

Mass Home Care Recommendations

FY 2005 Budget in Conference Committee

To: Members of the Joint Conference Committee
 Fr: Al Norman, Mass Home Care
 Re: Conference Committee FY 2005 Budget

The attached “side by side” document contains the line items and outside sections that are important to Mass Home Care in our mission to help disabled seniors remain living at home. The two most important items for Mass Home Care in Conference are:

- **Item 9110-1636 House Version of \$10.5 M for protective Services**
- **Outside Section expanding the community based waiver: see blended language.**

Here are our preferences at a glance: TOP PRIORITIES**

Item	Description	Preference
9110-1636**	Protective Services including self-neglect	HOUSE VERSION**
Expanded community Waiver (outside section 79 in House, 279 in Senate) **	Raises income and asset tests for disabled seniors at risk of nursing home care	SEE BLENDED LANGUAGE BELOW.**
1108-5100	Group Insurance Commission health insurance for human services agencies.	SENATE VERSION
1599-6901	Human Services Salary Reserve	HOUSE OR SENATE
4000-0600	“Choices” plan	HOUSE OR SENATE
4000-0620	Senior Care Options Plan	SENATE
4000-0625	Home health wages	HOUSE OR SENATE
9110-0100	Office of EOEA	HOUSE LANGUAGE, SENATE DOLLAR LEVEL.
9110-1455	Prescription Drug Program	SENATE
9110-1500	Enhanced Community Options Program	SENATE
9110-1630	Home Care purchased services	SENATE
9110-1633	Care management & operations	HOUSE OR SENATE
Self-Neglect Outside section (44 in Senate)	Adding Self-Neglect as a form of elder abuse	HOUSE OR SENATE

Personal Care Attendant Outside Section 272 in Senate, 36 in House)	Relative to operations in the PCA program	HOUSE
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I. Protective Services (9110-1636)

The House version of the budget provides \$10.5 million for protective services, the Senate version \$9.6 million.

The Protective program for FY 2005 was funded by the Senate at \$9.6 million, which is 11% lower than the funding the protective program had in FY 2001, four years earlier. Funding has dropped more than a million dollars, but cases have been rising at least 5% annually since FY 2001, and four years of inflation have lowered the appropriation even further. In FY 2004, Elder Affairs projects that protective reports will rise to 6,972, a 4.2% increase in reports. Completed investigations are rising by 6%. Cases that go unserved due to lack of staffing capacity have reached 324, a 32.7% increase over FY 2004. The protective program caseload in FY 2004 has averaged around 1,923 elders per month, 5% higher than last year. Yet funding is 11% lower than four years ago.

Elder abuse cases unfortunately continue to rise. More public awareness of the program has led to more reporting of cases of elder abuse. Rising reports of abuse coupled with declining appropriations have led to serious shortfalls in staffing positions to investigate and resolve abuse. Every case referred to the protective program is a potential front page headline. These are not routine home care cases, these are reports of exploitation and neglect that cannot be kept on hold.

1. More protective workers needed: Line Item 9110-1636 includes funding for the elderly protective services program, the elder abuse hotline, the elder at risk program, guardianship services, money management, and protective legal services. During the first quarter of FY 2004, the average monthly protective services caseload was 1,918, which was a 5% increase over FY 2003 levels of 1,827 cases per month. This is the second year in a row that caseloads have risen 5%. In addition, another 20 cases per month are not being accepted for service due to staffing limits. The program needs a staffing increase to effectively meet the needs of abused, neglected and financially exploited elders. This means funding an additional 6 protective caseworkers, and 1.5 supervisory positions, at a total cost of \$400,000.

2. Legal Costs: From FY2000 to FY 2003, funding was available for protective agencies to offset legal costs for court interventions on behalf of protective and self-neglect cases. Restoration of these funds would ensure the critical resources needed for court-related work on behalf of abused elders. The cost of this restoration would be \$250,000.

3. Money Management: In FY2004, this program lost \$135,000. All 25 local Money Management programs lost one-third of their funding. This program helps elders who cannot manage their daily household finances, and are being financially exploited, often at the hands of family or friends. Volunteers help them get back on course, preventing debt, loss of housing, or fraud from occurring. The program was level funded for three years, then lost a major portion of its funding. As many as 500 elders are now on a waiting list for a volunteer Money Manager. Restoration would cost \$135,000.

