



COMMONWEALTH OF MASSACHUSETTS
THE GENERAL COURT
STATE HOUSE, BOSTON 02133-1053

FOR IMMEDIATE RELEASE

February 22, 2022

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93 State Legislators Call on MassHealth to Eliminate Cliff Effect and Spend Down Provisions

Sen. Comerford, Rep. Higgins, and House and Senate colleagues urge MassHealth to implement income eligibility changes based on new CMS guidance

BOSTON, MA - Ninety three Massachusetts State Legislators have asked MassHealth to implement two changes to help seniors and people living with disabilities access home and community-based care.

The letter (attached) elevates recent guidance from the federal Centers for Medicare and Medicaid Services (CMS) which gives states greater flexibility in applying income and resource eligibility standards to make Home and Community Based Services (HCBS) more accessible.

"It is vital that Massachusetts take every opportunity to support our elder neighbors and residents with disabilities who want to be able to stay in their homes," said Representative Natalie Higgins (D-Leominster). These changes will help this program be accessible to more Massachusetts residents and their families. I'm thankful to join Sen. Comerford and our colleagues in these efforts."

"Thank you to MassHealth for its steadfast service during the COVID-19 pandemic," said Senator Jo Comerford (D-Northampton). I was thrilled to learn of the new guidance from CMS allowing increased flexibility for state eligibility standards and I look forward to the swift implementation of these changes by MassHealth so that more of our constituents have the opportunity to remain in their homes with the care they need and deserve. I am grateful for the partnership of Rep. Higgins, legislative colleagues, and strong advocates in this critical effort."

"The Massachusetts Chapter of the National Academy of Elder Law Attorneys (MassNAELA) has been working tirelessly for years to get MassHealth/Medicaid assistance for seniors who want to receive care in the home and not be forced to go to a nursing home because of their

monthly income,” stated Clarence Richardson, MassNAELA Executive Director. “This new guidance from CMS will be a game-changer for seniors and people with disabilities who have had to make the difficult decision to leave their homes to receive care, as it will make community-based services more accessible to them.”

Currently, seniors and people with disabilities must have income under 300% of the federal benefit rate in order to be eligible for a home and community based services waiver. If an applicant receives income even one dollar over that limit, they must spend their income down to \$542 a month to qualify for the program.

The letter called on MassHealth to implement the following changes to eliminate cliff effect and spend down provisions:

1. Disregard income over 300% of the federal benefit rate for HCBS applicants aged 65 and older and those living with disabilities;
2. Disregard the assets (and income) of the spouse of the HCBS applicant.

Both of these changes are permitted under the recent guidance from CMS. These changes would eliminate the spend down requirements, which is a significant barrier to community-based care and would allow more nursing home eligible individuals the choice to stay in their communities and receive care and services in their home.

The other area of guidance provided in the CMS letter addresses the issue of spousal assets. The Affordable Care Act required states to allow spouses to keep a community spouse resource allowance, in an effort to ensure that spouses were not impoverished. Although this was a very positive change for spouses in other states, in Massachusetts it put a limit on the asset amount the spouse could keep where there had been no limit before.

This new guidance allows MassHealth to return to the policy in place before the Affordable Care Act, ensuring spouses keep their assets. This change also facilitates community-based care as it makes HCBS services accessible to seniors without the concern of impoverishing their spouse.

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