

HOUSE No. 536

The Commonwealth of Massachusetts

PRESENTED BY:
Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:
An Act relative to assist families care for elders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	11th Middlesex
John V. Fernandes	10th Worcester
Tom Sannicandro	7th Middlesex
Antonio F.D. Cabral	13th Bristol
Elizabeth A. Malia	11th Suffolk
David B. Sullivan	6th Bristol
Frank I. Smizik	15th Norfolk
Mark V. Falzone	9th Essex
Barbara A. L'Italien	18th Essex
Kathi-Anne Reinstein	16th Suffolk
Ellen Story	3rd Hampshire
Jennifer M. Callahan	18th Worcester
Mary E. Grant	6th Essex
Susan C. Tucker	Second Essex and Middlesex
Bruce E. Tarr	First Essex and Middlesex
James E. Timilty	Bristol and Norfolk
Thomas M. Stanley	9th Middlesex
John W. Scibak	2nd Hampshire
Susan C. Fargo	Third Middlesex
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Mark C. Montigny	Second Bristol and Plymouth

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine
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AN ACT RELATIVE TO ASSIST FAMILIES CARE FOR ELDERS.

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

Section 28 of chapter 118E of the Massachusetts General Laws shall be amended by adding at the end of said section the following:

Payment for services pursuant to a contract between family members to provide personal care or managerial services shall be considered a legally and reasonably enforceable fair market value transaction if the contract meets the following criteria:

- (1) The agreement indicates the type, frequency and duration of the services being provided to the applicant or member and the amount of consideration being paid to the caregiver;
- (2) The personal care services must enable the applicant or member to avoid or delay placement in a nursing facility or facilitate the return of an applicant or member from a nursing home to the community, as determined by a licensed medical professional or a licensed social worker;
- (3) Payment for services is commensurate with a reasonable wage scale, based on the fair market value of the actual job performed and the qualifications of the caregiver;
- (4) A lump sum payment by the applicant or member for services to be provided in the future, which is calculated based upon the applicant's or member's life expectancy, shall be considered an ascertainable fair market value transaction, provided that the contract requires the return of any prepaid monies to the applicant or member or his estate if the caregiver becomes unable to fulfill his/her duties under the contract or if the applicant or member dies before his/her calculated life expectancy.

The department shall promulgate regulations governing the implementation of this section.

“Applicant” or “member” shall include the legal representative of the applicant or member.

“Managerial services” shall include the acquisition, coordination and monitoring of medical, financial, accounting, home maintenance and legal services to benefit the applicant or member.