4. Guardianship: The current guardian program has 112 slots, and is always at or near capacity. Protective agencies often have to spend casework time and added legal expense of finding guardians for their protective and self-neglect clients. The alternative guardians who are available are often not as trained or skilled as those from guardianship agencies. The lack of funds for guardians results in more costs, and lower quality services. An additional 35 guardianship slots would cost \$190,000. The House Ways & Means budget appears to have eliminated all funding for guardianship.

5. Elder Abuse Hotline: The hotline plays a vital role in ensuring that the protective program can respond to reports on a 24/7 basis. Abuse calls do not neatly fall into a workday period—they come at all hours of the night and weekends. To guarantee the hotline’s continued funding, \$25,000 would be used to augment its operations.

6. Elder At Risk: The (EAR) program is currently not a formal part of the protective services statute. According to Elder Affairs, in FY 2004 a projected 588 elder at risk cases will go unserved—an 8% increase over the 540 cases that were not investigated in FY 2003. Lack of case workers leaves EAR cases uncovered. Funds in this program would be used to increase the service delivery of the Elder At Risk program, which deals with seniors who neglect their own care and well-being. This program needs to add 16 caseworkers and 3.5 supervisory positions. Currently, 24 of the 25 Elder At Risk programs are funded at half of a caseworker position. These programs are able to serve only a portion of those elders who need this service. As noted above, in FY 2004, nearly 600 otherwise eligible elders did not receive protective services due to the funding shortfall. The “not served” EAR list is nearly two times larger than the protective services not served list. The added casework positions would be used to raise the staffing level of all elder at risk programs to at least one full-time worker per ASAP service area. The total cost of these positions would be \$1 million.

Conclusion: The House has funded this item at \$10.5 million, \$900,000 higher than the Senate. To fund the items listed above, would require \$11.6 million. If the Senate does not recede to the higher House version. If the lower Senate version does not prevail, the projection of costs above will have to be cut an average of –17%. The new “self-neglect” language added to the Chapter 19A law will in all likelihood not be implemented if the House does not prevail. EOEAs would not have the staff to cover Elder At Risk or Protective Services cases.

II. Expanding the community care waiver

1. Both the House and the Senate have added important outside section language that expands the home and community based waiver program, opening up new federal matching funds for seniors who will meet the higher income and asset tests for the program. Every elder in this program is eligible for nursing home care, but being kept in the community. This new language directs EOEAs to submit a waiver that captures as much as \$12 million in new FFP generated by the waiver’s income and asset eligibility expansion to enhance the services of disabled elders enrolled in the waiver.

The match that is billable will benefit these seniors, who are now enrolled in the Enhanced Program (9110-1500), who need help beyond the normal home care program to remain living independently. The new language requires that the expanded waiver “shall be at no net cost to the state.” Enrollment in the waiver is capped by agreement between the state and the feds, so the costs per client and slots in the waiver are agreed upon annually, and is not an open-ended entitlement like nursing home care. Under the enhanced waiver, seniors will be kept out of nursing homes at no additional cost to state taxpayers, by maximizing new federal financial participation.

Mass Home Care recommends blended language that combines some of the House’s focus on a statutory change, with some of the Senate’s focus on the use of FFP to help seniors remain at home. The blended language is as follows:

Section 9 of Chapter 118E of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following:—
 Medicaid benefits under the waiver for home and community based services for the elderly under section 1915(c) of the Social Security Act (42 U.S.C. Sec. 139n(d)), also known as the section 2176 elder care waiver, shall be available to individuals whose income, excluding the income of a spouse, does not exceed three hundred percent of the federal benefit rate under the supplemental security income program, established pursuant to Title XVI, section 1611(b)(1) of the Social Security Act (42 U.S.C. Sec. 1382(b)(1)). The asset test for the home and community based waiver shall be twenty thousand dollars. Individuals eligible for admission to a long term care facility under this chapter shall be given a choice of receiving services in a home or community-based setting or in a nursing facility in order to secure care in the least restrictive setting appropriate to their needs once said waiver is granted and implemented. The division shall obtain any necessary waivers or agreements from the federal government before effectuating this expanded waiver program. Said waiver shall utilize additional federal financial participation from said expansion to increase the community benefit plans for eligible individuals at risk of nursing home care, while ensuring that this expansion shall be at no net cost the state. The executive office of elder affairs shall submit a report to the house and senate committees on ways and means and the secretary of administration and finance by March 1, 2005 on this expansion. The report shall detail, at a minimum, the progress of the waiver application, and if applicable, the number of individuals enrolled under this waiver for each month since the waiver was obtained, and the amount of federal financial participation received or anticipated to be received as a result of approval of the waiver.

