

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 558) of Michael J. Barrett, Argeo Paul Cellucci and Michael LoPresti, Jr., for legislation to prevent unnecessary institutionalization of disabled individuals. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT TO PREVENT UNNECESSARY INSTITUTIONALIZATION OF DISABLED INDIVIDUALS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 10 of chapter 118E of the General Laws,
2 as most recently amended by inserting at the end thereof the
3 following new paragraph: —

4 Subject to the availability of federal financial participation, and
5 subject to any limitations established in any waiver necessary to
6 the receipt of such federal financial participation, and
7 notwithstanding any other provisions of this section, the income
8 and assets of any applicant for, or recipient of, medical assistance
9 under this chapter shall not be deemed to include the income or
10 assets of such applicant's or recipient's spouse when all of the
11 following conditions apply:

12 (1) But for the receipt of home or community-based services,
13 the applicant would require the level of care provided in a hospital,
14 chronic hospital or rehabilitation facility, skilled nursing facility,
15 or intermediate care facility.

16 (2) The applicant or recipient is able to reside outside of such
17 institution through receipt of home or community-based services
18 including but not limited to case management, homemaking
19 services, home health services, personal care assistance, adult day
20 health care, and/or respite care.

21 (3) The applicant or recipient chooses to receive home or
22 community-based services rather than institutional care.

1 SECTION 2. Section 6 of said chapter 118E is hereby amended
2 by inserting at the end thereof the following new paragraph: —
3 For certain recipients of medical assistance who hold or are
4 otherwise named as beneficiaries in third party health insurance
5 contracts, including but not limited to contracts with health
6 insurance companies, non-profit hospital service corporations,
7 medical service corporations, and self-insured businesses, the
8 department may contribute to the recipient's cost, if any, of
9 maintaining such health insurance, provided that the common-
10 wealth's share of the cost of maintaining such coverage, in
11 conjunction with the provision of supplementary coverage
12 through the medical assistance program, shall be determined to
13 be no greater than the cost of providing medical assistance in the
14 absence of such additional third party coverage. The department
15 shall establish services and procedures which seek to maximize
16 and coordinate the utilization of health care benefits provided
17 under any such third party health insurance contracts.

1 SECTION 3. The Department of Public Welfare shall apply
2 for any waiver from the federal government necessary to
3 implement the provisions of section 1 of this Act within ninety
4 days of the effective date of this Act.