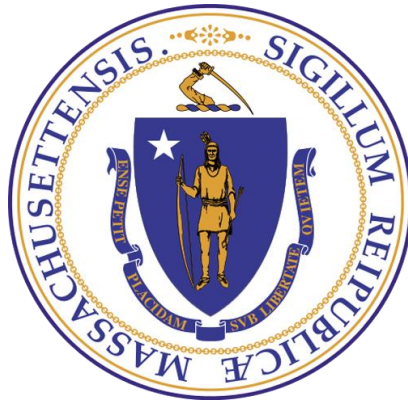


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Elder Economic Security Commission



Report to the Massachusetts State Legislature
April 2016

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Executive Summary

To be economically secure at any age, one's income must cover the basic expenses incurred: housing, health care, food, transportation as well as additional incidentals. If a household's income is not great enough to cover basic expenses, the state and other entities need to provide supports or the household could suffer severe economic hardship. The Elder Economic Security Commission examined the economic risk of current and future older Massachusetts residents and policies that may help reduce the risk and hardship.

The Elder Economic Security Standard Index (Elder Index) has calculated that for the counties in Massachusetts, community dwelling older adults' expenses can vary from \$23,052 to \$45,348, depending on whether an older adult owns their own home or rents, are single or a couple, and where they live. Long-term care needs are an additional expense which can greatly increase the amount of money needed.

If an older adult's income does not match their expenses, they will need public programs to fill the gap or they will suffer financial hardship. A recent report by Wider Opportunities for Women found that 63% of Massachusetts older households had incomes that fell below the Elder Index. These households experience economic hardship if public programs are not available to fill the gap to reduce their expenses.

Two general policy recommendations are made and a series of recommendations that address income, housing, and healthcare and long term care supports and services are described. The general recommendations are:

- Massachusetts should adopt the Elder Economic Security Standard Index as a benchmark for determining the economic needs of older adults in Massachusetts.
- All state agencies dealing with older individuals should review their practices, procedures and notices to comply with the Massachusetts Access to Justice Commission's set of best practices.

Recommendations that could either increase older adult's retirement income or preserve it follow. In some cases, the recommendations relieve or lessen the state's need to fill the gap. The recommendations for the Increasing and Preserving Retirement Income section are as follows:

- Extend the Earned Income Tax Credit (EITC) for working people over age 65 (eliminate the age cap), increase the amount singles without children can receive, and increase the percentage of the federal credit that the state credit is based upon.
- Expand the non-profit state retirement plan to non-profits and businesses with less than 100 employees.
- Increase Supplemental Security Income (SSI) payment amounts for Massachusetts recipients.
- Promote financial education and appropriations for Money Management seminars and counseling.

- Provide enhanced protections for older adults in debt collections.
- Improve protective service workers' ability to investigate and respond to financial exploitation cases.
- Develop a multidisciplinary team for financial exploitation cases.
- Develop professional resources for education and prevention programs.
- Expand training resources for industries/professionals who serve the older adult marketplace.
- Ensure access to Low-Income Heating Program (LIHEAP) benefits, weatherization, and conversion to energy efficient homes for eligible seniors as well as include a new line item in the Department of Communities and Development annual fiscal year budget to provide a state supplement to the federal LIHEAP allocation.
- Encourage access to and the development of affordable, cost-effective, and measurable energy efficiency programs and green energy conversions that are accessible to older homeowners and renters with incomes below the Elder Index.
- Increase outreach, education and application assistance to eligible Massachusetts seniors to better enable them to access LIHEAP, weatherization and information on benefits and costs needed to consider and convert to non-fossil energy sources.
- Asset Retention modifications under MassHealth.

Older adults face constant threats and struggles when it comes to housing, especially with rising property tax bills and foreclosures in Massachusetts. Many older adults may own property, but be cash poor, making it difficult to meet their basic living expenses as well as homeowners' insurance, property taxes, and home maintenance costs. These situations may lead to unsafe living conditions, growing tax debts, and the utilization of reverse mortgages. Older adults who don't own property and are struggling financially often face their own set of problems with eviction threats and a lack of affordable housing. While the Commonwealth does provide useful tools to help older citizens with housing issues, they are often underutilized and not always easy to navigate. Policy recommendations were made to increase affordable housing and help protect older adults' property assets as well as improve overall housing stability among seniors in the state. The recommendations for the Housing Stability section are as follows:

- Homeownership education and outreach to inform older adults of available tax deferral and credit programs available to help with property taxes.
- Exempt homeowners, aged 65 or older, who are sole owners and residents of the real estate in question (and who own no other properties) from the above referenced process of sale for tax title sums owed to a municipality. Expand Massachusetts Rehabilitation Commission program that provides funds for upgrading essential systems and eliminating physical barriers through no interest and low interest loans deferred up to the length of home tenure.
- Develop a new program for older adult home repairs focused on core systems, safety and barrier elimination (no frills), funded by an annual bond issue utilizing a mortgage instrument secured upon the homes of the senior homeowners enrolled.

- Establish a central registry of older adult equity conversions.
- Establish a surcharge on reverse mortgage lenders to fund face-to-face counseling.
- Fund a social enterprise to start and operate a 3-year Home Sharing Promotion Initiative in a select county of Massachusetts.
- Rental housing-public & subsidized: Expand funding for housing search services for seniors who need to move to safe, affordable permanent housing, but who are not yet homeless or at imminent risk of homelessness.
- Expand legal services for low-income tenants and legal protections for older adult and disabled tenants at risk of eviction.
- Develop additional affordable housing.
- Develop a plan for Federal CMS approval to use the ACA Chapter 2703 created option for states to develop a State Plan Amendment (SPA) to create health homes to provide comprehensive care management for Medicaid eligible individuals.
- Conduct a comprehensive study as to the feasibility, costs and implementation issues regarding large-scale utilization of modular housing.

With healthcare being one of the highest expenses for older adults in Massachusetts, ensuring economic security means reducing the out-of-pocket healthcare costs that seniors face. Lack of adequate income among seniors may lead to medical conditions going untreated and routine medical care ignored, increasing the risk of larger and more costly health problems in the long run. The adjustment of eligibility standards and the expansion of support services can go a long way in improving healthcare among seniors in the Commonwealth. Policy recommendations were made to improve access to healthcare and long-term care services and supports for older adults in the state. The recommendations for the Healthcare and Long-Term Care Services and Supports section are as follows:

- Expand MassHealth eligibility standards for individuals 65 and over.
- Expand eligibility standards for the Medicare Savings Programs (MassHealth Buy-In Programs).
- Mental Health Recommendations: Greater promotion of mental health awareness and prevention.
- Raise the income eligibility for home care and ECOP to 300% of FPL as a wrap-around to the MassHealth program.
- Amend MassHealth regulations to allow spouses to be paid caregivers under PCA and AFC programs.
- Amend MassHealth regulations to allow PCA consumers to receive care if they require cueing and supervision.

- Expand Funding for Options Counselor/Family Service Counselors working with the Aging Services Access Point Network.
- Expand Funding for Benefit Enrollment Specialists available within the Aging Services Access Point Network.
- Support Passage of Legislation to Preserve Eligibility for the PACE Program and Waivered Programs.
- Support passage of legislation to establish a Direct Care Workforce Task Force.
- Support passage of legislation to protect older adults facing undue hardship when denied MassHealth.
- Support passage of legislation to assist older adults applying for MassHealth Nursing Home Care: Help community spouses of nursing home residents retain their Individual Retirement Accounts.
- Support passage of legislation to assist older adults applying for MassHealth Nursing Home Care: Protect older adults from ineligibility for MassHealth nursing home care for certain transfers of assets.
- Develop and implement a social insurance "Community Living Assistance Services and Supports" (CLASS) financing model to complement current Long Term Support and Services (LTSS) payment vehicles.

The recommendations in this report are wide-ranging, from immediate changes that could be made, to more elaborate programmatic changes. All of the recommendations in this report deserve careful consideration with particular attention to the last recommendation for a state initiated public social insurance program that would cover long-term care costs (a state CLASS Act). Long-term care services pose the biggest risk to elder's economic security because their costs can amount to more than \$100,000/year and because there is currently no effective way for most people to guard against the expenses. The federal government has failed to address the problem leaving the state to pick up the cost of the poor, chronically disabled elderly throughout MassHealth. It is in the interest of both the citizens of the Commonwealth and the Commonwealth that Massachusetts try to solve the funding of long-term services and supports.

Introduction

The Elder Economic Security Commission was established under Section 187 of Chapter 38 of the Acts of 2013 (the FY14 state budget) and was tasked with examining strategies to increase economic security for older adults and enable older residents to remain in the Commonwealth and in their communities. To do so, the Commission was charged with:

- Assessing older adults' current level of economic security
- Identifying policies and programs currently in place to assist older adults
- Assessing the needs of state and local programming to determine what additional funding is needed to increase elder economic security
- Considering best practices to enhance elder economic security
- Issuing a final report by the following year.

Elder Economic Security Commission Members

- House Chair of the Joint Committee on Elder Affairs
 - James O'Day, Commission co-chair
- Senate Chair of the Joint Committee on Elder Affairs
 - Patricia Jehlen, Commission co-chair
- Secretary of Elder Affairs or designee
 - Ann Hartstein(2014)
 - Alice Bonner (2015)
- Undersecretary of Office of Consumer Affairs and Business Regulation or designee
 - Barbara Anthony (2014)
 - John Chapman (2015)
- Executive Director of Mass Association of Home Care Programs or designee
 - Linda George (2014)
- State Director of AARP or designee
 - Mike Festa
- Executive Director of Massachusetts Association of Councils on Aging or designee
 - Eileen Bogle
- President of Alzheimer's Association or designee
 - James Wessler
- Executive Director of Massachusetts Senior Action Council or designee
 - Carolyn Villers
- Executive Director of Mass Association of Elder Americans or designee
 - Chet Jakubiak
- Director of Gerontology Institute at UMass Boston or designee
 - Ellen Bruce
- Legal services attorney specializing in elder law or designee
 - Wynn Gerhard
- Governor's 4 appointees:
 - member of the Mass Bar that specializes in elder law—Matthew Albanese

- o expert in geriatric mental health—Steve Pinals
- o expert in financial services—*seat unfilled*
- o expert in home care service delivery—Lisa Gurgone

Staff to Co-chairs of the Commission:

- Kelly Love
- Vicki Halal
- Khadeejah Ahmad

Editor: Jane Tavares

METHODOLOGY:

To develop recommendations, the Commission met on a regular basis throughout the summer and fall of 2014 and into spring 2015. Commission meetings were open to the public and were posted on www.malegislature.gov a week in advance.

The Commission members established working groups which focused on the following critical areas when developing recommendations:

- 1) Income
- 2) Housing
- 3) Long Term Services and Supports
- 4) HealthCare

RECOMMENDATIONS



General Recommendations

1. Recommendation: Massachusetts should adopt the Elder Economic Security Standard Index as a benchmark for determining the economic needs of older adults in Massachusetts.

Introduction: Massachusetts' current measure of economic well-being is horribly out of date and consequently inaccurate. The state is using the federal poverty line, which was developed in the 1960s. The poverty line is particularly problematic for Massachusetts for a variety of reasons. First, the poverty line assumes that food consumes 1/3 of a person's budget, when today it actually consumes only between 11% and 14% of the average Massachusetts older adult's budget. Because housing and health care costs are much more expensive than food, the poverty line vastly underestimates how much money it takes to live in Massachusetts. Second, the poverty line does not have regional adjustments and, thus, underestimates how much income is needed in high cost states such as Massachusetts. Third, healthcare and housing are the two largest expenses of seniors in the Bay State, both of which have higher costs than in the rest of the country. The consequence is that the federal poverty line is not an accurate measure of hardship.

Summary: Assessing economic need of a state's residents and targeting resources where the need is the greatest is an important role for the state. To understand the need of seniors, the state must be able to identify the number of people in need and the best way to fill that need. The Elder Index is a geographically specific measure which enables policymakers and planners to determine the number of people with incomes below what is needed to pay for basic necessities. With this information, the state can target resources to best meet the identified need. The commission examined several measures of hardship including the poverty line, the supplemental poverty measure (both calculated by the U.S. Census Bureau) and the Elder Index (calculated by the Gerontology Institute of UMass Boston) before arriving at this recommendation.