Side By Side Comparison of Key Elderly Line Items

SELECTED LINE ITEMS (PRIORITIES IN BOLD)

Item	HOUSE version	SENATE Version	What Mass Home Care recommend in Conference Committee
1108-5100 health insurance for human services workers	1108-5100 For the administration of the group insurance commission; provided, that the commission shall generate the maximum amounts allowable under the federal Consolidated Omnibus Budget Reconciliation Act, as amended, and from reimbursements allowed by sections 8, 32A of the General Laws 10B, 10C and 12 of chapter 32A of the General Laws	1108-5100 For the administration of the group insurance commission; provided, that the commission shall generate the maximum amounts allowable under the federal Consolidated Omnibus Budget Reconciliation Act, as amended, and from reimbursements allowed by sections 8, 10B, 10C and 12 32A of the General Laws, provided that the commission shall develop a report setting forth plan designs for plans established pursuant to chapter 32A, section 10F and appropriate administrative mechanisms for said plans, with the costs associated with both the benefits provided under said plans and administration, and shall file the report with the house and senate committees on ways and means no later than January 1, 2005. Not more than \$100,000 shall be spent towards the development of said report.....2,084,318 The bill is further amended by adding at the end thereof the following new section(s): "Section XXX. M.G.L. c. 32A, Section 2b, is amended effective	SENATE version

		<p>January 1, 2005, by inserting after "United States" in line 2 the following: "and a person who is an employee of a vendor which provides human services and which is under contract with any agency within the executive office of health and human services"</p> <p>M.G.L. c. 32A, Section 2c, is amended effective January 1, 2005, by inserting after "Massachusetts" in line 1 the following: "or employer of any employee, as defined in Subsection (b)."</p> <p>M.G.L. Chapter 32A is amended effective January 1, 2005, by inserting, "Section 10F Insurance for employees of human service vendor employers</p> <p>Section 10F. The commission shall negotiate with and purchase on such terms as it deems to be in the best interest of the commonwealth, the vendor employers covered under this section chapter, and the affected employees and their dependents, from one or more insurance companies or non-profit hospital, medical or other service corporations, a policy or policies of group general or blanket insurance providing hospital, surgical, medical, and other health insurance benefits for said agency employees and their dependents. Such policy or policies shall consist of a schedule of hospital, surgical, medical, dental and other health insurance benefits for agency employees and their dependents which shall be unrelated to the schedule of hospital, surgical, medical, dental and other health insurance benefits purchased by the commonwealth under the provisions of section four, or the schedule of hospital, surgical, medical, dental and other health insurance benefits purchased by counties, cities, towns and districts under the provisions of section three of chapter thirty-two B.</p> <p>(a) With respect to any period of insurance which is in effect for the vendor employees and their dependents, the full cost of the insurance shall be borne by the vendor employer and the participating employee. The commonwealth will not be responsible for contributing to the cost of this insurance.</p> <p>(b) The employee's per cent share of the premium shall be withheld by the appropriate employer from the employee's salary on a periodic basis, and shall be forwarded by the responsible official at each vendor employer to the commission in accordance with its rules and regulations.</p> <p>(c) The commission shall determine at least annually, or sooner, the amount of premiums for each health plan which shall be reimbursed to the commonwealth by each contracting agency having employees insured under this section. The commission shall also determine, at least annually, the portion of the commission's expense of administering this hospital, surgical,</p>	
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		<p>medical, and other health insurance coverage for the employees of vendor employer for this coverage. After such determinations, the commission shall assess each agency an administrative charge equal to their pro rata share of the cost of administering this program.</p> <p>(d) Any dividend or refund accepted by the commission from any insurance carrier as a result of the contract negotiated under this section shall be deposited by the commission with the state treasurer as provided in section nine. The commission shall determine the amount of dividend or refund apportionable to the various vendor employers having employees insured hereunder, and shall reduce the administrative expenses in section (c) attributable to each such vendor employer by the amount of refund attributable thereto.</p> <p>(e) Each employee of a vendor employer to whom this chapter applies shall furnish the commission, in such form as it shall prescribe, such information as is necessary to insure himself or himself and his dependents under the hospital, surgical, medical, and other health insurance herein provided, and shall authorize the withholding of the appropriate premium from his salary by the appropriate vendor employer.</p> <p>(f) Participation in the health insurance program described in this section is voluntary for vendors which contract to provide human service with the following departments of the Commonwealth: the Commission for the Deaf and Hard of Hearing, the Department of Mental Health, the Department of Mental Retardation, the Department of Social Services, the Department of Transitional Assistance, the Department of Youth Services, the Disabled Persons Protection Commission, the Division of Employment & Training, the Division of Medical Assistance, the Executive Office for Elder Affairs, the Executive Office of Health and Human Services, the Massachusetts Commission for the Blind, the Massachusetts Rehabilitation Commission and the Office of Child Care Services. This section does not apply to individuals or families which contract directly with the Department of Social Services or the Office of Child Care Services to provide foster care or in-home family daycare. This section also does not apply to individuals who enter into contracts with said departments of the Commonwealth as consultants or independent contractors."</p>	
1599-6901 Human services salary reserve	1599-6901 For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel who are	1599-6901 For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel who are employed by private human service providers that deliver human and social services under contracts with departments	EITHER VERSION of the human services salary reserve is appreciated by Mass Home Care.

