SENATE DOCKET, NO. 1756 FILED ON: 1/16/2015

SENATE . . . . . No. 619

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 relative to transfer of assets by MassHealth members.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	*Second Bristol and Plymouth*
James B. Eldridge	*Middlesex and Worcester*
Jennifer L. Flanagan	*Worcester and Middlesex*
James J. O'Day	*14th Worcester*
Anne M. Gobi	*Worcester, Hampden, Hampshire and Middlesex*
Barbara A. L'Italien	*Second Essex and Middlesex*
Josh S. Cutler	*6th Plymouth*

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By Mr. Montigny, a petition (accompanied by bill, Senate, No. 619) of Mark C. Montigny, James B. Eldridge, Jennifer L. Flanagan, James J. O'Day and other members of the General Court for legislation relative to transfer of assets by MassHealth members. Health Care Financing.

The Commonwealth of Massachusetts

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

An Act relative to transfer of assets by MassHealth members.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: Section 28 of chapter 118E of the General Laws is hereby amended by inserting at the end thereof, the following section:

The division shall not impose a period of ineligibility against an individual who demonstrates that a transfer of assets by said individual or his spouse was intended exclusively for a purpose other than qualifying for MassHealth or was intended to be a transfer for fair market value. The division shall consider specific factors in determining whether the individual has met his burden in establishing such intent including but not limited to the following:

1) The individual provides documentation demonstrating a regular pattern of small transfers for at least three years consistent with the transfer in question;

2) The individual or his spouse made the transfer to a religious institution, charity or other non-profit entity in an amount consistent with prior charitable giving ;

12 3) at the time of the transfer the individual and his spouse had resources at or below the
13 allowable limit for MassHealth eligibility for long term care;

14 4) the transfer was intended to alleviate a relative's financial crisis, prevent a relative's
15 mortgage foreclosure or pay for a relative's medical care; or

16 5) at the time of the resource transfer, the individual's medical record did not indicate a
17 significant likelihood that the individual would require nursing home services in the near future.

18 If the individual establishes any of the above factors, then the burden of proving that the
19 individual intended the transfer of assets to qualify the individual for MassHealth shifts to the
20 division.

21 The division shall promulgate regulations implementing this section.