HOUSE DOCKET, NO. 401 FILED ON: 1/13/2015

HOUSE . . . . . No. 997

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:
Kate Hogan	*3rd Middlesex*	*1/13/2015*
Harriette L. Chandler	*First Worcester*	*1/16/2015*
Louis L. Kafka	*8th Norfolk*	*9/9/2019*
John V. Fernandes	*10th Worcester*	*9/9/2019*
Sarah K. Peake	*4th Barnstable*	*1/23/2015*
Angelo J. Puppolo, Jr.	*12th Hampden*	*9/9/2019*
Jennifer E. Benson	*37th Middlesex*	*9/9/2019*
Carolyn C. Dykema	*8th Middlesex*	*9/9/2019*
Kay Khan	*11th Middlesex*	*9/9/2019*
Tackey Chan	*2nd Norfolk*	*9/9/2019*
James J. O'Day	*14th Worcester*	*9/9/2019*
James B. Eldridge	*Middlesex and Worcester*	*9/9/2019*
Barbara A. L'Italien	*Second Essex and Middlesex*	*9/9/2019*
Frank I. Smizik	*15th Norfolk*	*9/9/2019*
Christine P. Barber	*34th Middlesex*	*9/9/2019*
Jonathan Hecht	*29th Middlesex*	*9/9/2019*
Benjamin Swan	*11th Hampden*	*9/9/2019*
Danielle W. Gregoire	*4th Middlesex*	*9/9/2019*

Ruth B. Balser	*12th Middlesex*	*9/9/2019*
Alice Hanlon Peisch	*14th Norfolk*	*9/9/2019*
Chris Walsh	*6th Middlesex*	*9/9/2019*
Carlos Gonzalez	*10th Hampden*	*9/9/2019*
Brian M. Ashe	*2nd Hampden*	*9/9/2019*
Tricia Farley-Bouvier	*3rd Berkshire*	*9/9/2019*

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By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 997) of Kate Hogan and others for legislation to establish criteria for MassHealth hardship waivers. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1027* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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:

Chapter 118E of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after section 28 the following section:—

Section 28A. (a) A nursing facility resident may claim undue hardship in order to eliminate the period of ineligibility. In accordance with P.L. 109-171 amending Section 1917(c)(2)(D) of the Social Security Act, the division shall establish procedures for determining whether undue hardship exists as a result of the imposition of a period of ineligibility, which shall include written notice to the resident that an undue hardship exception exists, a timely process for determining whether an undue hardship waiver shall be granted and an opportunity to appeal an adverse determination. A nursing facility resident may request an undue hardship

waiver within 90 days after the date of the final decision to impose a period of ineligibility, including judicial appeals.

(b) There shall be a rebuttable presumption that a nursing facility resident is eligible for an undue hardship waiver if the resident provides documentation that all of the following criteria are met:

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

(2) the nursing facility resident has made reasonable attempts to retrieve the transferred resources or receives adequate compensation;

(3) there is no available less costly alternative to institutional care that would meet the nursing facility resident's care needs; and

(4) the period of ineligibility will not be a mere inconvenience to the applicant but rather will create a situation that would subject the applicant to risk of serious deprivation.

(c) A nursing facility need not express intent to discharge the resident for nonpayment in order for a hardship waiver to be granted.

(d) The division shall promulgate regulations incorporating these criteria for consideration of an undue hardship waiver request.