	<p>employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that the secretary of administration and finance is hereby authorized to allocate the funds appropriated herein to the departments in order to implement this initiative; provided further, that the operational services division shall condition the expenditure of such reserve upon assurances that such funds shall be used solely for the purposes of such adjustments to wages, compensation or salary; provided further, that the division shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 2005 and the average percentage adjustment funded by this reserve; provided further, that the report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive such</p>	<p>human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that the secretary of administration and finance may allocate the funds appropriated in this item to the departments in order to implement this initiative; provided further, that the operational services division shall condition the expenditure of the reserve upon assurances that the funds shall be used solely for the purposes of adjustments to wages, compensation or salary; provided further, that not later than February 15, 2005, the division shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 2005 and the average percentage adjustment funded by this reserve; provided further, that the report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive the adjustments; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for child care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that the total fiscal year 2005 cost of salary adjustments and any other associated employee costs authorized thereunder shall not exceed \$20,000,000; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; and provided further, that the</p>	
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	<p>adjustments; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for child care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that the total fiscal year 2005 cost of salary adjustments and any other associated employee costs authorized thereunder shall not exceed \$20,000,000; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and</p>	<p>annualized cost of the adjustments in fiscal year 2006 shall not exceed the amount appropriated herein..... \$20,000,000</p>	
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		<p>less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; and provided further, that the annualized cost of the adjustments in fiscal year 2006 shall not exceed the amount appropriated herein.....\$20,000,000</p>		
4000-0600 The Community Choices Plan	4000-0600	<p>For health care services provided to medical assistance recipients under the department's senior care plan; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that not less than \$9,240,000 shall be expended for the purposes of a demonstration project known as the "community choices" initiative, so-called; provided further, that under the demonstration, eligible MassHealth enrollees in 2176 elder care waiver, so-called, shall be covered for any needed the section community services, including case management, from among those services available under the waiver or under the Commonwealth's Title XIX state plan, for the purpose of delaying or preventing an imminent nursing home admission; provided further, that elders enrolled in the waiver at risk of imminent</p>	<p>4000-0600 For health care services provided to medical assistance recipients under the department's senior care plan; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that not less than \$9,240,000 shall be expended for the purposes of a demonstration project known as the "community choices" initiative; provided further, that under the demonstration project, eligible MassHealth enrollees in the section 2176 elder care waiver shall be covered for any needed community services, including case management, from among those services available under the waiver or under the commonwealth's Title XIX state plan, for the purpose of delaying or preventing an imminent nursing home admission; provided further, that elders enrolled in the waiver at risk of imminent nursing home admission shall be provided information about the availability of such services; provided further, that for elders who, pursuant to the aforementioned interagency agreement, have been determined to be at such imminent risk, have chosen to remain in the community, and for whom community care is medically appropriate, the department shall establish a funding level that, on a monthly</p>	<p>EITHER VERSION. Language is good in both versions for the "Choices" program. Senate version is preferable for funding level.</p>