Implementation: This recommendation would be implemented through a budget allocation of \$75,000/year to Elder Affairs. Elder Affairs would then contract for the update of the Elder Index and for reports on the number and percentage of single and couple older adult households below the Index by gender, housing status, race and ethnicity, and age.

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2. Recommendation: All state agencies dealing with older individuals should review their practices, procedures and notices to comply with the Massachusetts Access to Justice Commission's set of best practices.

Introduction: For many elders, state funded health, housing and income benefits, administered by state agencies, are vital to their economic security. Termination or denial of these benefits can be disastrous, leading to disruption at best, hardship and homelessness at worse.

The application and review process for these benefits can be confusing for elders, and an initial mistake or omission should not be an automatic disqualifier. If disqualified, elders face a daunting, costly, time-limited appeal process, which is detrimental to the elder, the agency, and the limited legal resources available to meet these needs.

Summary: The recommended best practices ensure that state agencies have transparent procedures in place that respect the legal rights of elders and ensure access to administrative justice for elders. The practices are not complicated, but instead represent a common sense principle of basic fairness and due process, and will also alleviate hardships for elders.

Specifically, if an agency denies, terminates or suspends benefits for any reason, it must provide each applicant with a reasonable opportunity to provide all information necessary to determine benefit eligibility as well as to correct any inconsistencies before the denial or termination becomes effective.

Further, applicants should be allowed to bring a representative to assist them during a review. The representative need not be an attorney. Such assistance can expedite the agency's process and also save employees valuable time and resources, as well as avoid expensive and time consuming litigation challenging their determinations as arbitrary.

The full list of Recommended Best Practices can be found in the Appendix.

Implementation: The Best Practices were issued by Governor Patrick in partnership with the Massachusetts Access to Justice Commission. The Baker administration should work with relevant state agencies to develop these best practices and to guarantee that they are routinely followed.

Increasing and Preserving Retirement Income

3. Recommendation: Extend the Earned Income Tax Credit (EITC) for working people over age 65 (eliminate the age cap), increase the amount singles without children can receive, and increase the percentage of the federal credit that the state credit is based upon.

Introduction: Massachusetts has an earned income tax credit which is based on the federal earned income tax credit. Both the federal and the Massachusetts EITC is a refundable credit, which means a person who has not paid and owes no income tax can still fill out an income tax return and be given a refund. This refundable tax credit has been credited as one of the largest and most effective anti-poverty programs in the United States.

The Massachusetts tax credit is based on the Federal EITC and is calculated as a percentage of the Federal EITC. Recently, Massachusetts raised the EITC to 23% of the Federal EITC. The maximum federal credit for an individual or couple without a child was \$496/year in 2014 and \$74.40 for the state credit. These amounts for childless workers are substantially below the credit for workers with dependent children, thus providing much less tax burden relief and less incentive to work.

The credit is limited however to people with children or those under age 65, meaning people aged 65 and older without dependent children (who work at low-wage jobs) are not eligible for either the federal or state credit once they turn 65. This limitation penalizes low income older adults who work past age 65. Numerous proposals have been made at the federal level to both raise the age limit and increase the benefit for childless workers, but they have stalled in Congress.

Summary: This recommendation would increase the state EITC in three ways: 1) It would eliminate the upper age limit of 65 years for those people without children, allowing working individuals, 65 and over, to claim the state credit; 2) it would increase the amount of the credit for working people without children to ½ the amount of an individual with a child; and, 3) it would increase the percentage of the federal credit for everyone to 50%.

These three changes would increase the Massachusetts credit for a working individual without a child from \$74.40 to \$826.25 in 2014.

Implementation: This recommendation would require an amendment to the state EITC law (M.G.L. Ch. 62 §6(h)).

4. Recommendation: Expand the non-profit state retirement plan to non-profits and businesses with less than 100 employees.

Introduction: In New England, only 63% of private sector workers have access to a pension plan at their work and only 49% participate. Access to a plan is particularly low in private industries with less than 100 employees (50%). Increasing participation in pension plans and retirement savings is an important policy goal for Massachusetts as the state will carry the burden of older adults who don't have enough savings to cover housing and medical expenses when they stop working.

In 2014, Massachusetts passed a law establishing a retirement program for nonprofit organizations that did not have a pension plan. (M.G.L. Ch. 29 § 64E). The law called for the state treasurer to establish a defined contribution plan for nonprofit organizations, limiting the plan to nonprofit organizations with less than 20 employees. This limitation restricts the number of people eligible to participate in the plan and thereby inhibits the potential success of the plan since the plan's success will, in part, depend on large numbers of people participating to bring down the per/person cost of the plan. The fees for administering the plan are to be borne by the participants; therefore, increasing the number of participants eligible will both reduce the fees for participants and, thereby, encourage more participants to participate.

Summary: This recommendation is to expand the state-administered, non-profit pension plan so that more individuals currently without access to an employer-sponsored pension plan will have the ability to save for retirement at their workplace. The recommendation is to allow employees of both non-profit and for-profit organizations with less than 100 employees and no pension plan to participate in the state run plan. By expanding the pool of people eligible to participate, the plan will enable more people to easily save for retirement and create a larger pool of funds to be managed which will bring down the overall cost of the plan and, thereby, encourage even more people to participate.

A second recommendation is for the state to allocate up to \$100,000/year for 5 years to cover start-up administrative costs of the plan until the assets held under management can reasonably support the administrative costs.

Implementation: These recommendations require a legislative amendment to M.G.L. Ch. 29 §64E and a budget allocation of up to \$100,000.

5. Recommendation: Increase Supplemental Security Income (SSI) Payment Amounts for Massachusetts Recipients

Introduction: Supplemental Security Income (SSI) is a federal program of the Social Security Administration (SSA) which provides monthly cash assistance to certain people who are age 65 or older, legally blind, or disabled and who have limited income and assets. In the Commonwealth in 2015, a single individual over the age of 65 with no other source of income would receive \$861.82 each month in SSI benefits, a figure well below the value of the Elder Index for renters. The SSI program was created as part of the Social Security Amendments of 1972, and the first payments were made in January, 1974. As allowed by the original legislation, the Commonwealth of Massachusetts is able to add more money to SSI payments for Massachusetts residents, and this is called the SSI State Supplement Program, or SSP.

States have always had the option of administering the supplementary payments themselves, or having SSA make the payments on their behalf. When those state payments were federally administered, SSA made eligibility and payment determinations for the state and assumed all administrative costs. The state only reimbursed the federal government for the actual benefit dollars that were paid.

Prior to April, 2012, the Commonwealth of Massachusetts relied on SSA to administer its state supplement payments. As a result, SSI recipients in Massachusetts received only one payment each month containing money from both the federal and the state government.

Beginning in April, 2012, the Commonwealth took over responsibility for administering the SSP, although the SSP payments continue to be based on eligibility for SSI payments from the Social Security Administration. When SSA makes a federal Supplemental Security Income (SSI) payment, Massachusetts also sends a separate SSP payment, so that the recipient receives two payments each month. However, in some cases, an individual may have income that is too high for a federal SSI payment, but may still qualify for a payment from the state. These people receive only the SSP amount, and they are sent one payment on the first of each month from the state.

SSI is a means tested program, and eligibility depends on meeting both income and resource/asset guidelines. To meet the resource guideline, an individual cannot have more than \$2,000 in countable assets (\$3,000 for a couple). However, certain things are excluded, including the value of a home and an automobile. The federal government has not increased the SSI resource limit since 1989.

On the income side, in 2015, a single individual over the age of 65 who had no other source of income would receive \$861.82 each month in SSI benefits. This would include \$733.00 from the federal government, with an additional \$128.82 in SSP money from the Commonwealth. However, this amount would be reduced if the person had other income, because SSI, as the name implies, is designed to “supplement” someone’s other sources of income. In Massachusetts in 2013, the average federal SSI payment was \$509.68 per month. A rough calculation based on the appropriation divided by the number of recipients shows the average SSP amount to be just over \$115.00 per month.

In December, 2013, 203,391 people in Massachusetts received an SSI payment. Of this total, 187,998 received money from the federal government, which means that 15,393 received just an SSP. In the current Fiscal Year, Massachusetts has appropriated \$234,343,661 for SSP, which covers payments to individuals in all three categories of eligibility, i.e. over age 65, blind, or disabled.

Summary: The Massachusetts Legislature should increase the State Supplement Payment levels for all SSI recipients, especially for those recipients who qualify because they are over the age of 65, in order to provide an income level which meets the Elder Index.

SSI eligibility not only means an important stream of monthly income, but it also provides a gateway to other assistance programs such as MassHealth and Supplemental Nutrition Assistance Program (SNAP). One way of addressing economic insecurity among older adults is by increasing the SSI eligibility standards to allow for increased program participation.

Because SSP payments are based on eligibility for SSI, the Commonwealth does not have the ability to unilaterally increase the program’s resource limit, nor add exceptions to it. However, the state has the ability to increase the amount it pays to SSP recipients, and, in fact, has done that on occasions in the past—although not since July of 1982.

Implementation: According to figures provided by researchers at the University of Massachusetts Boston Gerontology Institute, an estimated 84,000 Massachusetts residents age 65+ would be eligible for SSI if the income limit were raised to 150% of the Federal Poverty Level (FPL), while nearly 125,000 residents would become eligible if the income limit was raised to the value of the Elder Index for renters.

The ultimate goal of this initiative should be more than simply raising SSP amounts to meet the Federal Poverty Level guideline, although this could represent an interim target. Instead, the Commonwealth should ultimately fund the SSP at a level which ensures that SSI recipients have sufficient income to meet the Elder Economic Security Index and achieve basic income security.

6. Recommendation: Promote Financial Education and Appropriations for Money Management Seminars and Counseling.

Introduction: More Americans are not saving adequately or properly managing their money leading up to and during their senior years. Increasing debt and lack of savings among older Americans has caused many older Americans to delay retirement or retire without adequate resources to last in their retirement. Nationally, 62% of 50+ workers are saving for retirement, but 57% plan to work after the age of 65. Many seniors do not perform adequate retirement planning and therefore will not end up with enough money to live comfortably and, in many cases, the inadequate planning does not provide enough to pay down debt. The typical household that has savings has saved only \$111,000 for retirement, equivalent to \$400 a month in income. Research shows a significant percentage of Massachusetts residents are not saving enough for retirement or even paying attention at all to their retirement plan.

In Massachusetts, for those over 45, 18% are not saving anything for retirement, 23% think they are saving something but don't know what they are saving, and 57% are anxious about not having enough money in retirement. In Massachusetts, for those over 45, 23% of those employed do not have an employer-offered retirement plan. Of those who are offered a retirement plan through their work, only 58% contribute to it. In Massachusetts, the reasons given by those over 45 for not saving for retirement are: not having money after paying bills (36%); paying for children's education (32%); or covering a major health issue (30%). In addition, 55% said they would benefit from professional financial advice.

As of 2010, 63.4% of American families headed by individuals aged 55 or over

had some level of debt (up from 53.8% of families in 1992). Levels of debt have increased for older Americans—for households with a head aged 75 or older, average debt level increased from \$13,665 in 2007 to \$27,409 in 2010. The percentage of those families with debt increased from 31.5% in 2007 to 38.5% in 2010. Credit card debt, mortgage debt, and medical debt comprise significant worries for older Americans. 55% of 50+ workers are worried about health care expenses when they get older.

6a. Recommendation: Launch a state-wide campaign to inform older Massachusetts residents about financial literacy information and the importance of saving money and money management. Amend M.G.L. Ch. 167D, Section 2, to require notice of free checking accounts to eligible Massachusetts residents as well as including an appropriation for the Executive Office of Elder Affairs to distribute to Councils on Aging to provide Money Management Seminars and provide money management counseling services for older Massachusetts residents.

Summary: Various state agencies and non-profit organizations could provide financial education aimed to increase financial literacy and money management skills of older people. These agencies and organizations could include: the Office of Consumer Affairs and Business Regulation, the Division of Banks, the Executive Office of Elder Affairs, the Treasurer's Office and financial education initiatives and trusts, the Massachusetts Association of Councils on Aging and individual councils on aging, the Midas Collaborative and MassSaves Coalition, local community and neighborhood development corporations and organizations, the Department of Labor and Workforce Development, state-chartered banks, financial industry representatives, and employer industry representatives.

