

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick M. O'Connor

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 providing equity for self-directed complex caregivers.

PETITION OF:

NAME:

Patrick M. O'Connor

DISTRICT/ADDRESS:

First Plymouth and Norfolk

SENATE No.

By Mr. O'Connor, a petition (accompanied by bill, Senate) (subject to Joint Rule 12) of Patrick M. O'Connor for legislation to provide equity for self-directed complex caregivers. Health Care Financing.

The Commonwealth of Massachusetts

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

An Act providing equity for self-directed complex caregivers.

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 XX. (a) As used in this section, the following words shall have the following
2 meanings:-

3 “complex care member”, an individual enrolled in MassHealth whose medical needs, as
4 determined by MassHealth or its designee, are such that they require more than two continuous
5 hours of in-home skilled nursing services to remain in the community.

6 “continuous skilled nursing services”, skilled nursing care provided by a licensed nurse to
7 complex-care members who require more than two continuous hours of nursing services per day
8 as authorized by MassHealth,

9 “primary caregiver”, a legally responsible individual primarily responsible for caring for
10 a family member, regardless of age, with chronic or other health conditions, disabilities, or
11 functional limitations, who is: (i) enrolled in the community case management program as a

12 complex-care member; and (ii) authorized to receive more than 2 hours of continuous skilled
13 nursing care services.

14 “Self-directed home and community-based services model of care,” a service of care,
15 which is planned and purchased under the direction and control of a complex care member,
16 including the amount, duration, scope, provider, and location of the home and community-based
17 services.

18 (b) Notwithstanding any general or special law to the contrary, and to the extent
19 permitted under federal law, the secretary of health and human services shall, within 3 months of
20 the effective date of this act, apply to the federal Centers for Medicare & Medicaid Services for a
21 home and community-based services waiver under section 1915(c) of the federal Social Security
22 Act to allow complex care members to receive waiver services under a self-directed home and
23 community-based service model of care. The waiver application shall: (i) prioritize individuals
24 who receive benefits and services as a complex care member; (ii) afford complex care members
25 the opportunity to direct some or all of their waiver services without regard to their support
26 needs; (iii) allow primary caregivers to be compensated for providing services to a complex care
27 member under the waiver application; (iv) require services to be provided in accordance with an
28 individualized assessment and person-centered service plan; (iv) ensure that the process and
29 procedures for applying for waiver services are fully accessible and equitable to families of
30 complex care members who are from linguistically and culturally diverse communities; and (v)
31 maximize federal financial participation for the coverage and benefits under this section;
32 provided, however, that coverage and benefits provided under this section shall not be contingent
33 upon the availability of federal financial participation.

34 (c) On January 15, 2024, and every year thereafter, the secretary of health and human
35 services shall file a report with the clerks of the house of representatives and senate, the
36 executive office on administration and finance, the house and senate committees on ways and
37 means, and the joint committee on health care financing and on the status of the waiver
38 application and on the operation of waiver, once obtained. The report on the operation of the
39 waiver shall include, but not be limited to, a description of the number of individuals receiving
40 services under the waiver, the race and primary language of the individual, and the fiscal impact,
41 including the amount of federal financial participation received.