

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

<u>Bill Number:</u>	House, No. 1402
<u>Title:</u>	AN ACT TO PROTECT MASSHEALTH APPLICANTS FACING UNDUE HARDSHIP
<u>Sponsor:</u>	Representative Bridget Plouffe (Brockton)
<u>Hearing Date:</u>	July 1, 2025
<u>Reporting Deadline:</u>	August 30, 2025
<u>Prior History:</u>	2023-24 (S762): A refile of a similar matter, S762 reported favorably and referred to Senate Ways & Means. No further action. 2021-22 (H1273/S741): S741 reported favorably and referred to the Senate Ways and Means Committee, accompanied by H1273. No further action. 2019-20 (H1161/S663): H1161 reported favorably and referred to House Ways and Means, accompanied by S663. No further action.
<u>Similar Matters:</u>	S876 (Kennedy, R. – Identical, Health Care Financing)

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 § 9E authorizes the secretary of health and human services to pursue federal waivers to implement measures that: (1) change to a later date the time currently provided by federal law for starting the penalty periods for persons who transfer assets for less than fair market value; (2) require excess assets to be spent on health care or other necessary living expenses; (3) to treat annuities similarly to trusts and require the commonwealth to be a beneficiary to the extent of MassHealth benefits provided; and (4) increase look-back periods, for real estate transfers and transfers into irrevocable trusts. Any changes implemented as a result of an approved waiver request do not apply to new MassHealth applications submitted prior to the effective date for such changes. Transfers of assets up to \$300,000 from a primary residence are exempt. The Division of Medical Assistance or the executive office of Aging and Independence are instructed to promulgate regulations for the provisions of this section, including measures to address hardships.

M.G.L. Ch. 118E § 28 establishes MassHealth eligibility rules for institutionalized individuals. There is a period of ineligibility if the individual or his or her spouse disposed of resources for less than market value.

130 CMR 520.018(B) states that MassHealth will deny payment for nursing-facility services to otherwise eligible residents if the individual or their spouse transfers countable resources for less than fair market value during or after the look-back period.

130 CMR 520.019(B) establishes a look-back period of 5 years, or 60 months.

130 CMR 520.019(F) states that MassHealth will not impose ineligibility for a transfer of assets for less than fair market value if the resident or spouse can show MassHealth that

- (1) The resources were transferred for a purpose other than to qualify for MassHealth, OR
- (2) The resident or spouse intended to dispose of the resource at fair market value or for other valuable consideration.

130 CMR 520.019(G) states that if a disqualifying transfer occurred then MassHealth will calculate a period of ineligibility using a formula involving the value of the resources transferred and the average monthly cost to a private patient receiving nursing services.

P.L. 109-171 amends §1917(c)(2)(D) of the Social Security Act, which mandates each state to provide a hardship waiver process. Undue hardship exists when the individual would be deprived of medical care such that their health or life would be endangered OR deprived of food, clothing, shelter, or other necessities and the state must provide notice that a hardship exception exists, have a timely process to determine hardship, and an appeal process.

Summary:

SECTION 1 of the proposed legislation of the proposed legislation inserts into Chapter 118E a new 28A, consisting of the following 4 subsections:

Subsection (a) permits nursing home residents to file a claim of undue hardship with MassHealth within 90 days following the final decision to impose a period of ineligibility resulting from the disposal of resources for less than market value. This subsection also directs MassHealth to establish procedures for such hardship waiver determinations, which shall include:

- written notice that an undue hardship exception exists;
- a timely process for hardship waiver determinations; and,
- an appeal process.

Subsection (b) establishes a rebuttable presumption that an institutionalized applicant is eligible for a hardship waiver if the applicant submits documentation that all of the following criteria have been met:

- (1) The applicant, excluding community spouse resource allowance, has insufficient resources to provide medical care, food, shelter, clothing and other necessities of life.
- (2) The applicant has made reasonable attempts to retrieve the transferred resources or receives adequate compensation.
- (3) There is no available less costly alternative to institutional care that would meet the applicant's care needs.
- (4) The period of ineligibility would subject the applicant to risk serious deprivation.

Subsection (c) states that a nursing home need not express an intent to discharge the resident for nonpayment in order for a hardship waiver to be granted.

Subsection (d) instructs the Division to promulgate regulations to implement this proposed section.