	<p>nursing home admission shall be provided information about the availability of such services; provided further, that for elders who, pursuant to the aforementioned interagency agreement, have been determined to be at such imminent risk, have chosen to remain in the community, and for whom community care is medically appropriate, the department shall establish a funding level that, on a monthly average basis, is equal to fifty percent of the median monthly per capita expenditure made by the department for nursing facility services provided to elders; provided further, that such funding level may include the costs of needed waiver services or other needed community services available to the elders under the state plan, provided further, that the interagency agreement shall be amended to implement the demonstration project and shall describe how the funding level will be made available to meet the costs of needed waiver services or other needed community services available to the elders under the state plan; provided further, that the department shall enter into an agreement with each aging service access point participating in the demonstration, which shall describe a system to be followed by each aging service access point, in accordance with state law and requirements under Title XIX of the Social Security Act, for coordination of both waiver and non-waiver community services needed by such eligible elders; provided further, that each aging services access point receiving funds under the demonstration project shall submit monthly reports to the executive office of health and human services and to the department of elder affairs on the care provided and the service expenditures made under the 2176 elder care waiver and such other</p>	<p>average basis, is equal to 50 per cent of the median monthly per capita expenditure made by the division for nursing facility services provided to elders; provided further, that such funding level may include the costs of needed waiver services or other needed community services available to the elders under the state plan, provided further, that the interagency agreement shall be amended to implement the demonstration project and shall describe how the funding level will be made available to meet the costs of needed waiver services or other needed community services available to the elders under the state plan; provided further, that the department shall enter into an agreement with each aging service access point participating in the demonstration project, which shall describe a system to be followed by each aging service access point, in accordance with state law and requirements under Title XIX of the Social Security Act, for coordination of both waiver and non-waiver community services needed by such eligible elders; provided further, that each aging services access point receiving funds under the demonstration project shall submit monthly reports to the executive office of health and human services and to the executive office of elder affairs on the care provided and the service expenditures made under the 2176 elder care waiver and such other information as specified by the division and the executive office; provided further, that executive office of health and human services shall prepare a report on all relevant costs and savings associated with the demonstration project; and provided further, that the report shall be submitted to the house and senate committees on ways and means by April 1, 2005; provided further, that the division shall expend funds for the purpose of funding base hourly wage increases and related payroll taxes for certified nurses' aides at nursing facilities, in accordance with 114.2 CMR 6.00 et seq.; provided further, that effective January 1, 2002, such wage increases shall be over and above any previously collectively bargained for wage increases; provided further, that the division shall report to the house and senate committees on ways and means on the increases given at each facility by February, 1, 2005; provided further, that the division shall in correlation with the senior care options program explore options for enrolling the senior care population into managed care programs through federal waivers or other necessary means; provided further, that not less than \$75,000 shall be made available to reimburse providers of dementia-specific adult day care at the rate paid on January 1, 2004;</p>	
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	<p>information as specified by the department and the executive office; provided further, that executive office of health and human services shall prepare a report on all relevant costs and savings associated with the demonstration project; provided further, that the report shall be submitted to the house and senate committees on ways and means by April 1, 2005; provided further, that the department shall expend funds for the purpose of funding base hourly wage increases and related payroll taxes for certified nurses' aides at nursing facilities, in accordance with 114.2 CMR 6.00 et seq; provided further, that the department shall in correlation with the senior care options program explore options for enrolling the senior care population into managed care programs through federal waivers or other necessary means; and provided further, that not less than \$75,000 shall be made available to reimburse providers of dementia-specific adult day care at the rate paid on January 1, 2003; provided further, that notwithstanding any general or special law to the contrary, for any nursing home that provides kosher food to its residents, the division of medical assistance, in consultation with the division of health care finance and policy, is directed to approve a special innovative program, and the division of health care finance and policy, in recognition of the unique special innovative program status granted by the division of medical assistance, shall for any nursing home that provides kosher food to its residents, establish up to a \$5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food; provided further, that effective July 1, 2004 through June 30, 2005, Medicaid shall establish nursing facility payment rates and fully fund allowable costs using calendar year 2002 base year costs; provided further, that notwithstanding any</p>	<p>provided further, that within the amount to be expended in fiscal year 2005 on title XIX home health services, the division shall establish and implement a demonstration project to allow for the use of technology in the provision of home health services; provided further, that the demonstration project shall establish a tiered rate system of reimbursement under the Medicaid program; provided further, that technology shall include the following: information services and devices that make documentation, charting, and staff time more efficient or that encourages and allows for care through alternative settings including but not limited to touch screens, monitors, hand-helds, wipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions; provided further, that the division shall not expend funds related to the demonstration project for services that are not eligible for federal reimbursement under Title XIX of the federal Social Security Act of any related 1115 waiver; provided further, that the division shall report to the house and senate committees on ways and means not later than December 1, 2004 any cost savings achieved by said project, outcomes measures and patient satisfaction information; provided further, that notwithstanding any general or special law to the contrary, for any nursing home that provides kosher food to its residents, the division of medical assistance, in consultation with the division of health care finance and policy, is directed to approve a special innovative program, and the division of health care finance and policy, in recognition of the unique and special innovative program status granted by the division of medical assistance, shall for any nursing home that provides kosher food to its residents, establish up to a \$5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food; provided further, that effective July 1, 2004 through June 30, 2005, the division of health care finance and policy in collaboration with the executive office of elder affairs shall establish nursing facility payment rates using calendar year 2002 base year costs; provided further, that the secretary of elder affairs may transfer funds appropriated in this item to item 4000-0620; and provided further, that the department shall provide written notice to the house and senate committees on ways and means prior to any transfer..... \$1,756,733,105</p>	
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		<p>general or special law to the contrary, all licensed chronic care hospitals located in Hampden county shall be paid under the same Medicaid reimbursement methodology as applied to all other similarly situated chronic care hospitals; and provided further, that in calculating the Medicaid reimbursement, such reimbursement shall exclude any costs associated with any beds licensed by the department of mental health.....</p> <p>.....\$1,673,893,000</p>		
4000-0620 Senior Care Options Plan	4000-0620	<p>For the senior care options program, so-called\$94,500,000</p>	<p>4000-0620 For the senior care options program; provided that the secretary of elder affairs may transfer funds appropriated in this item to item 4000-0600; provided, that the department shall provide written notice to the house and senate committees on ways and means prior to any transfer.....</p> <p>\$83,275,500</p>	<p>SENATE VERSION.</p> <p>Prefer flexibility to transfer funds to 4000-0600.</p>
4000-0625 Home Health Wages	4000-0625	<p>For the recruitment and retention of home health workers including the cost of workforce training, direct wages and benefits of said workers; provided, that the funds authorized herein shall be in addition to any amounts appropriated in line item 4000-0600 of this act for the purpose of providing Title XIX services to patients; provided further, that said department shall work in consultation with the division of health care finance and policy on the implementation of the provisions herein; and provided further, that the funds authorized herein shall be eligible for federal financial participation.....</p>	<p>4000-0625 For the recruitment and retention of home health workers, including the cost of workforce training, direct wages and benefits of the workers; provided, that the funds authorized herein shall be in addition to any amounts appropriated in item 4000-0600 for the purpose of providing Title XIX services to patients; provided further, that the department shall work in consultation with the division of health care finance and policy on the implementation of the provisions herein; and provided further, that the funds authorized herein shall be eligible for federal financial participation \$4,000,000</p>	<p>EITHER VERSION</p>

