

Joint Committee on Health Care Financing 2025-2026 (194th) Bill Summary

<u>Bill Number:</u>	House, No. 1394
<u>Title:</u>	AN ACT RELATIVE TO FAMILY MEMBERS SERVING AS CAREGIVERS
<u>Sponsor:</u>	Representative James J. O’Day (West Boylston)
<u>Hearing Date:</u>	July 1, 2025
<u>Reporting Deadline:</u>	August 30, 2025
<u>Prior History:</u>	2023-24 (H1232/S0775): Ordered to a House Study.
<u>Similar Matters:</u>	S886 (Lovely)

Current Law:

M.G.L. Ch. 118E § 1 designates the Executive Office of Health and Human Services [EOHHS] as the single state agency responsible for the administration of any programs of medical assistance and medical benefits established pursuant to Chapter 118E. The Secretary of EOHHS is authorized to take actions, through the division of medical assistance [DMA] and the secretary of aging and independence, as appropriate, in this capacity, in accordance with section 2 of Chapter 118E.

M.G.L. Ch. 118E § 9 establishes the Massachusetts Medicaid program and outlines its basic eligibility criteria. **M.G.L. Ch. 118E § 9A** authorizes DMA to implement a combined Medicaid program and Children’s Health Insurance Program (CHIP), known as MassHealth, in accordance with the terms and conditions of a demonstration projects approved by the Secretary or any other federal waiver or demonstration authority and lists beneficiary categories for whom MassHealth may provide medical benefits.

M.G.L. Ch. 118E § 9D establishes the MassHealth senior care options initiative for Massachusetts residents aged 65 or older who are dually eligible or only eligible for benefits under Title XIX of the Social Security Act. The division may contract with senior care organizations (SCOs) that can assist with providing a comprehensive network of health care and social services that integrates all components of care.

M.G.L. Ch. 118E § 9F as amended by section 138 of Chapter 392 of the Acts of 2024 (S3006), establishes the MassHealth duals demonstration program to integrate care for dual eligible individuals program for residents, aged 21 to 64 at the time of enrollment, who are dually eligible for benefits under MassHealth Standard or CommonHealth and Medicare under Title XVIII of the Social Security Act and do not have any additional comprehensive health coverage.

M.G.L. Ch. 118E § 12 authorizes the DMA to establish methods, policies, procedures, standards and criteria, except medical standards and criteria, as may be necessary for the proper and efficient operation of MassHealth programs. DMA is further authorized to enter into contracts and negotiate reimbursement rates with providers of care and manufacturers of medical services, equipment and supplies, subject to review by the executive office for administration and finance.

M.G.L. Ch. 118E §§ 70 through 75, inclusive, establishes the Personal Care Attendant (PCA) quality home care workforce council to serve MassHealth PCA consumers and PCAs through its mission to ensure access to a quality workforce to recruit, train and stabilize the PCA workforce.

101 CMR 309.00 governs the rates of payment to be used by all governmental units for the personal care attendant (PCA) program. 101 CMR 309.00 also governs payments for PCA services provided to individuals covered by M.G.L. c. 152 (the Worker’s Compensation Act).

- Pursuant to 101 CMR 309.02, a Personal Care Attendant (PCA) is defined as “A person who meets the requirements of 130 CMR 422.404(A)(1): *Personal Care Attendants* and who is hired by the member or surrogate to provide PCA services. In addition, for the sole purpose of sections 70 through 75, inclusive, of chapter 118E a PCA is a person who is hired by the member or surrogate to provide PCA services through a

senior care organization (SCO) contracting with the MassHealth agency pursuant to section 9D of chapter 118E or a person who is hired by the member or surrogate to provide PCA services through an integrated care organization (ICO) contracting with the MassHealth agency pursuant to 9F of chapter 118E. Unless explicitly stated in 130 CMR 422.000: *Personal Care Attendant Services*, in the SCO's MassHealth contract, or in the ICO's MassHealth contract, no other provisions of 130 CMR 422.000 apply to any SCO, ICO, or PCA hired by any eligible MassHealth member through a SCO or ICO."

130 CMR 408.000 governs adult foster care services and group adult foster care services provided under MassHealth. Adult Foster Care is a Medicaid program that assists elderly or disabled persons to remain living at home or within the community. This program allows certain family members, excluding spouses and legal guardians, to be hired and paid to provide care.

- Pursuant to 130 CMR 408.402, AFC Caregiver is defined as "a person who lives with the AFC member and paid by the AFC provider for the provision of direct care in accordance with 130 CMR 408.415 (A)."

130 CMR 422.000 governs the Personal Care Attendant (PCA) program under MassHealth. All PCAs and transitional living providers participating in MassHealth, as well as all Personal Care Management (PCM) agencies and fiscal intermediaries under contract with MassHealth to provide PCM and fiscal intermediary functions. The PCA program allows individuals with disabilities or chronic illnesses to hire their own caregivers, including certain family members. The caregiver is paid through an intermediary service, not directly by the family member receiving care. Spouses and legal guardians are not eligible to be paid under this program

- Pursuant to 130 CMR 422.402, Family Member is defined as "the spouse of the member, the parent of a minor member, including an adoptive parent, or any legally responsible relative."

Summary:

SECTION 1 of the proposed legislation amends section 12 of chapter 118E by inserting a new paragraph directing MassHealth to seek a federal waiver to allow for the payment of legally liable family members, including but not limited to biological, adoptive, foster or step parents, legal guardians, powers of attorney, healthcare powers of attorney, and adult children of care recipient, within the definition of family member, under any program of home and community based services in which family members are permitted to serve as caregivers paid by MassHealth.