HOUSE DOCKET, NO. 2969 FILED ON: 1/16/2025

# HOUSE . . . . . No. 781

## The Commonwealth of Massachusetts

PRESENTED BY:

***Adrian C. Madaro***

*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 establishing the program of all-inclusive care for the elderly.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *Adrian C. Madaro* | *1st Suffolk* | *1/16/2025* |
| *Natalie M. Higgins* | *4th Worcester* | *2/3/2025* |
| *Christine P. Barber* | *34th Middlesex* | *2/5/2025* |
| *Tackey Chan* | *2nd Norfolk* | *4/24/2025* |

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# HOUSE . . . . . No. 781

By Representative Madaro of Boston, a petition (accompanied by bill, House, No. 781) of Adrian C. Madaro, Natalie M. Higgins and Christine P. Barber relative to establishing community based programs for older adults. Elder Affairs.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court**
**(2025-2026)**

An Act establishing the program of all-inclusive care for the elderly.

*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 2022 Official Edition, is hereby amended by inserting after section 9F the following section:-

Section 9G. (a) As used in this section, the following words shall have the following meanings:-

“Capitation”, a set dollar payment per enrollee per month that the division pays to a PACE organization to cover a specified set of services and administrative costs without regard to the actual number of services provided.

"Dually eligible", any person, who is simultaneously qualified for full benefits under Title XIX of the Social Security Act, 42 U.S.C 1396 et seq., and Title XVIII of the Social Security Act, 42 U.S.C 1395 et seq.

"Enrollee", any dually eligible, MassHealth-only member or private pay individual, who is voluntarily enrolled in a PACE program in accordance with the enrollment criteria as established by MassHealth.

"Executive Office" is the Executive Office of Health and Human Services.

"Interdisciplinary Care Team (IDT)", a group of health care and social service professionals who assess needs, develop care plans, and deliver, monitor, and coordinate services to PACE enrollees.

'MassHealth", a program of full or partial medical benefits provided as authorized by this chapter.

"Medicare", the federal health insurance program for elderly and disabled persons, and persons with kidney failure established pursuant to Title XVIII of the Social Security Act, 42 U.S.C 1395 et seq.

"Program of All Inclusive Care for the Elderly (PACE)" a service delivery model designed to keep older persons at risk of nursing facility placement in the community while providing for medical and social long term care needs.

"PACE Organization" a MassHealth approved organization that provides comprehensive healthcare services to PACE enrollees in accordance with a PACE Program Agreement as described in 42USC 1396u-4.

"PACE Program" a program of all-inclusive care for the elderly that is operated by an approved PACE organization and that provides comprehensive healthcare services to PACE enrollees in accordance with a PACE program agreement.

"PACE Program Agreement" an agreement between a PACE organization, the Centers for Medicaid and Medicare Services (CMS), and MassHealth, for the operation of a PACE program in accordance with 42 USC 1396u-4.

(b) Notwithstanding any general or special law to the contrary, MassHealth, subject to appropriation and the availability of federal financial participation, shall administer a program of medical and long-term care benefits known as the Program of All Inclusive Care for the Elderly (PACE), a comprehensive service delivery and financing model that uses interdisciplinary teams in PACE Program day centers to assess and monitor the needs of enrollees and integrates medical and long-term services and supports (LTSS), for Massachusetts residents who meet the eligibility criteria in accordance with 42 CFR 460.150.

(c) Enrollees in PACE shall meet MassHealth's skilled-nursing-facility level of care criteria, reside in a PACE service area, determined by the Social Security Administration to need the level of care required under the State Medicaid plan for coverage of nursing facility services, and are able to live in a community setting without jeopardizing their health or safety.

(d) MassHealth will contract with entities known as PACE organizations to provide a comprehensive network of medical, health care and social services that integrate all components of care, either directly or through subcontracts, and is provided in day-health centers, at home, and in specialty or inpatient settings.

(e) MassHealth shall ensure that enrollment in the program is voluntary. To the extent consistent with federal law and regulations, MassHealth shall ensure that all enrollees in a PACE program have the right to disenroll from the program in any month upon submitting a notice of disenrollment to the division or contracted entity. Disenrollment notices received by the division

or contracted entity by the twentieth day of the month shall be effective the first day of the following month.

(f) The benefits provided enrollees in PACE, pursuant to 42 CFR 460.92 1396u-4(f), shall include those services covered by Medicare Part A and Part B; the amount, duration and scope of Medicaid-covered services shall be at a minimum no more restrictive than the scope of services provided under MassHealth standard coverage; and services necessary for the treatment of mental health and substance abuse.

(g) MassHealth shall educate consumers and their families as to their enrollment choices under MassHealth and other available alternatives under Medicare and Medicaid. Neither PACE organizations nor MassHealth shall offer gifts, payments or other inducements to enroll seniors in PACE. MassHealth shall also perform outreach services to local councils on aging, Aging Services Access Points (ASAPs) and other related organizations to educate those councils and organizations on the details of PACE, including, but not limited to, providing the councils and organizations with the PACE educational materials listed in subsection (h).

(h) MassHealth shall deliver to all prospective PACE enrollees educational materials that shall include, but not be limited to: a definition of PACE and how it functions; enrollment eligibility standards; the location of PACE programs; a complete list of their participating providers; the range of available services; consumer rights under Medicare and Medicaid; an assistance worksheet for determining health care options under MassHealth and Medicare; Long Term Care Ombudsman contact information; and the process for an applicant to appeal a negative eligibility decision.

(i) Where the monthly income of an applicant or recipient for PACE is in excess of the exemptions allowed, the applicant or recipient, if otherwise eligible for PACE under this chapter shall be liable to pay to the provider of medical care or service an amount which shall be equal to the excess income reduced by the difference between the applicable MassHealth deductible-income standard and 300 percent of the federal benefit rate.

(j) PACE recipients who are eligible for the “special income eligibility group,”, established under 42 CFR 435.217 and pursuant to federal regulations at 42 CFR 435.726 and 42 CFR 460.184, shall not be liable to pay to the provider of medical care or service an amount which shall be equal to the excess income reduced by the difference between the applicable MassHealth deductible-income standard and 300 percent of the federal benefit rate in order to remain enrolled in PACE.

(k) Any applicant for or recipient of PACE, or the legal representative of such applicant or recipient, aggrieved by the failure of MassHealth to grant medical assistance shall have the opportunity to appeal said decision in accordance with section 47 of this chapter.

(l) To the extent authorized by federal law, MassHealth is hereby authorized to grant presumptive eligibility for up to 90 days to applicants applying for enrollment in PACE. Individuals who are enrolled in MassHealth standard shall be deemed presumptively eligible for PACE if they meet the clinical assessment criteria.

(m) MassHealth shall use dual capitation agreements with Medicare and Medicaid, as described under 42 CFR 460, for payment for Medicaid and Medicare services in which PACE programs (or organizations?) shall be at full or partial financial risk for any services that they authorize and purchase on behalf of an enrollee. Capitation rates shall be adequate to ensure the

provision of quality health and long-term care services to all enrollees regardless of physical or mental health conditions.

(n) PACE programs shall meet all privacy standards set by the regulations established by the federal Department of Health and Human Services under the Healthcare Insurance Portability and Accountability Act of 1996.

(o) MassHealth shall promulgate regulations to enforce the provisions of this chapter.