

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Patricia D. Jehlen***

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*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 assisted living and the frail elder waiver.

\_\_\_\_\_

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Patricia D. Jehlen*

*Second Middlesex*

*Thomas M. Stanley*

*9th Middlesex*

**SENATE . . . . . No.**

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 372 OF 2023-2024.]

**The Commonwealth of Massachusetts**

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

An Act relative to assisted living and the frail elder waiver.

*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. Notwithstanding any general or special law to the contrary, the executive  
2 office of health and human services shall, not later than 90 days after the effective date of this  
3 act, pursue and submit applications for new state plan amendments, state plan options or state  
4 plan waiver or demonstration requests for federal approval that will establish an assisted living  
5 service to allow individuals qualifying for Medicaid and at risk of entering a nursing home to  
6 reside in a certified assisted living residence; provided, however, that the average daily rate  
7 developed for such service, when combined with the average daily benefit assistance provided by  
8 the Supplemental Security Income program inclusive of the state supplementary payment  
9 program authorized under section 131 of chapter 6 of the General Laws and chapter 118A of the  
10 General Laws, shall not exceed 80 per cent of the cost of substantially similar institutional care  
11 for the equivalent waiver year as demonstrated by the Factor G value of Appendix J of the

12 current MassHealth frail elder home and community-based services waiver, 0059.R08.00;  
13 provided further, that MassHealth shall implement a rate schedule for such assisted living service  
14 that uses disproportionate share payment methodologies to ensure equal economic access to the  
15 assisted living care setting for long-term care services and supports when measured with  
16 consideration for the level of access that MassHealth members have for institutional services.

17 SECTION 2. The executive office of health and human services shall, not later than 120  
18 days after the effective date of this act, report to the house and senate committees on ways and  
19 means on the status of submitted and pending applications described in section 1 and the  
20 projected fiscal impact to the commonwealth of federal approval for such applications. The  
21 report shall include, but not be limited to, comment on the deliberations and decisions regarding:  
22 (i) amending the current MassHealth frail elder waiver to include assisted living services as a  
23 new waiver service in a manner comparable to how the District of Columbia Medicaid program  
24 has delivered services to members residing in assisted living settings; (ii) implementing a new  
25 home and community-based services waiver under section 1915(c) of the Social Security Act for  
26 the sole purpose of establishing assisted living services as an option for MassHealth members in  
27 a manner comparable to how the Ohio Medicaid program has delivered services to members  
28 residing in assisted living settings; and (iii) enabling assisted living as a setting of choice for  
29 MassHealth members participating in managed care programs with reference to “in lieu of  
30 services and setting” authority as enabled by 42 C.F.R. 435.3(e)(2) in a manner comparable to  
31 how the California Medicaid program has delivered services to members residing in assisted  
32 living settings.

33 SECTION 3. The executive office of aging and independence shall, not later than 180  
34 days after the effective date of this act, report to the joint committee on elder affairs on the

35 current structural, organizational or cultural barriers that are experienced by MassHealth  
36 members and such members' potential to reside at an assisted living residence that is located  
37 within their community. The report shall include, but not be limited to, particular consideration  
38 of residents within qualified census tracts or difficult development areas and such residents'  
39 ability and likelihood to access assisted living residences in comparison to their ability and  
40 likelihood to access nursing facility services.