This recommendation has multiple elements:

- a) Financial education initiatives centered on basic financial literacy, including the effects of credit history, credit card debt, other debt, bankruptcies, and mortgages. Agencies and organizations could create financial education resources and programs within their area of expertise targeted to older adults and aging. For example, the Community Development Corporations could create an Aging Homeowner Refresher course for retirees that own homes; the MassSaves Coalition could provide targeted outreach with their financial counselors to senior centers; and similar efforts. Additionally, these organizations should create a coalition website or each create or add to their individual websites to provide educational information online in the form

of apps for smartphones or browsers, interactive online tools, personal finance assessments, and more.

- b) Increase awareness of the 18-65 law requirements to older consumers and employees of these banks. This campaign should have multiple components to ensure active compliance with the law, including mailings, person-to-person outreach by older adult advocates and bank employees, and notices to bank employees or trainings on 18-65 accounts, and when and how to talk with older customers about them. Additionally, M.G.L. Chapter 167D, Section 2, should be expanded to include a specific requirement for the notification to those eligible. The specific requirements may consist of the time at which notices must be distributed, and to whom. The requirements should also provide a standard or template for the notice.
- c) Provide financial education and retirement planning advice to employees. Agencies and organizations should create a consortium of employer groups to provide an emphasis on financial health, retirement planning, and working longer to defer social security for a bigger benefits payout.
- d) Funding could come from various sources, including grants from the Executive Office of Elder Affairs, the Attorney General's Office, the Secretary of State (Securities Division), and the Treasurer (Financial Education Trust Fund). These would likely depend on the ability of these agencies to apportion funds from their grant or other monies.

Implementation: Various governmental agencies and nongovernmental organizations would be responsible for different parts of the educational outreach efforts, depending on the topic area of the outreach and the expertise of the agency or organization involved.

a) General Financial Education:

The Office of Consumer Affairs and Business Regulation could act as the point agency for implementation of the various educational efforts. This office could periodically check in on various other agencies responsible for different aspects of financial education. For example, the office could work with CDCs to develop a program to teach older homeowners a refresher course on asset shepherding and understanding home equity. Another example is that the office could work with the Mass Saves Coalition, the Midas Collaborative, the Crittenton Women's Union, Community Banks, and other groups to reach out to older adult

communities to present information about money management and the importance of understanding credit.

c) Savings and 18-65 Accounts Education:

The Office of Consumer Affairs and Business Regulation in partnership with the Massachusetts Division of Banks (which has authority over 18-65 law implementation) should oversee the education efforts and spearhead any coalition with community banks.

d) Retirement Savings Education:

The Office of Consumer Affairs and Business Regulation could partner with the Department of Labor and Workforce Development to spearhead a coalition of employer groups (Associated Industries of Massachusetts, Retailers Association of Massachusetts, Restaurant Association of Massachusetts, the Massachusetts Chapter of the National Association of Independent Businesses, and perhaps individual large employers). The coalition could look at ways to specifically target those in the workforce on retirement savings and retirement planning.

7. Recommendation: Provide enhanced protections for older adults in debt collections.

Introduction: A serious worry of older adults is debt collections and the harassments that follow. Older people have more debt than they used to and many have trouble paying it. 44% of retirees report having a problem with their level of debt. One in three complaints to the CFPB from older Americans are about debt collection issues including issues about medical debt collections, collecting on debts of deceased family members, and illegally threatening to garnish federal benefits.

Summary: Enhanced penalties in this context would require legislation in Massachusetts. A violation of the Attorney General's debt collection regulations, 940 CMR 7, or the Division of Banks' debt collections regulations, 209 CMR 18, affecting or targeting consumers over 65 should permit enhanced penalties. One example is to double the penalties under M.G.L. Ch. 93A to allow the Attorney General to obtain penalties up to \$10,000 per violation (\$5,000 is the statutory maximum in Ch. 93A) for unfair or deceptive acts or practices. For private actions, there could also be an additional allowance for punitive damages as determined by the legislature.

Older adults are particularly vulnerable and targeted for a number of types of

crimes, and especially financial crimes. Statutes provide for enhanced sentencing or penalties for financial and other crimes against older adults. For example, Chapter 113A, Section 2326 of the US Code doubles the time in prison (10 years, increased from 5) if a financial crime's offence involving telemarketing victimizes people over the age of 55. Because there are a greater number of older adults with higher debt, it is important to deter bad behavior in debt collections and penalize bad behavior to a greater extent when it does occur.

Implementation: This recommendation would require legislation. Implementation after enactment of the legislation would occur through enforcement by the Attorney General or in private actions by older victims of debt collections abuses.

8. Recommendation: Implement recommendations 1 – 3 of the Commonwealth of Massachusetts Special Commission on Elder Protective Services dated October 23, 2014.

Recommendation 1. Development of a multidisciplinary team for financial exploitation cases.

Recommendation 2. Development of professional resources for education and prevention programs.

Recommendation 3. Expand training resources for industries/professionals who serve the elder market place.

See <http://necir.org/files/2014/10/Elder-Protective-Service-Commission-Report.pdf>

Introduction: The Special Commission on Elder Protective Services found that financial exploitation of elders is a wide-ranging and growing problem in the Commonwealth and the nation. Seniors, particularly women 80 years-of-age and older, are targeted by scammers including strangers, financial professionals, and family members. A study conducted by the MetLife Mature Market Institute in 2009 fixed losses from senior citizen financial exploitation at least \$2.6 billion per year, though it is very difficult to make a precise calculation. With demographic trends indicating tremendous growth in the numbers of older adults living in the United States and the growth of seniors as a percentage of the population, it is clear that there is great potential for future harm and, therefore, a pressing need to address future impacts now.

Given the breadth of the problem of financial exploitation of older adults, the Commission recognizes the need to focus on two discrete facets of the problem.

a) Providing tools and resources to protective services workers in the field to address financial exploitation; and

b) Identifying and publicizing prevention/education strategies to give seniors and their families the tools to prevent financial exploitation.

The Commission recognizes that elder financial abuse is a significant threat to elder economic security. Since a previous commission examined many facets of elder abuse, this commission agreed to adopt the recommendations of the 2014 Special Commission on Elder Protective Services that relate to financial abuse. Although some progress has been made since the release of the 2014 report, much is left to do.

9. Recommendation: Ensure access to Low-Income Heating Program (LIHEAP) benefits, weatherization, and conversion to energy efficient homes for eligible seniors as well as include a new line item in the Department of Communities and Development annual fiscal year budget to provide a state supplement to the federal LIHEAP allocation.

Introduction: Federal energy assistance programs are the primary means for helping low-income older people meet their home fuel costs and improve the energy efficiency of their residence. The two major programs are the Low-Income Home Energy Assistance Program (LIHEAP), administered by the Department of Health and Human Services and the Weatherization Assistance Program (WAP), which is administered by the Department of Energy.

LIHEAP was created to help low-income households meet their immediate home energy needs by reducing the high burden of energy costs. It is targeted to the most vulnerable families – older people, disabled and families with preschool children. The program's annual appropriation is distributed to the states, U.S. territories and tribal governments by the USDHHS. Some states supplement their federal allocation. Historically, funding has not been adequate to provide benefits to all eligible households. Over the past six years, the national federal appropriation for LIHEAP has been reduced from \$5.1 billion (FFY 2010) to \$3.35 billion (FFY 2015). Massachusetts' federal award was reduced from \$175.5 million to \$144.9 over the same period. Between FFY2010 and 2015, this led to a reduction in the number of Massachusetts households assisted from over 206,000 in FFY 2010 to over 180,000, and to reductions of the amount of assistance to other households. LIHEAP fuel assistance is a crucial component the level of economic security of thousands of MA seniors. On average, over 1/3rd of all households receiving fuel assistance are older adult households. The state's LIHEAP annual report says the program reduces the gross energy cost burden of those served from 18.6% of income (fuel and utilities combined) to 12.3% of income. As federal LIHEAP appropriations have fallen, the cost of home heating fuel has increased continuously, thereby increasing the economic burden of heating the homes of older adult households.

The past four decades have seen the emergence of efforts to conserve energy resources and the development of new sources of energy and technologies. Since 1976, The U.S. Department of Energy (DOE) Weatherization Assistance Program (WAP) has provided grants to states, territories, and some Indian tribes to improve the energy efficiency of the homes of low-income families.

In Massachusetts, the program is administered by Department of Communities & Development and contracted to a network of local agencies, in many areas the same agency that administers the LIHEAP program. Households that are eligible for LIHEAP are eligible for weatherization services. In addition, households with a member receiving TAFDC or SSI are categorically eligible. Eligibility is based on a maximum gross annual income not to exceed 60% of the Estimated State Median Income. Priority of service is given to those households with older adults, disabled, children (6 and under), Native Americans and LIHEAP high-energy costs. Homeowners and tenants with their landlord's permission are eligible. Typical weatherization activities include attic, sidewall, pipe and duct floor insulation and limited energy related repairs. Homes also receive a thorough evaluation of the heating system as well as health and safety testing of all combustion appliances. During FY 2015, an individual eligible dwelling may receive up to \$10,000 in WAP benefits. The average expenditure is projected to be \$5,000 for eligible households. Households may also be eligible for a variety of utility funded energy efficiency programs that vary by utility service area. Utility funding exceeds WAP funding and may be used independently or in conjunction with WAP funds.

Summary: The supplement would become available at the start of each state fiscal year, allowing Community Action Agencies to launch the program in a timely way and allowing for a planned extended outreach period to eligible seniors (and others) while making this critical program available to all eligible economically insecure Massachusetts seniors.

Reductions in LIHEAP benefits to older adult households increases the level of economic insecurity among them, exposes them to increased risk of dangerous illnesses, and prohibits their purchase of other important goods and services. Massachusetts has made a commitment to "forward funding" support of the program, requiring reimbursement to the Commonwealth when federal funding arrives. The consistent increases in heating costs, and lowering of federal LIHEAP support supports the need for a state supplement to this vital program.

Implementation: The annual state appropriation for the Executive Office of Housing & Community Development, Department of Communities and Development should include a line item to provide supplemental funding for LIHEAP heating and fuel assistance needs unmet by available federal grants. Funding provided through the line item would be allocated by DCD to

Community Action Agencies currently administering LIHEAP programs in local communities.

9a. Recommendation: Encourage access to and the development of affordable, cost-effective, and measurable energy efficiency programs and green energy conversions that are accessible to older homeowners and renters with incomes below the Elder Index.

and

9b. Recommendation: Increase outreach, education and application assistance to eligible Massachusetts seniors to better enable them to access LIHEAP, weatherization and information on benefits and costs needed to consider and convert to non-fossil energy sources.

Introduction: Technologies that lower the costs of continuing to live at home are becoming increasingly important to accomplishing daily needs. Energy costs of heating and lighting homes are becoming more accessible. Older adults, however, need information and assistance to make decisions about their use and value to them. Information available about new technologies in the competitive marketplace is often asymmetric, putting seniors at risk of making decisions that are not good for them. This often occurs when attempting to understand the costs and benefits of solar or other new energy technologies.

Summary: The Winter of 2014-15 was an especially expensive one for older adult homeowners, especially so for those with incomes below the Elder Index. Energy costs consumed a significant portion of seniors' income and created barriers to the purchase of other vital goods and services. Conversions to solar and other green energy sources have strong potential to generate ongoing savings on energy costs for older homeowners and renters. The installation costs of solar energy have been reduced significantly over the past decade. Low interest and subsidized loans that allow seniors to take advantage of lower cost conversions offer an important tool to move toward sustainable economic security.

Within the past decade, MA has developed a strong, innovative clean energy policy initiative utilizing solar, wind, hydro and biomass sources. The Massachusetts Clean Energy Center (MassCEC), a leader in these efforts, has indicated that since 2008 "enough solar electricity has been installed in the Commonwealth to power more than 100,000 homes". The Massachusetts Department of Energy Resources (DOER) and MassCEC are about to launch a \$30 million partnership for a low- interest loan program that will work with local banks and credit unions to provide financing to homeowners interested in solar electricity. The Mass Solar Loan is targeted to homeowners with lower income or lower credit scores. The Partnership launched the program during December, 2015. According to the Office of Energy and Environmental Affairs, the program

is projected to deliver approximately \$100 million in savings to Massachusetts residents who take advantage of the program.

