” the following:

69 “a home health aide pursuant to the provisions of G.L Chapter 112 S 80B (8).”

70 SECTION 5. Section 1 of Chapter 118G of the General Laws, as most recently
71 amended by chapter 324 of the acts of 2006, is hereby further amended by inserting, after
72 the definition of “health maintenance organization,” the following:--“Home health care
73 provider,”any organization certified as a provider of services under the Medicare Health
74 Insurance Program for the Aged (TitleXVIII of the federal Social Security Act) that meets the
75 Medicare and Medicaid Conditions of Participation for Home Health Agencies in Massachusetts.

76 b) Section 7 of said Chapter 118G, as appearing in the 2004 Official Edition, is hereby
77 amended by deleting clause (1) thereof and inserting in its place the following:--(1) shall
78 determine, after public hearing, at least annually for institutional provider and for home health
79 care provider, and at least biennially for all other non-institutional providers, the rates to be paid
80 by each governmental unit to providers of health care services;

81 c) Said chapter 118G is hereby further amended by adding at the end thereof
82 the following new section:--

83 Section X. (a) Notwithstanding the provision of any general or special law to the
84 contrary, including any other section of chapter 118G or chapter 118E of the General Laws, the
85 division shall (i) adjust rates of payment for home health care providers on an annual basis, with
86 such rates to be established as of January first of each year, and (ii) establish rates of payment for
87 home health care providers on a prospective basis, whenever possible. For purposes of (ii)
88 above, the division shall use as base year cost of rate determination purposes for the particular
89 rate year the reported costs of a calendar year not more than four years prior to such particular
90 rate year, adjusted for inflation, changes in technology and such other factors as the division may
91 reasonably determine.

92 (d) This section shall apply to the rates established for home health care providers
93 pursuant to any waiver of otherwise applicable federal requirements that the division or the
94 division of medical assistance has obtained or may obtain from the secretary of health and
95 human services for the purpose of implementing any type of managed care service delivery
96 system, or for any home health service purchased by the executive office of elder affairs pursuant
97 to an interagency services agreement with the division of medical assistance.

98 SECTION 6. For the purpose of improving patient transitions across care settings,
99 MassHealth shall establish a new rate of home health care payment pursuant to 114.3 CMR
100 50.04 for patients with chronic medical conditions who are at risk for re-hospitalization when
101 discharged from hospital care within 24 hours to a certified home health care agency.

102 Home health agencies will only be reimbursed for such payment provided that the patient
103 avoids returning to the hospital for the same condition for which the patient was originally
104 hospitalized for thirty (30) days under the direct care and supervision of said agency.

105 The MassHealth Care Transition Rate shall be determined by the Secretary of Health and
106 Human Services and based on a nurse-led team model with published evidence of readmission
107 reduction.