

SENATE No. 755**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>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/26/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>2/2/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/8/2023</i>
<i>Anne M. Gobi</i>	<i>Worcester and Hampshire</i>	<i>2/9/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/9/2023</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/10/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/10/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/14/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/15/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/23/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>3/1/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>3/22/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>4/13/2023</i>

SENATE No. 755

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 755) of Patricia D. Jehlen, Carmine Lawrence Gentile, Vanna Howard, Susannah M. Whipps and other members of the General Court for legislation to clarify rate setting processes for home health and home care services. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 774 OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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

reasonable administrative expenses and a reasonable profit factor, as determined by the executive office. Such cost analysis shall include, but not be limited to, the following: costs of similar services provided in other care settings; use of national or regional indices to measure increases or decreases in reasonable costs incurred since the base year costs; the revision of existing historical cost bases, where applicable, to reflect changing norms or models of efficient service delivery; and other means to encourage the cost-efficient delivery of services. In determining the methodology for setting rates, the Secretary shall consult with stakeholders impacted by the rates. The Secretary shall, concurrent with the completion of setting such rates, provide a report to the house and senate committees on ways and means detailing how the rates issued under this paragraph were analyzed and revised; provided further, that the report shall compare the inflationary considerations made in the adopted rate with the most recent “Home Health Agency Market Basket” index posted by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services; provided further, that if the adopted rate does not rely on the “Home Health Agency Market Basket” index for the purpose of determining inflationary adjustments, then the report will simulate what the rate would have been if such index was a factor in rate development.

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

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

33 The executive office shall also consider and analyze rates of payment and wages
34 associated with providing similar services in both the public and private settings. In calculating
35 operating costs, the executive office shall consider costs of; health insurance, employee benefits
36 and training, payroll taxes, technology costs, administrative allocation and staff salaries using the
37 latest available national or regional indices and benchmarked to the latest available Bureau of
38 Labor Statistics median wage data. Nothing in this section shall be construed as limiting
39 consideration of other governmental mandates or operating costs that affect the cost of providing
40 services pursuant to section 4 of chapter 19A of the General Laws. In determining the
41 methodology for setting rates, the Secretary shall consult with stakeholders impacted by the
42 rates.

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