Access to understandable and reliable information and education, from an unbiased source, is vital to assist decision making by older homeowners about the adoption of energy technology changes.

Implementation: The Executive Office of Energy and Environmental Affairs should partner with the Department of Housing & Community Development LIHEAP Program and the Executive Office of Elder Affairs to develop a public education and outreach program for low income elderly homeowners to increase their knowledge of solar and alternative energies and to facilitate access to available state support to make conversions to their homes. At the local level, the public education should include participation by Community Action Councils, Senior Centers and Councils on Aging and senior advocacy groups like the MA Association of Older Americans

10. Recommendation: Asset Retention modifications under MassHealth.

Introduction: Asset retention and development is a critical element of economic security for older adults. Assets provide a safety net for individuals whose retirement income is inadequate to meet daily costs of living or unanticipated expenses. Approximately one-third of individuals 65 years and above have no money left over at the end of the month after meeting basic expenses or has gone into debt to pay those expenses. Without an adequate cushion of assets older adults cannot escape poverty.

Medical care costs are one of the primary drivers of asset depletion. Nationally almost 15% of older household spending goes to health care costs. Low asset retention is exacerbated by regulations governing access to health care. To be eligible for MassHealth Standard benefits in the community or for Supplemental Security Income an individual cannot have countable assets in excess of \$2,000. If an individual is in a nursing home the substantial share of patient payments toward the cost of care often wipes out any assets above this level.

The federal Deficit Reduction Act of 2006 sets out Medicaid requirements for asset transfers and periods of ineligibility for institutional care as a result of transfers for less than fair market value. State statute and regulations incorporate those standards. Transfers of assets that violate these rules will result in a penalty period of ineligibility for MassHealth nursing home care. These rules do not just limit asset levels. Due to their arcane nature they often result in penalties that cause harm to frail and sick older adults. The rules governing these issues are not always precise in defining terms such as "intent" in making a

transfer. As a result, individual MassHealth recipients may be penalized for innocent gifting and other actions unrelated to qualifying for MassHealth.

There are several adjustments to MassHealth rules at the state level that would more clearly define statutory and regulatory terms and procedures and ameliorate some of the harsh results of current regulations. These changes have been drafted and filed as bills in the past legislative session. However, they could be implemented as regulatory change without the necessity of legislation.

Summary:

- a) Clarify the criteria for penalizing asset transfers by Mass Health nursing home residents.

This recommendation would protect innocent older adults from ineligibility for MassHealth nursing home care. Currently, when MassHealth determines eligibility for nursing home care, the agency looks back five years to ensure that the applicant did not transfer their assets for less than fair market value. Many individuals unknowingly make gifts without contemplating future nursing home care and without knowledge of the rules governing transfers. If they suffer a catastrophic illness or accident they may find they cannot qualify for nursing home care regardless of their need.

The recommendation clarifies that a period of ineligibility for institutional care does not apply to an applicant who transferred assets for a sole purpose other than qualifying for MassHealth. There are currently no statutory or regulatory criteria for determining an applicant's subjective intent in making a transfer. This change would establish specific objective criteria used to determine intent. Such criteria include a regular pattern of small gifts, donations to a religious institution, unexpected illness or a transfer to help a relative in financial crisis. If an individual demonstrates one of these criteria MassHealth would then bear the burden of proving that the transfer was made to qualify for MassHealth benefits.

- b) Clarify criteria for granting of undue hardship waivers.

The federal Medicaid statute also governs the criteria used to grant waivers of nursing home penalty periods due to "undue hardship". These stringent criteria require that the individual seeking a waiver would be deprived of medical care such that his or her life would be endangered or access to food, clothing, shelter or other necessities of life would ensue. The state incorporates these standards into its regulations - 130 C.M.R. s.520.019(L). Waiver requests based on undue hardship are determined based on subjective considerations by MassHealth which has broad discretion in interpret the criteria.

This recommendation would create a rebuttable presumption establishing that the applicant would be granted a waiver of the ineligibility period if certain criteria are met. The criteria would specify that the denial of MassHealth would create a risk of serious harm to the individual, that the assets are irretrievable from the recipient and that there is no affordable alternative care available for the individual. If the individual meets all of the criteria a waiver will be granted unless the agency presents convincing evidence to the contrary. This clearer definition of hardship and other criteria would level the playing field and provide for undue hardship determinations that must be justified by Mass Health.

c) Remove a community spouse's IRA account from the CSRA exemption.

When a nursing home resident applies for MassHealth his spouse is allowed to keep a certain amount of her income and assets for her living expenses. The community spouse resource allowance (CSRA) is the share of marital resources that are deemed available to her. The CSRA includes the spouse's Individual Retirement Account (IRA) if she has one. If the inclusion of the IRA puts the spouse over the CSRA limit she may be forced to withdraw and spend the funds, thereby incurring significant penalties for early withdrawal. This recommendation would help community spouses of nursing home residents retain their Individual Retirement Accounts (IRA's) by designating them non-countable assets when the resident applies for MassHealth. This change in the law will permit a community spouse of a nursing home resident to retain an IRA account from which they can receive distributions. This treatment of IRA assets of a spouse has been implemented in several other states.

Implementation: The recommendations require legislative changes. If enacted, the Office of Medicaid will be responsible for implementing the changes contained in the regulations.

Housing Stability and Affordability

11. **Recommendation:** Homeownership education and outreach to inform older adults of available tax deferral and credit programs available to help with property taxes.

Introduction: Property tax arrearages, tax title issues and even foreclosures are steeply on the rise across the state, a result of older homeowners experiencing an ever-widening income/costs gap, along with ever increasing property tax bills.

Massachusetts possesses some very important and beneficial tools for struggling older homeowners including property tax deferral and the circuit breaker credit. Unfortunately, the deferral programs, which enable seniors to defer payment of property taxes up to a total of 50% of the assessed value of their property (inclusive of both taxes owed and accrued interest), is greatly underutilized; the same holds true for the circuit breaker tax. Participation in these programs could assist many seniors who are struggling to afford other basic needs. The following are important reforms to help facilitate much greater utilization of property tax deferrals by income-strapped senior homeowners.

Summary: Institute a statewide outreach and education program to inform older adults of available tax deferral and credit programs available to help with property taxes and the dangers associated with arrearages.

Implementation: Funding should be made available through EOEA, with grants available to the senior service network to execute a uniform and coordinated statewide level at the state level. MCOA should be involved in planning and implementation. The City of Newton provides an effective model of what an effective outreach and education program could look like.

Develop a more uniform statewide property tax deferral program and consistent application and guidelines across all cities and towns to facilitate greater utilization of the program.

11a. Recommendation: Exempt homeowners, aged 65 or older, who are sole owners and residents of the real estate in question (and who own no other properties) from the above referenced process of sale for tax title sums owed to a municipality.

Summary: Cities and towns across the state are increasingly selling the tax debts of older adult homeowners to third parties. These delinquent property tax debts are often relatively small in size. Often the third parties purchasing these tax debts are collection agencies or out-of-state entities who are not interested in special payment plans or other considerations for seniors and they proceed rapidly to foreclosure and property seizure. The vast majority of older homeowners caught in this situation are ill-equipped and unable to cope with these high-pressured collections circumstances.

Implementation: This could be accomplished through legislative action to amend the relevant Chapter 60 (2) (c).

11b. **Recommendation:** Expand Massachusetts Rehabilitation Commission program that provides funds for upgrading essential systems and eliminating physical barriers through no interest and low interest loans deferred up to length of home tenure.

and

11c. **Recommendation:** Develop a new program for older adult home repairs focused on core systems, safety and barrier elimination (no frills), funded by an annual bond issue utilizing a mortgage instrument secured upon the homes of the senior homeowners enrolled.

Summary: A significant number of older homeowners struggle to afford needed home maintenance and repairs which in many cases lead to unsafe living conditions. Repairs to roofs and core systems such as electrical, plumbing and heating, as well as necessary home safety and structural items become more difficult year to year. Concerns with physical barriers and household issues affecting proper aging-in-place continue to mount.

The existing myriad of senior-eligible home repair programs is often confusing and not always available. Programs are offered within differing municipalities and geographic areas, by federal, state, local or nonprofit entities with inconsistent types of eligibility and assistance available. In addition to these difficulties are recent federal policy decisions of budget cutbacks, which are now impacting such critical programs as energy improvements.

Several models exist of home repair assistance which, with sufficient support and availability across the entire Commonwealth, would make a considerable impact on the growing and dangerous problem of senior homeowner deferred maintenance. This would support cost-effective aging-in-place for lower-income older homeowners.

Implementation: The program should be statewide, with funding provided on a low cost basis or fully deferred, with payment upon the demise or permanent relocation of the seniors involved. Mass. Housing could provide oversight and administration, with qualified Massachusetts-based banks and credit unions to supply older adult qualification and loan finance availability and advice and house the loans so denoted.

Expansion of existing funding via a bond issue on an annual basis is suggested.

11d. **Recommendation:** Establish a central registry of older adult equity conversions.
and

11e. **Recommendation:** Establish a surcharge on reverse mortgage lenders to fund face-to-face counseling.

|

Summary: At present, numerous older homeowners of modest means, and often lacking third party professional assistance and advice, have acquired reverse mortgages over the past several years and are encountering serious threats to their continued home tenure, even foreclosure. These threats result from inadequate income regarding mortgagor requirements such as property taxes, homeowner's insurance, and adequate home upkeep, as well as insufficient funds for basic living needs. Consequently, these older adults are facing potential home loss along with depletion of home equity, usually their only substantive asset.

Seniors` in these difficult financial straits with their reverse mortgages often note that there were inadequacies regarding their full understanding of the complicated loans before executing one. Also, in many cases, these older adults received financial counseling by phone, which in retrospect was deficient in identifying their needs and fully educating them as to potential options and alternatives. In August of 2014, Massachusetts became a national leader in consumer protections by requiring face-to-face reverse mortgage counseling for seniors, however counseling agencies may charge for these sessions, creating an additional economic hurdle for older adults who are already financially vulnerable.

Some of the specific benefits of face-to-face counseling include:

- a) The ability to assess the physical and cognitive capacity of older clients by observing facial gestures and direct give-and-take and the ability to confirm level of understanding of essentials of a loan, long-term costs and impact or alternatives;
- b) The ability to make assessments regarding family dynamics and support networks;
- c) The ability to assess the condition of the home with regard to deferred maintenance, serious disrepair and safety concerns, barriers and hoarding issues;
- d) The ability to explore eligibility for all potential benefits and resources, and to discuss alternative need resolutions and the long-term sustainability and impacts of varied scenarios;
- e) Comfort level of older clients in their own homes allows them to be more forthcoming and improves their understanding of all potential resources and options; and

- f) The ability to tailor counseling according to the unique financial needs and situation of each client, as outlined in the HUD/FHA Reverse Mortgage Counseling Protocol. Telephonic counseling makes such individualized assessments unlikely.

Implementation: Establish a central registry of older adult equity conversions, to be housed and maintained by the Massachusetts Division of Banks, in order to assign and conduct an annual monitoring check as to the fiscal health and status of all outstanding reverse mortgage loans, by assigned and qualified nonprofit counseling agencies.

Establish a surcharge on reverse mortgage lenders to fund face-to-face counseling as required by Massachusetts law and thereby ensure adequate funding for sufficient capacity for the provision of needed counseling and to eliminate costs burdens for this important service especially for economically vulnerable seniors.

11f. Recommendation: Fund a social enterprise to start and operate a 3-year Home Sharing Promotion Initiative in a select county of Massachusetts.

Summary: Many older adults are “house rich, cash poor”. Once an individual’s income is fixed and monthly expenses exceed income (the condition faced by 63% of retirees age 65+ in Massachusetts), then she or he must slowly tap their savings to meet household expenses.

One solution to generating new income to balance the monthly household budget is to share one’s housing by taking in a boarder. Demographic changes are creating more opportunities and incentives for home sharing such as longer life spans, more childless people, and more single people.

