

SENATE No. 774

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 clarifying rate setting processes for home health and home care services .

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|---------------------------------|--|------------------|
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> | |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>2/24/2021</i> |
| <i>Adam J. Scanlon</i> | <i>14th Bristol</i> | <i>2/24/2021</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> | <i>2/24/2021</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>3/2/2021</i> |
| <i>Joan B. Lovely</i> | <i>Second Essex</i> | <i>3/4/2021</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i> | <i>3/6/2021</i> |
| <i>Anne M. Gobi</i> | <i>Worcester, Hampden, Hampshire and Middlesex</i> | <i>3/11/2021</i> |
| <i>Walter F. Timilty</i> | <i>Norfolk, Bristol and Plymouth</i> | <i>3/18/2021</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>3/19/2021</i> |
| <i>Carol A. Doherty</i> | <i>3rd Bristol</i> | <i>3/30/2021</i> |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | <i>4/2/2021</i> |
| <i>Erika Uyterhoeven</i> | <i>27th Middlesex</i> | <i>6/2/2021</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>7/6/2021</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> | <i>7/20/2021</i> |
| <i>Patrick M. O'Connor</i> | <i>Plymouth and Norfolk</i> | <i>7/26/2021</i> |
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | <i>9/22/2021</i> |

| | | |
|----------------------------|--|-------------------|
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | <i>12/13/2021</i> |
| <i>Susannah M. Whipps</i> | <i>2nd Franklin</i> | <i>12/13/2021</i> |

SENATE No. 774

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 774) of Patricia D. Jehlen, Jack Patrick Lewis, Adam J. Scanlon, Rebecca L. Rausch and other members of the General Court for legislation to clarify rate setting processes for home health and home care services. Health Care Financing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act clarifying rate setting processes for home health and home care services .

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: Section 13D of Chapter 118E of the general laws is amended after the
2 second paragraph by inserting the following new paragraph:

3 Such rates for home health agencies, as defined under section 51K of chapter 111, shall
4 be established at least biennially. In setting such rates, the executive office shall use as base year
5 costs for rate determination purposes the reported costs of the calendar year not more than 4
6 years prior to the current rate year, adjusted for reasonableness and to incorporate any new
7 regulatory costs imposed since said base year costs. In establishing rates of payment to home
8 health agencies, the executive office shall consider all costs which must be incurred by
9 efficiently and economically operated providers. The rates shall also include an allowance for
10 reasonable administrative expenses and a reasonable profit factor, as determined by the executive
11 office. Such cost analysis shall include, but not be limited to, the following: costs of similar
12 services provided in other care settings; use of national or regional indices to measure increases

13 or decreases in reasonable costs incurred since the base year costs; the revision of existing
14 historical cost bases, where applicable, to reflect changing norms or models of efficient service
15 delivery; and other means to encourage the cost-efficient delivery of services. The Secretary
16 shall, concurrent with the completion of setting such rates, provide a report to the house and
17 senate committees on ways and means detailing how the rates issued under this paragraph were
18 analyzed and revised; provided further, that the report shall compare the inflationary
19 considerations made in the adopted rate with the most recent “Home Health Agency Market
20 Basket” index posted by the United States Department of Health and Human Services, Centers
21 for Medicare and Medicaid Services; provided further, that if the adopted rate does not rely on
22 the “Home Health Agency Market Basket” index for the purpose of determining inflationary
23 adjustments, then the report will simulate what the rate would have been if such index was a
24 factor in rate development.

25 SECTION 2: Section 4 of Chapter 19A is hereby amended by adding after Section 4D the
26 following new section:

27 SECTION 4E: In establishing rates of payment pursuant to the second paragraph of
28 section 13C of chapter 118E of the M.G.L., the executive office shall consider changes to the
29 state minimum wage or changes to employer payroll tax obligations as governmental mandates
30 that affect the costs of providing homemaker and personal care homemaker services to elderly
31 clients under this section.

32 The executive office shall also consider and analyze rates of payment and wages
33 associated with providing similar services in both the public and private settings. In calculating
34 operating costs, the executive office shall consider costs of; health insurance, employee benefits

35 and training, payroll taxes, technology costs, administrative allocation and staff salaries using the
36 latest available national or regional indices and benchmarked to the latest available Bureau of
37 Labor Statistics median wage data. Nothing in this section shall be construed as limiting
38 consideration of other governmental mandates or operating costs that affect the cost of providing
39 services pursuant to section 4 of chapter 19A of the General Laws.

40 The Secretary of Elder Affairs shall, concurrent with the promulgation of the final rates
41 of payment for services under section 4 of chapter 19A, issue a report to the House and Senate
42 committees on ways and means detailing how the rates promulgated were analyzed and
43 determined in compliance with the provisions set forth in the second paragraph of section 13C of
44 chapter 118E of the General Laws. The report shall detail the department's analysis of changes in
45 the costs of providing homemaker and personal care homemaker services since the immediately
46 preceding rate determination; provided further, that the report shall compare the inflationary
47 considerations made in the adopted rate with the most recent "Home Health Agency Market
48 Basket" index posted by the United States Department of Health and Human Services, Centers
49 for Medicare and Medicaid Services; provided further, that if the adopted rate does not rely on
50 the "Home Health Agency Market Basket" index for the purpose of determining inflationary
51 adjustments, then the report will simulate what the rate would have been if such index was a
52 factor in rate development.