\$4,000,000		
9110-0100 Office of Elder Affairs	9110-0100 For the operation of the executive office; provided, that the secretary shall continue to support community care ombudsman services; and provided further, that said secretary shall make not less than \$37,000 available for the elder advocacy organization known as the silver-haired legislature\$1,480,946	9110-0100 For the operation of the executive office; provided, that the secretary shall continue to support community care ombudsman services \$1,665,860	HOUSE LANGUAGE, SENATE DOLLAR LEVEL.
9110-1455 Drug Program	9110-1455 For the costs of the drug 19A of the General Laws; 39 of chapter insurance program authorized by section provided, that amounts received by the executive office of elder affairs' vendor as premium revenue for this program may be retained and expended by the vendor for the purposes of the program; provided further, that not less than \$250,000 shall be made available for the operation of the pharmacy outreach program 19A; provided further, that notwithstanding 4C of chapter established by section any general or special law to the contrary, unless otherwise prohibited by state or federal law, prescription drug coverage or benefits payable by the executive office of elder affairs, and the entities with which it has contracted for administration of the subsidized catastrophic drug insurance program pursuant to 19A shall be the payor of last resort for such 39 of said chapter said section program for eligible persons with regard to any other third party prescription coverage or benefits available to such eligible persons; provided further, that the executive office shall notify the house and senate committees on ways and means not less than 90 days in advance of any action to limit or cap the number of enrollees in the program; provided further, that said program is subject to appropriation and expenditures shall not exceed in fiscal year 2005 the amount authorized herein; provided further, that said executive office shall hold an open	9110-1455 For the costs of the drug insurance program authorized by section 39 of chapter 19A of the General Laws; provided, that amounts received by the executive office of elder affairs' vendor as premium revenue for this program may be retained and expended by the vendor for the purposes of the program; provided further, that not less than \$500,000 shall be made available for the operation of the pharmacy outreach program established by section 4C of chapter 19A; provided further, that not more than \$25,000 shall be made available for the purpose of conducting a cost-benefit analysis and evaluation of the services associated with the pharmacy outreach program established pursuant to said section 4C of chapter 19A of the general laws; provided further, that notwithstanding any general or special law to the contrary, unless otherwise prohibited by state or federal law, prescription drug coverage or benefits payable by the executive office of elder affairs, and the entities with which it has contracted for administration of the subsidized catastrophic drug insurance program pursuant to said section 39 of said chapter 19A shall be the payer of last resort for such program for eligible persons with regard to any other third party prescription coverage or benefits available to such eligible persons; provided further, that the executive office shall notify the house and senate committees on ways and means not less than 90 days in advance of any action to limit or cap the number of enrollees in the program; provided further, that said program is subject to appropriation and expenditures shall not exceed in fiscal year 2005 the amount authorized herein; provided further, that no action shall be taken to expand the benefits of the program, extend benefits to additional populations or reduce cost sharing in the program without approval of the general court; provided further, that the department shall file any and all legislation required to implement such actions for review and analysis by the general court; and provided further, that the secretary of elder affairs, in collaboration with the secretary of	SENATE VERSION Prefer broader report language in Senate.