For house rich, cash poor adults, extra income from a boarder could mean meeting all of their monthly budget costs – and achieving economic security. Further, a homeowner or apartment dweller taking in a boarder to share fixed expenses allows those of modest means to live in the communities where they’d like to live. In addition, shared housing reaps significant social benefits as it provides security as well as companionship. Finally, communities save money when its residents use their housing structures more efficiently.

However, older adults may be reluctant to share housing as most have never experienced living with a non-family member. They will need some education and support to choose this solution to their financial and social predicament.

Implementation: Fund a social enterprise to start and operate a 3-year Home Sharing Promotion Initiative in a select county of Massachusetts. The home sharing model and its economic and social benefits, while pragmatic, will need some encouragement and service coordination before it gains adherents and wide scale acceptance as a sensible, desirable income and housing solution. Home sharing promotion programs in other states provide outreach, education and basic facilitation services such as recruitment of homes with excess space, advertising the housing openings in local social media, a matching service for home dwellers and people seeking homes, providing sample leases, and offering to mediate when or if personal issues arise.

12. Recommendation: Rental housing-public & subsidized: expand funding for housing search services for seniors who need to move to safe, affordable permanent housing, but who are not yet homeless or at imminent risk of homelessness.

Summary: Applying for subsidizing housing is a confusing and complicated process, one that many older adults find intimidating and daunting. Each housing provider requires a separate application, and documentation must be provided to verify every aspect of the applicant's life. Even with the help of a housing search worker or advocate, seniors may get discouraged or overwhelmed and give up on the process, or be found ineligible because of difficulty completing the application correctly. Currently, almost all of the housing search services are targeted to older adults who are homeless (living in an emergency shelter or on the streets) or at imminent risk of becoming homeless. Housing search and advocacy services are not available to seniors who are housed, even if they are experiencing a rent burden or living in unsafe or inaccessible housing.

Even if older adults succeed in completing the application and are placed on waiting lists, often for many years, they may encounter difficulties that result in severe consequences, such as being dropped from the wait list. This could happen, for example, if an older adult is in the hospital and misses a deadline for updating information. Or, if an older adult finally gets to the top of the wait list, they are given one choice of a unit in a specific location, and if they turn it down, for any reason, they can be dropped from the list.

Implementation: Expand funding for housing search services for seniors who need to move to safe, affordable permanent housing, but who are not yet homeless or at imminent risk of homelessness. A modest program, locating two dedicating housing search workers in each of the 26 ASAP regions, would cost approximately \$3 million.

Following on the Access to Justice Commission Best Practices Guide for state agencies, reform Public Housing Authority regulations to give older applicants a "second chance" in these circumstances. For example, the Best Practices Guide states:

If a benefits application lacks information necessary for the agency to make a proper determination of benefits, the agency shall provide each applicant with a reasonable opportunity to obtain such information.

If a benefits application contains inconsistent information that hinders the agency's ability to make a proper determination of benefits..., the agency shall provide each applicant with a reasonable opportunity to correct such inconsistencies before the application is denied.

12a. Recommendation: Expand legal services for low-income tenants and legal protections for older adult and disabled tenants at risk of eviction.

Summary: Evictions in Massachusetts are called Summary Process, because they are cases that move quickly through the Court process, with very specific timelines which a tenant must comply with in order to have their day in court. Evictions – which can mean imminent loss of housing – are by definition traumatic, confusing and intimidating to older adults. Many seniors do not understand or know their rights and do not have legal representation. They may have physical or emotional disabilities which cause them to miss a deadline or default on a court appearance, resulting in a Judgment of Eviction and loss of housing.

Implementation: Expand legal services for low-income tenants. Support increased funding for Mass. Legal Assistance Corporation which funds statewide civil legal services.

Expand legal protections for older adult and disabled tenants at risk of eviction, to give a "second chance" to meet Court requirements and to appear in Court, if they default. This extra chance, and extra time, is especially important early on in the process, to allow time to seek legal advice and to avoid a default eviction judgment. There are already some extra protections for this population, to delay a Judgment of Eviction for up to a year. But this extension applies after the court has already ordered an eviction.

13. Recommendation: Development of affordable housing.

Summary: There is a severe shortage of affordable housing for low-income seniors in Massachusetts. Older adults who are declared eligible for housing can be on waiting lists for anywhere from 2-10 years. Production of new units of affordable housing is very expensive and can take 5 or more years from the time a project is conceived to completion.

Implementation: Increase funding for MRVP's in Massachusetts, and target some of these vouchers for low-income seniors. This could increase the stock of affordable housing without building anything new. It could also benefit older landlords, who could then rent to older tenants.

Streamline the process for developing new affordable senior housing by creating a single point of access for developers to access project funding. Currently a new project may require the involvement of up to eleven separate public agencies to assemble the needed financing. While tax credits may provide the largest single support and obviously requires finding a tax credit investor, the balance of the funding comes in multiple smaller chunks, each with separate application requirements, regulations, and permissions. Even after the project is in development, monthly invoices from contractors require sign-off from all eleven funding agencies, each of which is staffed by their own attorneys in an obvious duplication of limited resources.

Increase and strengthen linkage requirements for new market housing developments across the state with particular focus on communities with high housing costs to take advantage of the strength of many Massachusetts housing markets.

13a. Recommendation: Develop a plan for Federal Centers for Medicare and Medicaid (CMS) approval to use the Affordable Care Act (ACA) Chapter 2703 created option for states to develop a State Plan Amendment (SPA) to create health homes to provide comprehensive care management for individuals who need assisted living.

Summary: There is a significant gap in the continuum of supportive housing for low-income seniors. As people encounter the increasing challenges of aging, including declines in mental function, physical functioning challenges, and substance misuse, affluent individuals can access continuing care communities which can tailor services to individual needs from simple accessibility accommodations to assistance with daily living tasks to memory clinics to assisted living and ultimately to skilled nursing. Most egregiously, there are only a handful of affordable assisted living facilities available for very low income people, and this leads directly to expensive Medicaid funded nursing home placements even though with some supports such individuals would be able to live independently at much lower cost. Clinically, the missing resource is comprehensive care management as physical and behavioral health issues intensify with aging.

Implementation: Massachusetts should develop a plan for Federal CMS approval to use the ACA Chapter 2703 created option for states to develop a State Plan Amendment (SPA) to create health homes to provide comprehensive

care management for Medicaid eligible individuals. Because the ACA allows states wide flexibility in determining who may become an eligible health home provider, Massachusetts should specifically offer the ability for affordable supportive housing providers and developers who wish to increase their clinical capacity to meet more intensive service needs as residents age to become eligible providers as part of the health homes team authorized in the ACA. This could effectively close the gap in the affordable senior housing continuum.

13b. Recommendation: Conduct a comprehensive study as to the feasibility, costs and implementation issues regarding large-scale utilization of modular housing.

Summary: With upwards of 40% of current homes in the Commonwealth owned by those aged 55+ and the corresponding problem of sustaining long-term tenure becoming ever more problematic, particularly due to the swelling income/costs gap, viable cost-effective affordable solutions for long-term housing transition are desperately needed. One alternative, much discussed and long contemplated, has been the utilization of manufactured housing, or "modular housing" either upon individual or scatter sited lots or within specifically designated communities. Such an option provided on a large scale may indeed provide significant alternative units for long-term, independent, affordable and sound housing for numerous older homeowners who are no longer able to sustain older, energy inefficient, poorly maintained and expensive traditional housing. Modular housing has matured well past the common conception of trailer parks. As argued in the June 1, 2014 *Boston Globe* editorial, modular housing can offer very significant cost savings for durable and attractive homes.

Implementation: Conduct a comprehensive but time-limited study, with the participation of older adults, affordable housing advocates, the manufactured housing industry and representatives of relevant state and municipal governments, as well as public and private financial experts (e.g., Mass. Housing, the state Treasurer's Office, and the MA Division of Banks) as to the feasibility, costs and implementation issues regarding large-scale utilization of modular housing. Particular attention should be made to specific recommendations regarding the following concerns:

- a) Local zoning and building code barriers and options;
- b) Costs of acquiring, erecting and financing such units individually or in large numbers (economies of scale);
- c) Providing ownership finance via public state subsidies or specialized affordable finance assistance through Mass. Housing or separate independent bonding arrangements;
- d) Stimulation of maximum use of conventional finance through state-based community banks and credit unions, with provision for special consumer

- protections and finance cost parameters for older consumers (mortgagors); [The manufactured home industry is notorious for significant unit owner acquisition and finance cost abuse.]; and
- e) Production of credible and attainable recommendations for making this option viable and affordable within a reasonable period of time, including the utilization of a “cooperative based” ownership model;
 - f) Quality assurance safeguards.

Healthcare and Long-Term Care Services and Supports

14. Recommendation: Expand MassHealth eligibility standards for individuals 65 and over.

Summary: Healthcare is the second largest expense for individuals 65 and over, second only to housing. Reducing out-of-pocket healthcare costs for older adults who are economically insecure is pivotal to improving their ability to afford basic needs, and will improve access to needed healthcare. The following recommendations will also: 1) reduce administrative costs for the Commonwealth; 2) streamline application processes; 3) increase access to federally funded and/or reimbursed programs.

Implementation:

- a) Increase income limits from 100% of the Federal Poverty Line to 135% of the Federal Poverty Line.
- b) Align MassHealth asset restrictions with the standards in place for the Medicare Part D Extra Help program administered by the Social Security Administration. Asset limits for “Extra Help” are currently \$13,440 for an individual or \$26,860 for a married couple living together. Current MassHealth asset limits for individuals 65 and over are \$2,000 for an individual and \$3,000 for a couple.

14a. Recommendation: Expand eligibility standards for the Medicare Savings Programs (MassHealth Buy-In Programs).

Summary: Medicare savings programs, also known as “buy-in programs,” use Medicaid funds to help reduce out-of-pocket costs for Medicare beneficiaries with limited income. The Qualified Medicare Beneficiary program (QMB) and Specified Low-Income Medicare Beneficiary program (SLMB) are Medicaid

funded with a federal match. QI is fully funded by the federal government but has a state spending cap. All MSP beneficiaries are also automatically enrolled in the federally funded "Extra Help" program to assist with prescription costs.

Implementation:

- a) Eliminate the asset test for Medicare Savings Programs.
- b) Increase income eligibility to 300% of the Federal Poverty Level.

15. Recommendation: Greater access to mental health/behavioral interventions and promotion of mental health awareness and prevention.

Summary: Untreated mental health or behavioral conditions among the state's over-65 population are costly to families, individuals and the Commonwealth. Depression, anxiety, impaired cognition, substance abuse, and other conditions have been identified as both a result of and a contributor to chronic economic insecurity among older adults. Untreated depression, anxiety and other conditions bring functional impairments that become barriers to accessing public benefits (SNAP, LIHEAP, SSI as examples) and social support opportunities and lead to inefficient use of health care resources (Emergency Rooms and nursing facilities as examples). Prevalence is estimated to range from 10% among seniors living independently in the community to 25% of older adults living in the community with another chronic illness. Rates are higher among hospitalized seniors with onset of serious medical conditions 35% - 60% (cancer, heart attacks, arthritis, and severe back pain). MA Aging Service Access Points have reported that up to 50% of seniors receiving their services require some type of mental health intervention. Barriers to treatment include: 1) lack of provider capacity; 2) inadequate understanding of treatment benefits; 3) perceptions of "mental illness"; and 4) absence of coordination among providers of various services. MA created and operated partnerships between ASAP's and mental health entities do exist as models to begin to address these issues throughout the state.

Implementation:

- a) Create a new line item in the Department of Elder Affairs' annual fiscal year budget restoring funding for the development and support of a geriatric mental health partnership program in communities throughout the Commonwealth.
- b) Create a new line item in the Department of Elder Affairs annual fiscal year budget for the development and support of a program of public education to increase awareness of the Commonwealth's

seniors to include the promotion of mental health and wellness, prevention of the onset of behavioral health conditions during later life, information on the importance of integrated physical and behavioral health care, and available evidence-based interventions that support emotional wellness.

16. Recommendation: Raise the income eligibility for the Home Care Program and Enhanced Community Options Program (ECOP) to 300% of FPL as a wrap-around to the MassHealth program.

