

By Mr. Honan of Boston, petition of Kevin G. Honan for legislation to prevent unnecessary institutionalization of disabled persons. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

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 chapter 23 of the Acts of 1987, is
3 hereby further amended by inserting at the end thereof the
4 following new paragraph: —

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

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

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

22 (3) The applicant or recipient chooses to receive home or
23 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 in-
6 surance 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 main-
9 taining such health insurance, provided that the commonwealth's
10 share of the cost of maintaining such coverage, in conjunction with
11 the provision of supplementary coverage through the medical
12 assistance program, shall be determined to be no greater than the
13 cost of providing medical assistance in the absence of such
14 additional third party coverage. The department shall establish
15 services and procedures which seek to maximize and coordinate
16 the utilization of health care benefits provided under any such
17 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.