	<p>enrollment period of one month during fiscal year 2005; provided further, that said open enrollment period for said program may be preceded by at least 45 days of advance notice and publicity by said executive office; provided further, that no action shall be taken to expand the benefits of the program, extend benefits to additional populations or reduce cost sharing in the program without approval of the general court; and provided further, that the department shall file any and all legislation required to implement such actions for review and analysis by the general court.....\$110,000,000</p>	<p>health and human services shall analyze the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003, and submit a report with recommendations to the Joint Committee on Ways and Means and the Joint Committee on Health Care no later than September 1, 2004, on the following: a) whether the Commonwealth would be required to discontinue Prescription Advantage as a result of the enactment of this federal legislation; b) whether the Commonwealth should develop and request a waiver for a new program of outpatient drug assistance that combines features of said Medicare Part D benefit and Prescription Advantage; and c) what legislative modifications the Governor should request that Congress make in order to improve the Medicare Part D prescription drug benefit; provided further, that the report shall also include, but not limited to, an analysis of the number of seniors that are eligible for benefits under Prescription Advantage who will not be eligible for Medicare Part D coverage and reasons therefore; a detailed summary of the additional costs that may be imposed on seniors by the enactment of Medicare Part D legislation that were not previously imposed under Prescription Advantage; a list of the benefits that seniors and Prescription Advantage members may lose under Medicare Part D coverage; a cost benefit analysis of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 for the Commonwealth of Massachusetts; and a detailed recommendation on implementing this legislation, including, but not limited to, funding sources and a schedule of implementation; and provided further, that the Secretary of Health and Human Services shall provide to the Joint Committee on Health Care no later than September 1, 2004, an informational chart suitable for public posting and distribution setting forth: a) the eligibility requirements for prescription drug benefits under Medicare Part D, b) the benefits available under Medicare Part D to eligible persons, with separate descriptions for each eligibility or benefits group, or population so that residents will be able to determine the actual benefits for which he or she would be entitled, and c) the additional benefits that would be available to an eligible person under Prescription Advantage that will not be available under Medicare Part D \$110,000,000</p>	
9110-1500 ECOP	9110-1500 For the provision of enhanced home care services, including case management to elders who meet the eligibility requirements of the home care program and who need services above the level customarily provided under the	9110-1500 For the provision of enhanced home care services, including case management to elders who meet the eligibility requirements of the home care program and who need services above the level customarily provided under the program to	SENATE VERSION