Introduction: According to a 2014 study by the Mass Association of Older Americans and Wider Opportunities for Women, *Living Below the Line: Economic Insecurity Among Massachusetts' Elders*, 63% of Massachusetts' retired older households live below the Elder Index, which is the income seniors need to pay for basic needs without going into debt or needing private or public assistance. The same report says that "those elders having difficulty living independently due to poor health are most likely to have elevated health care costs, and are highly likely to lack economic security." 74% of seniors who have difficulty with self-care are defined as "economically insecure," and nearly 71% of seniors who report having trouble living independently are also economically insecure.

The Elder Index in Massachusetts for a single older adult who owns a home with a mortgage was \$35,856 in 2014. Many "economically insecure" older adults are not eligible for home care assistance.

Summary: The home care program could pick up where MassHealth leaves off by setting eligibility over 300% of SSI (\$25,957) up to 300% of FPL (\$35,010). This would allow home care to assist older adults who are not yet eligible for MassHealth, but whose progression onto MassHealth and risk of institutional care could be slowed down or avoided entirely. Whatever income eligibility level is used for home care must be the same as that used for ECOP, to prevent the situation that when a person "graduates" to ECOP level due to increasing disability, but is dropped from the program because of different income eligibility standards. These two programs must have identical financial eligibility rules to ensure continuity of care.

The income limit for the program currently is set at \$27,013. By contrast, the Affordable Care Act has expanded eligibility for children whose family incomes are up to 300 percent of the federal poverty level (FPL). We seek to raise home care to 300% of FPL (\$35,010) to serve the "near poor" and to provide sufficient appropriation---from the Community First Trust Fund---to expand access to the near poor who are currently excluded.

The income base for the home care program has not been adjusted since 1974. Each year it rises only by the increase in the Social Security Cost of Living Adjustment—but the base has not been changed in 40 years. Older adults' expenses have been rising faster than the COLA. For years, advocates have complained that the Federal Poverty Level and the COLA are not accurate measures of the financial squeeze that seniors face. The COLA is based on a food budget for younger workers, and does not reflect the typical older adult budget, which is higher for health care and housing costs—items not part of the Federal Poverty Level measure.

The cost of this recommendation is substantially born by the applicants, because individuals at this higher income level will pay a co-payment as much as 46%, on average, of the cost of their home care benefits. The program can provide them with home care—and they pay for half of the cost. These individuals will still be required to meet the impairment levels in the home care program, but it will provide them with supports and delay their progression on to MassHealth and costlier institutional settings.

Implementation:

- a) Support budget proposals and/or legislation filed to raise income eligibility in order to expand access to home and community based health care services.
- b) Recommend to EOEA/EOHHS for future action.

17. Recommendation: Amend MassHealth regulations to allow spouses to be paid caregivers under Personal Care Attendant (PCA) and Adult Foster Care (AFC) programs.

Summary: Adjusting MassHealth regulations to allow spouses to be paid caregivers under the PCA and AFC programs can be done administratively by MassHealth. Amending these regulations would allow spouses to be paid caregivers in MassHealth programs like the PCA and Adult Foster Care programs, where families now can be paid as caregivers. 17 other states currently allow this on a “revenue neutral” basis. The Federal Veterans Health Administration also allows spouses to serve as paid caregivers. Such a policy would maximize the use of available caregivers, but would not affect eligibility for these two MassHealth programs.

Implementation: Request MassHealth amend its PCA and AFC regulations to allow for spouses to serve as paid caregivers.

18. Recommendation: Amend MassHealth regulations to allow PCA consumers to receive care if they require cueing and supervision.

Summary: Allowing PCA consumers to receive care through the state program if they require cueing and supervision would help some clients to remain living in “the least restrictive setting” in accordance with the MassHealth mission. This policy has already been approved in the One Care duals demonstration.

Implementation: Request MassHealth amend its PCA regulations to allow consumers to receive care if they require cueing and supervision.

19. Recommendation: Expand funding for Long Term Care Options Counselor/Family Service Counselors working with the Aging Services Access Point (ASAP) network.

Summary: Enhance the funding available to support the care coordination staff who work with families that are not eligible for other state or federally funded services, and who need help sorting through their Home and Community Based Services (HCBS) options vs. the more well-known institutional options.

Implementation: Advocate for funding to support this request through the Legislature and federal funding opportunities

20. Recommendation: Expand funding for Benefit Enrollment Specialists available within the Aging Services Access Point (ASAP) network.

Summary: Benefit Enrollment Specialists are workers trained to help individuals gain access to federal, state and local benefits they are eligible for, and assist them from the initial gathering of documentation through the successful application process.

Implementation:

- a) Advocate for funding to support this request through the Legislature and federal funding opportunities.
- b) Work with National Association of Elder Law Attorneys (NAELA), the Women’s Bar Association, and other legal service organizations to explore the possibility of developing pro-bono partnerships to serve as an additional resource for consumers.

21. Recommendation: Support passage of legislation to preserve eligibility for PACE (Program for All-Inclusive Care for the Elderly) and waived programs.

Introduction: PACE Programs and Waiver programs provide a broad scope of health and social support services to frail older adults who are clinically eligible for nursing home care but want to remain at home. Funded by MassHealth and

Medicare, the programs provide a continuum of care including adult day health services and skilled nursing care. The programs are noted for their ability to delay or prevent institutional care.

Problems arise when a participant receives an increase in income, usually due to the death of a spouse and the receipt of Social Security widow's benefits. If the participant has income in excess of the program limit he or she will be charged an exorbitant monthly premium to remain in the program. Even one dollar of income above the eligibility level will result in a large out-of-pocket expense requiring that the individual spend down to below the federal poverty level. Many older adults are forced out of the programs and end up in a nursing home, costing the state three times what it pays for an individual in the waiver program.

Summary: This bill would ease the financial impact of increased income by allowing PACE participants with income over program limits to remain on the program and be charged a reasonable premium. The bill would also help seniors who are clinically eligible for nursing home care but want to remain at home. This bill would provide that PACE and Waiver participants with income over program limits be charged a premium equal to his/her income above the program income limits and below the average monthly cost of nursing home care. Eligibility and premium levels would be capped at the cost of nursing home care.

Implementation: Support passage of legislation filed to preserve eligibility for PACE and certain waived participants.

22. Recommendation: Support passage of legislation to establish a Direct Care Workforce Task Force.

Introduction: In the next decade, the number of people age 60 or older in Massachusetts will increase by more than a quarter of a million, to nearly 1.6 million people. It is estimated that at least two-thirds of these individuals will require assistance in meeting their long term care support needs at some point in their lives.

As our health system continues to shift to a model focused on coordinated, patient-centered care in the community, the LTSS network's ability to recruit and retain a qualified and trained direct care workforce will become even more important. These workers will need both enhanced initial training to meet the more acute needs of today's home care clients and continued education to strengthen their skills, allowing them to both enhance care and to help reduce preventable hospitalizations. Today's cost-saving initiatives can only be viable

options if sufficient funding is available to train, support, and pay direct care staff to deliver the necessary care and support.

Summary: This legislation would call on the Executive Office of Health and Human Services, the Executive Office of Elder Affairs, and the Executive Office of Labor and Workforce Development to convene a task force to assess current direct-care workforce data, examine the infrastructure for supporting efficient long-term services, and make recommendations for improvement.

Implementation: Support legislation filed to establish a task force relative to the Commonwealth's direct-care workforce.

23. Recommendation: Support passage of legislation to protect older adults facing undue hardship when denied MassHealth.

Introduction: Currently when MassHealth determines income eligibility for nursing home care, the agency looks back five years to ensure that the applicant did not transfer their assets for less than fair market value. If the applicant did transfer assets and cannot prove the transfer was for a purpose other than qualifying for MassHealth, she is determined ineligible for nursing home care for a period of time.

Summary: This bill would establish criteria to be used by MassHealth to determine whether a penalty for a transfer of assets would create an undue hardship for an applicant. This legislation creates a rebuttable presumption establishing that the applicant would be granted a waiver of the ineligibility period if certain criteria are met. The criteria establish that the penalty would create a risk of serious harm to the individual, the transferred assets are irretrievable from the recipient and there is no affordable alternative care available for the individual. If the individual meets all of the criteria a waiver will be granted unless MassHealth presents convincing evidence to the contrary.

Implementation: Support legislation filed to establish criteria for MassHealth hardship waivers.

24. Recommendation: Support passage of legislation to assist older adults applying for MassHealth Nursing Home Care; help community spouses of nursing home residents retain their Individual Retirement Accounts.

Introduction: When a nursing home resident applies for MassHealth coverage, the assets of the individual and his/her community spouse are counted in determining his eligibility. In order for a community spouse to live with financial security in the community, certain assets, called the Community Spouse Resource Allowance (CSRA), are not counted by MassHealth. The community

spouse's IRA account is counted as assets. If the IRA funds are counted in the CSRA, it may put a community spouse over the resource limit forcing him/her to liquidate some or all of her retirement funds (with significant tax liability) to render his/her spouse eligible for MassHealth. Many states and the Supplemental Security Income Program (SSI) exempt a community spouse's retirement funds from calculation of the CSRA if he/she is receiving regular income from the funds.

Summary: This bill will help community spouses of nursing home residents retain their Individual Retirement Accounts (IRAs) by making them non-countable assets when the resident applies for MassHealth. This legislation will alter MassHealth eligibility to exclude retirement funds of a community spouse from countable assets if regular income distributions are made. Treating retirement funds as non-countable resources allows the community spouse to retain some of her income and resources to support her in retirement.

Implementation: Support legislation filed regarding the countable assets of medical assistance recipients.

25. Recommendation: Support passage of legislation to assist older adults applying for MassHealth Nursing Home Care and protect older adults from ineligibility for MassHealth nursing home care for certain transfers of assets.

Introduction: Currently when MassHealth determines income eligibility for nursing home care the agency looks back 5 years to ensure that the applicant did not transfer their assets for less than fair market value in order to qualify for MassHealth. Many individuals innocently make gifts within those 5 years without contemplating future nursing home care and without knowledge of the rules about transfers. If they suffer a catastrophic illness or accident, they may find they cannot qualify for nursing home care regardless of their need. There are currently no statutory or regulatory criteria for determining a MassHealth applicant's intent in making a transfer.

Summary: This legislation would protect innocent older adults from ineligibility for MassHealth nursing home care for certain transfers of assets. This bill clarifies that a period of ineligibility for nursing home care does not apply to an applicant who transferred assets for an intent other than to qualify for MassHealth. It establishes specific criteria to be used by MassHealth to determine intent. The criteria includes: a regular pattern of small gifts, donations to a religious institution, unexpected illness, and transfer to help a relative in financial crisis. If an individual demonstrates one of the criteria, MassHealth would then bear the burden of proving that the transfer was made to qualify for MassHealth benefits.

Implementation: Support legislation filed relative to transfer of assets by MassHealth members.

26. Recommendation: Massachusetts should develop and implement a social insurance “Community Living Assistance Services and Supports” (CLASS) financing model to complement current Long Term Services and Supports payment vehicles.

Introduction: Long Term Services and Supports (LTSS) play a significant role in the physical and emotional health, life satisfaction, longevity and social and economic contributions of millions of Massachusetts’ people living with a disability. According to one estimate, 10.3% of our state’s population (over 625,000 persons in 2007) requires LTSS at some time during their life.¹ While those age 65+ comprise the largest percentage of users, the need for LTSS is not limited solely to seniors. Twenty-one percent of people receiving LTSS are between the ages of five and 20 years; 32% between age 45 and 64, and 47% are 65+². Most LTSS are provided by family members or friends of the person requiring assistance. MassHealth (the state’s Medicaid program) pays for 45% of LTSS purchased in Massachusetts.² Medicare (19%), state appropriations targeted to members of specific populations (10%), direct consumer out-of-pocket payments (17%) and private health and LTC insurance (9%) pay for the rest of purchased LTSS.³ Total LTSS costs during FY 15 are projected to be \$10.4 billion. Two billion dollars from Medicare; \$4.7 billion from MassHealth; \$1.1 billion in state program appropriations; \$1.6 billion out-of-pocket; and \$1.0 billion in private insurance. The growth of the aging population, especially those over 85, and success in treating serious childhood illnesses and chronic diseases across the life span (more people living longer, healthier lives) are driving a major expansion in demand for LTSS. One estimate projects a 35% increase in the number of senior LTSS consumers and a 50% projected increase in MassHealth by 2030.⁵ Recent studies strongly suggest the state’s LTSS financing service delivery structure is not sustainable in the face of such a huge growth in demand.⁶

Medical expenses overall are a major threat to the economic security of Massachusetts elders. The cost of LTSS confronting older families is a uniquely powerful threat to economic security during later years. A 2014 report, using the Elder Economic Security Standard Index for Massachusetts (EESSI) as a threshold to assess the risk of economic insecurity among elders needing LTSS, found that “74% of elders who have difficulty with self-care are economically insecure” as are “nearly 71% who report having trouble living independently.”⁷ Many elders who need LTSS have an income or assets that exceed eligibility criteria for Medicaid or state funded LTSS but are adequate only to meet a very frugal

basic EESSI budget. Some “spend down” their assets; others accumulate credit card debt to pay for services; others go without help. Most rely on family members and friends to purchase or provide at least some needed services and support.

Private Long Term Care (LTC) insurance is available in Massachusetts but is unaffordable for most elders and unprofitable for insurers. Indeed, private LTC insurance has had a small impact on LTSS financing in our state since its introduction to the market nearly two decades ago. Many sellers who entered the MA LTC insurance market early have stopped selling policies in the state. Growth projections are weak despite population trends.⁸ A recent Blue Cross/Blue Shield-Harvard School of Public Health poll found that 57% believed LTC insurance “cost too much.” LTC insurance, Health Savings Accounts, and Long Term Care Savings Accounts are valuable pieces of the LTSS reform puzzle. However, they are not viable options for the 70+% of Massachusetts elders of low and moderate income.

Summary: Massachusetts' Long Term Services and Supports financing structure is unsustainable and needs to be reformed. There is some movement in the private sector to shape new insurance and savings vehicles to preserve lifetime acquired assets for upper income persons and families. Low and moderate income elders will not benefit from these efforts. The 2010 report of the MA Long-Term Care Advisory Committee¹⁰ and the December 2014 report of BC/BS MA Medicaid Policy Institute¹¹ recommendations on the future of MA Health have pointed to the need for the Commonwealth to include serious discussion of the option of a social insurance model of LTSS financing to complement Medicaid, Medicare, state programs and other current LTSS payers. The time has come to move forward on a social insurance option to LTSS financing. While providing a new source of dedicated revenue that is ultimately returned to those beneficiaries that need LTSS, it could make significant contributions to stabilizing the LTSS financing structure as the population grows. A social insurance model could address issues of adverse selection in enrollment and insured choice issues while requiring universal enrollment with in-plan options. It could contribute to beneficiary equity in access and benefits through tiered premium payments, protecting beneficiary assets earned over the life span, and in developing benefit structures that support access to service tied to the beneficiaries needs. Finally, it would actively engage the beneficiary in managing – or influencing – care to the maximum possible.

Implementation: M.G.L . Ch. 19A , Section 1 should be amended to enable the Secretary of Elder Affairs to develop and implement a universal Massachusetts Community Living Assistance Services and Supports (MASS CLASS) insurance program in accordance with the Secretaries responsibility to administer and coordinate a comprehensive system of home and community-based long-term care benefits and services for elderly persons in the Commonwealth. Planning for MASS CLASS should begin during Fiscal Year 2017, and should be conducted in partnership with the Executive Office of Health and Human Services, the Health Planning Council, Division of Insurance in the Office of Consumer Affairs and Business Regulation, Department of Public Health, Mental Health, MassHealth and other such agencies as appropriate. The Secretary will conduct no fewer than five public hearings in different regions across the Commonwealth and conduct additional studies as required to develop and implement the revenue requirements and benefit costs of the program.

Conclusion

The older adult population in Massachusetts is increasing at a rapid pace and many older adults are entering later life without the proper resources to support themselves. Although Massachusetts has a good base of safety net programs, these programs do not fully address the growing and changing needs of older adults living in the Commonwealth. Massachusetts needs to act soon to avoid further hardship on this vulnerable group and to ensure economic security for its senior citizens. While solving the problem will take a combined effort from government, community agencies, and private business, Massachusetts policymakers should take the lead on this matter. Ignoring the issues will only compound the problems and result in them coming right back to the attention of the Legislature with ever increasing urgency for action.

Recent studies suggest that Massachusetts older adults are among the most economically insecure in the nation. Using the Elder Economic Security Index (EESI) Standard developed by the University of Massachusetts Gerontology Institute as a measure, a Spring 2014 analysis found that sixty-three percent (63%) of the state's retired elder households lacked the income required to meet the costs of their basic daily needs. Eighty-one percent (81%) of African-American senior households and 91% of Hispanic senior households have incomes insufficient to meet their daily needs.

Massachusetts elders will become an increasing proportion of the state's population between 2010 and 2030. Persons 65 or older accounted for 14% of the state's population in 2010. It is expected to increase to 17% of the population in 2020 and to 21% by 2030. Younger cohorts are projected to decrease between 2010 and 2030.

Without significant action by the public and private sectors, charitable organizations, and of aging individuals and families themselves, Massachusetts is at risk of seeing the gap between elder's income and the cost of meeting basic needs widen as the senior population grows.

Even as 63% of the state's elders live each day economically insecure, Massachusetts older adults play a vital role in the overall strength of the Commonwealth's economy. For example, AARP estimates that each \$1.00 of the \$13+ billion in Social Security benefits received annually by Massachusetts elders generates \$1.98 in economic activity in the state. Seventy percent of the state's elderly Social Security beneficiaries have income in addition to Social Security. Some work at small part-time jobs. Some receive a Supplemental Security Income (SSI) benefit. Thousands of elders contribute volunteer labor to public and private sector entities. All these activities contribute significantly to the state's economic activity. These elders spend the small income they have at small businesses near their homes. Policy decisions that help to move elders toward greater economic security provide benefit not only to the elder, but also to the state's economy.

In this report, The Elder Economic Security Commission has provided a survey of the steps that the Governor and Legislature should act on to help retired older adults reduce the gap between their income and the expenses of their basic needs as well as to help older workers not only save for retirement, but also to reduce their expenses once they have retired. The sooner the Commonwealth acts on these recommendations, the less hardship older adults living in the state will have to endure.

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Appendix

Appendix A: Access to Justice Best Practice Guide Announcement

**Commonwealth of Massachusetts Executive Department Office of Governor Deval L. Patrick
Press Release**

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PATRICK ADMINISTRATION, ACCESS TO JUSTICE COMMISSION ANNOUNCE BEST PRACTICE GUIDE FOR ADMINISTRATIVE JUSTICE IN STATE GOVERNMENT

Guide will solidify best practices within state government to enhance administrative justice for people across the Commonwealth

BOSTON – Thursday, December 11, 2014 – The Patrick Administration and the Massachusetts Access to Justice Commission today announced a [set of best practices](#) to ensure that all residents in the Commonwealth have access to administrative justice within state government. These best practices represent many policies and practices already in place across state government, as well as some newly identified areas of enhancement.

"I am proud of my Administration's work to ensure access to justice for all," said Governor Deval Patrick. "These best practices reflect the vital role our state agencies can and do play in ensuring the fair and equal administration of that justice. I am grateful for the work of the Access to Justice Commission and those who provide pro bono legal services."

"The Access to Justice Commission has long recognized that a great deal of justice occurs in administrative agencies, and that access to administrative justice is as vital as access to justice in our courts, said Chief Justice of the Massachusetts Supreme Judicial Court Ralph D. Gants. "The implementation of these Best Practices will improve the fairness and accessibility of administrative justice in the Commonwealth and should serve as a model for every state in the nation."

[The Massachusetts Access to Justice Commission](#) is appointed by the Supreme Judicial Court and charged with the mission of providing leadership, vision and coordination to the search for "equal justice for all persons in the Commonwealth." Recognizing that administrative justice is a vital component of ensuring the overall access to justice, the Commission worked closely with the Patrick Administration to develop a set of best practices that will serve as a guidepost going forward for how state government can best serve the people it represents.

The guide sets forth the following best practices for state agencies that provide public benefits:

- If a benefits application lacks information necessary for the agency to make a proper determination of benefits to which the applicant might be entitled, the agency shall provide each applicant with a reasonable opportunity to obtain such information;
- If a benefits application contains inconsistent information that hinders the agency's ability to make a proper determination of benefits to which the applicant might be entitled, the agency shall provide each applicant with a reasonable opportunity to correct such inconsistencies before the application is denied;

- If the agency denies an application for benefits, the agency shall provide the applicant with timely notice in writing of such denial, which shall include the basis for the denial and a description of the administrative process to appeal the agency's determination;
- If the agency terminates or suspends benefits for any reason, the agency shall, before such termination or suspension is effective, inform the impacted beneficiary in writing of the reason(s) for the proposed action and provide the beneficiary an opportunity to respond. Once the termination or suspension of benefits becomes an agency determination, the beneficiary shall be provided a description of the administrative process to appeal the determination;
- Any communication between the agency and an applicant for benefits or current beneficiary shall be done in a clear manner and in a language understandable to the applicant or beneficiary, all in compliance with [Executive Office for Administration and Finance Bulletin 16](#);
- Any applicant or beneficiary may bring a representative to assist them during any review hearing and that representative need not be an attorney;
- Agencies shall take any and all steps to ensure that their "client services" or "problem resolution" offices act in accordance with these practices; and

"Many of the legal issues confronting low income Massachusetts residents arise and are resolved in the state's administrative agencies. Assuring fairness and justice is a critical function of agency staff," said Jacquelynn Bowman, Executive Director of Greater Boston Legal Services. "These Best Practices, and the effective operation of the agency client services and problem resolution offices in ensuring compliance with them, are an important development. Together with the increased appropriations for civil legal aid called for by the recent Boston Bar Association Statewide Task Force, they will make a major contribution to access to justice."

In order to ensure these best practices continue to be utilized and enforced, these guidelines will be posted on the state website and made available to individuals at all client services and problem resolution offices across the state. The Executive Office for Administration and Finance, in collaboration with the Governor's Office of Legal Counsel, will ensure compliance with these practices.

Appendix B: [Memo] Improving Access to Medicare Savings Programs in Massachusetts



Medicare Advocacy Project

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Improving Access to Medicare Savings Programs in Massachusetts

Overview

Medicare Savings Programs (MSPs) are federally-mandated health insurance supplements that are intended to allow lower-income Medicare beneficiaries to have greater access to health care services without jeopardizing their financial stability.¹ Those eligible for participation in an MSP fall into one of three categories, based primarily on their income level: Qualified Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLMBs), and Qualifying Individuals (QIs).² While the federal government created the programs and sets the baseline requirements, the programs are state-run and states have significant discretion in implementation.

Eligibility Issues

In order to be eligible for an MSP, beneficiaries have to meet certain income and asset requirements set by the state, in line with federal minimum standards. The federal government has baseline limits for each program: taking into account a standard \$20/month income disregard,³ current countable monthly income limits for QMB eligibility are \$973 for an individual and \$1311 for a couple; limits for SLMB are \$1167 (individual) and \$1573 (couple); and limits for QI are \$1313 (individual) and \$1770 (couple).⁴ Assets are monies or property that are not earned or unearned income; they typically include funds in checking or savings accounts, life insurance policies that have a cash value greater than \$1,500, and stocks and bonds. Disregarded assets include primary house and car, household goods, wedding or engagement rings, burial spaces, and designated burial funds no greater than \$1,500, an amount that is often insufficient to adequately cover funeral expenses.⁵ The current federal assets limits are \$7,160 for an individual and \$10,750 for a couple.⁶

¹ Medicare Advocacy Project, *The 2013 QMB, SLMB, and QI Programs* (Jan. 29, 2014), available at <http://www.masslegalservices.org/system/files/library/THE%202014%20QMB,%20SLMB,%20and%20QI%20PROGRAMS-%20Medicare%20Project.pdf>.

² *Id.*

³ Medicare Rights Center, *Medicare Savings Program Financial Eligibility Guidelines* (2014), available at http://www.medicareinteractive.org/uploadedDocuments/mi_extra/MSPFinancialEligibilityGuidelines.pdf.

⁴ *Medicare Savings Programs*, MEDICARE.GOV, <http://www.medicare.gov/your-medicare-costs/help-paying-costs/medicare-savings-program/medicare-savings-programs.html> (last visited Jun. 11, 2014).

⁵ *Id.*

⁶ Medicare Advocacy Project, *supra* note 1.

Many states have recognized that the asset limits are major culprits in penalizing potential beneficiaries and several states have also realized that income limits must be raised to meet need levels. In particular, elderly Americans have been advised and encouraged to prepare for retirement, but are then finding their savings and life insurance policies working against them in regards to MSP eligibility, even when their income levels indicate a need for the assistance provided by these programs.⁷

The federal baseline income limits are set at 100%, 120%, and 135% of the Federal Poverty Level (FPL) for QMB, SLMB, and QI, respectively,⁸ which alone make MSP eligibility fairly restrictive, even though access to the benefit is of critical value to enrollees. As of 2012, Medicare households spent approximately 14% of their budgets on medical expenses, compared to only 5% in non-Medicare households.⁹ Households with incomes under the FPL only spent 3.9% of their budget on health expenses if they also had Medicaid, but 14.5% if they did not, a significant discrepancy;¹⁰ those with incomes between 100%-199% spent almost 16% of their budgets on health expenses. Overall, more than 65% of medical expenditures for Medicare households were for insurance premiums alone.¹¹ Even taking into account that Medicare households are generally likely to have more health costs than non-Medicare households, the difference in budget allocation is unsustainable and increasing the income limits for MSPs is an effective way to bring Medicare household expenditure percentages more in line with non-Medicare households and households with Medicaid assistance.

Potential Solutions

In order to address issues of eligibility, many states have started to raise their asset and/or income limits, including elimination of asset levels altogether.¹² §1902(r)(2) of the Social Security Act states that:

(A) The methodology to be employed in determining income and resource eligibility for individuals... may be less restrictive, and shall be no more restrictive, than the methodology—

(i) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI...

(B) For purposes of this subsection... methodology is considered to be “no more restrictive” if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.¹³

⁷ See, e.g., MEDPAC, REPORT TO THE CONGRESS: MEDICARE PAYMENT POLICY 313 (2008), available at http://medpac.gov/documents/Mar08_EntireReport.pdf.

⁸ *Id.*

⁹ Juliette Cubanski, et al., *Health Care on a Budget: The Financial Burden of Health Care Spending by Medicare Households* (The Henry J. Kaiser Family Foundation, Menlo Park, C.A.), January 2014, at 1.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 2.

¹² *Id.* at 315.

¹³ Social Security Act, 42 U.S.C. § 1396a

As such, the statute allows for states to deviate from the baseline eligibility requirements as long as the new rules make access less restrictive, not more (e.g. no one who was previously eligible can become ineligible under the state's revision).¹⁴ As there is no discussion of Medicare Savings Programs in Massachusetts State law, all the state needs to do is include a description in the state Medicaid plan of all the less-restrictive rules that are being used for MSP eligibility; it should be noted that if the state uses new rules without description in the plan, they risk compliance action by the Center for Medicare & Medicaid Services (CMS).¹⁵ CMS has laid out the basic process of amending the state Medicaid plan as follows:

Federal statute and regulations require CMS to review SPAs [State plan amendments] for consistency with the requirements of Section 1902(a) of the Social Security Act (the Act) before a State may implement Medicaid program modifications. SPAs are generally transmitted to CMS as pages excerpted from the existing approved State plan containing the provisions that the State wishes to modify. CMS reviews the proposed specific amendment and all other provisions contained on the submitted State plan page(s). In addition, CMS reviews any related or corresponding State plan provisions contained elsewhere in the State plan that are integral to understanding the pages submitted.¹⁶

Currently, Alabama, Arizona, Connecticut, Delaware, Maine, Mississippi, New York, Vermont, and the District of Columbia have done away with their asset limits.¹⁷ Connecticut, Maine, and Washington D.C. have raised their income limits as well; For QMB eligibility, Connecticut has raised their income limit to approximately 211% FPL (\$2,053.03/month for an individual),¹⁸ Maine to 140% FPL (\$1,362/month for an individual),¹⁹ and D.C. to 280% FPL (\$2,728/month for an individual).²⁰ States are generally worried about the increased costs expected to come with increases in eligibility. However, many of the states that have increased their income limits and/or eliminated their asset limits have found that there can be significant savings that at least partially offset the higher costs.

In 2007, Maine decided to raise their income limits proportionally so that the new QI limit was in line with the limits of the state's Pharmacy Assistance Program.²¹ As participants in an MSP are automatically eligible for the federal Low-Income Subsidy (LIS) program (coverage of prescription drugs/Medicare Part D), this effectively shifted a large amount of the financial burden for covering medication to the federal government and away from the state.²² This shift

¹⁴ *Id.*

¹⁵ CENTER FOR MEDICAID AND STATE OPERATIONS, MEDICARE SAVINGS PROGRAMS (MSP) ELIGIBILITY CRITERIA (2005).

¹⁶ Centers for Medicare and Medicaid Services, *Re: Revised State Plan Amendment Review Process* (Oct. 1, 2010), available at <http://ccf.georgetown.edu/wp-content/uploads/2012/03/Official-Letter-October-1-2010.pdf>.

¹⁷ *Medicare Savings Program*, HUMANA, <https://www.humana.com/medicare-support/information/assistance-and-protection/savings-program> (last visited Jun. 11, 2014).

¹⁸ *About the Medicare Savings Programs*, CONNECTICUT DEPARTMENT OF SOCIAL SERVICES, <http://www.ct.gov/dss/cwp/view.asp?q=451372> (last visited Jul. 3, 2014).

¹⁹ Consumers for Affordable Health Care & Maine Equal Justice Partners, *MaineCare Eligibility Guide* (2013), available at <http://www.mejp.org/sites/default/files/mainecare-guide.pdf>.

²⁰ Department of Health Care Finance, *Medicare – QMB (Qualified Medicare Beneficiary Program)*, available at http://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/QMB_FACT_SHEE_revised_0.pdf.

²¹ MEDPAC, *supra*, note 8 at 315.

²² *Id.* at 315.

allowed the state to partially offset the costs of covering additional Medicare premiums and deductibles from new enrollees in the various MSPs.²³

In regards to asset limits, the District of Columbia in 2007 found that their asset limit was disqualifying 40% of Medicare beneficiaries who would otherwise be eligible for an MSP given their incomes.²⁴ With the federal matching rate, DC found that an investment by them of \$28 per month per beneficiary would save each beneficiary over \$2000 a year;²⁵ as such, elimination of the asset test would save QMB-eligible beneficiaries alone \$6.9 million per year, at a cost of only \$328,000 per year to the District, which they determined was a satisfactory trade-off.²⁶

Recommendations

While more local data is needed to provide a more specific picture of how changes to the MSP eligibility requirements would affect both enrollment and the budget, information from other states and national figures provide a starting point to assess the benefits of eligibility revision.

Only a small percentage of MSP-eligibles are thought to be actually enrolled (estimates range from 13-33%),²⁷ but the individual benefits of enrollment are significant. Seniors with incomes below the Federal Poverty Level spend up to 22% of their income on health care expenses²⁸ – income that they often need for other day to day expenses. Beyond financial necessity, lack of enrollment for those eligible had a substantive impact on physical health as well; QMB enrollment was found to reduce the likelihood of skipping doctor visits (due to cost) by up to 50%.²⁹ Additionally, the asset limits often serve to merely punish seniors who planned responsibly and put aside funds in savings or life-insurance plans; a 2004 report showed that among those who meet the MSP income requirements but not the asset requirements, 30% failed to qualify solely because they had a life insurance policy valued higher than \$1,500.³⁰ Financial responsibility should not be a hindrance to necessary aid.

For states generally, the main concern is the budget. Taking care of residents is typically a priority, but it is understood that financial constraints mean that only so much can be done. However, there are opportunities for significant savings that can serve to offset the increased costs of coverage. Massachusetts is one of the states with substantial State Pharmacy Assistance Programs (SPAPs), using state funds to provide prescription drug coverage for those eligible.³¹ By raising income and/or asset limits for MSPs to the point where most of the Medicare beneficiaries covered by Prescription Advantage were also eligible for an MSP, the additional

²³ *Id.* at 315.

²⁴ *FY 2008 Budget Hearing, Department of Health, Medical Assistance Administration Before the Committee on Health, 2007 Leg.* (D.C. 2007) (statement of Chris DeYoung, Community Outreach Coordinator, IONA Senior Services).

²⁵ *Id.* (These figures are based on the calculations that (a) D.C. would cover 30% of the Medicare Part B premium for MSP beneficiaries (30% x \$93.50 = ~\$28) and (b) 2007 premium costs for beneficiaries include Medicare Part B at \$1,122, Medicare Part D and \$360, and Full Drug Benefit subsidy at \$600).

²⁶ DISTRICT OF COLUMBIA COMMITTEE ON HEALTH, *FISCAL YEAR 2008 BUDGET RECOMMENDATIONS, 2007 Leg.* (2007).

²⁷ *Id.* at 367.

²⁸ *Id.* at 368.

²⁹ *Id.* at 367-68.

³⁰ Laura Sumner & Lee Thompson, *How Asset Tests Block Low-Income Medicare Beneficiaries from Needed Benefits*, ISSUE BRIEF (The Commonwealth Fund, New York, N.Y.), May 2004, at 4.

³¹ Thomas P. McCormack, *How States Can Make More Patients Eligible for Part D's Full Low Income Subsidy/Extra Help at Little or Even No State Cost* (The Title II Community AIDS National Network, Washington, D.C.), Aug. 11, 2006, at 3.

drug coverage costs would be shifted to the federal LIS program and free up funds for the added costs of MSP coverage.³²

Additionally, with the Medicare Part D coverage gap incrementally closing through 2020,³³ the State should start to see more savings from Prescription Advantage, which is often utilized to help offset the coverage gap costs for beneficiaries;³⁴ these savings could be used to help offset expanded MSP coverage. However, even if the eligibility requirements are weakened so as to enroll a significant number of Medicare beneficiaries in an MSP (and consequently in LIS), the State should be careful to assess the impact of potentially eliminating Prescription Advantage entirely. Connecticut and Washington D.C. have raised their MSP income limits above the 225% FPL threshold; There are a total of 6,607 Prescription Advantage enrollees above that level, making up approximately 15% of all enrollees.³⁵ This is a substantial population that would be unlikely to meet even loosened MSP eligibility requirements and would not want to lose coverage benefits and special enrollment opportunities if Prescription Advantage were to be eliminated. However, if Massachusetts were to follow the District of Columbia's lead and increase MSP income eligibility to 300% FPL, over 98% of Prescription Advantage enrollees would be covered, and would allow for significantly increased financial flexibility for both the enrollees and the state.³⁶

Elimination of the asset test in particular can be beneficial to the state's bottom line. Reviewing asset information is generally regarded as the most time-consuming task in the enrollment process;³⁷ some states have estimated that the combination of explaining asset eligibility, following up with applicants, and verifying asset valuations account for up to 20% of the costs related to processing Medicaid applications.³⁸ Eliminating the asset test - as well as simplifying the application process, which many eligibles find confusing - will likely result in significant administrative savings.

Again, Massachusetts should take the opportunity to review the data they have to determine the best approach to an eligibility revision. However, extrapolating from those states that have successfully raised their income and/or asset limits for MSP eligibility, there is a high potential for significant benefits to a needy population at a manageably low net cost to the state. In particular, eliminating the asset test will likely be a positive first step, as it would allow for many income-eligible individuals to receive assistance while creating administrative savings that can be used to offset a large portion of that aid. States from widely varying regions of the country, from Arizona to Mississippi to New York, have determined that the benefits to their residents outweigh any additional costs, and Massachusetts has an opportunity to take steps to provide those same resources to their citizens.

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32 *Id.* at 3.

33 <http://www.medicarerights.org/pdf/Closing-the-Doughnut-Hole-Chart.pdf>

34 <http://www.massresources.org/prescription-advantage-medicare.html>

35 Massachusetts Executive Office of Health and Human Services, June 1, 2014. (Breakdown: 6,042 enrollees [13.75%] at >188%-225%, 5,757

[13.10%] at >225%-300%, and 850 [1.93%] at >300%-500%.)

36 *Id.*

37 Laura Summer & Lee Thompson, *supra*, note 28 at 2.

38 Stan Dom & Baoping Shang, *supra* note 20 at 368.

EMBARGOED