	<p>program to remain safely at home, including elders previously enrolled in the managed care in housing, enhanced community options, and chronic care enhanced services programs; provided further, that the secretary shall actively seek to obtain federal financial participation for any and all services provided to seniors who qualify for Medicaid benefits pursuant 2176 waiver; provided further, that said executive shall collect to the section income data on persons receiving services provided in this line item; provided further, that said office shall submit a report to the house and senate committees on ways and means detailing the population served by this line item delineated by both 2004 federal poverty line income levels and 2004 social security income standards; provided further, that said report shall be submitted no later than February 1, 2005; and provided further, that said office, in collaboration with the title XIX single state agency, shall include in said report an update on the progress of seeking federal financial participation under an expanded 2176 waiver for expenditures authorized herein, as directed by this act.....\$37,488,337</p>	<p>above the level customarily provided under the program to remain safely at home, including elders previously enrolled in managed care in housing, enhanced community options, and chronic care enhanced services programs; provided further, that the secretary shall actively seek to obtain federal financial participation for any and all services provided to seniors who qualify for Medicaid benefits pursuant to the section 2176 waiver\$37,488,337</p>	
<p>9110-1630 Home Care Services</p>	<p>9110-1630 For contracts with aging service access points or other qualified entities for the home care program, including home care, health aides, home health and respite services and other services provided to the elderly; provided, that a sliding fee shall be charged to qualified elders; provided further, that the secretary of elder affairs may waive collection of sliding fees in cases of extreme financial hardship; provided further, that not more than \$7,500,000 in revenues accrued from sliding fees shall be retained by the individual home care corporations without re-allocation by the executive office of elder affairs, and shall be expended for the purposes of the home care program, consistent with guidelines to be issued by the executive office; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues accrued from the sliding fees; provided further, that the executive office shall report monthly to the house and senate committees on ways and means and the</p>	<p>9110-1630 For contracts with aging service access points or other qualified entities for the home care program, including home care, health aides, home health and respite services and other services provided to the elderly; provided, that a sliding fee shall be charged to qualified elders; provided further, that the secretary of elder affairs may waive collection of sliding fees in cases of extreme financial hardship; provided further, that not more than \$7,500,000 in revenues accrued from sliding fees shall be retained by the individual home care corporations without re-allocation by the executive office of elder affairs, and shall be expended for the purposes of the home care program, consistent with guidelines to be issued by the executive office; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues accrued from the sliding fees; provided further, that the executive office shall report monthly to the house and senate committees on ways and means and the executive office for administration and finance on the amount expended from this item for purchase of service expenditures by category of service as set forth in 651 C.M.R. 3.01 and 651 C.M.R. 3.06; provided further, that no rate increase shall be awarded in fiscal year 2005 which would cause a reduction in client services or the number of clients served; provided further, that no funds shall be expended from this item to pay for salary increases for direct service workers who</p>	<p>SENATE VERSION. Oppose earmarking \$100,000 in the House version.</p>

	<p>executive office for administration and finance on the amount expended from this item for purchase of service expenditures by category of service as set forth in 651 C.M.R. 3.01 and 651 C.M.R. 3.06; provided further, that no rate increase shall be awarded in fiscal year 2005 which would cause a reduction in client services or the number of clients served; provided further, that no funds shall be expended from this item to pay for salary increases for direct service workers who provide state-funded homemaker and home health aid services, which would cause a reduction in client services; provided further, that not less than \$100,000 be made available for a pilot program for home health care, to be administered by Community Parish Nursing in the town of Reading; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1633 for case management services and the administration of the home care program..... \$96,960,705</p>	<p>provide state-funded homemaker and home health aid services, which would cause a reduction in client services; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1633 for case management services and the administration of the home care program \$96,960,705</p>	
<p>9110-1633 Care management & Operations</p>	<p>9110-1633 For contracts with aging service access points, so-called, or other qualified entities for home care case management services and the administration of the home care corporations funded through item 9110-1630 and item 9110-1500; provided, that such contracts shall include the costs of administrative personnel, home care case managers, travel, rent and other costs deemed appropriate by the executive office of elder affairs; provided further that no funds appropriated in this item shall be expended for the enhancement of management information systems; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1630.....\$34,941,978</p>	<p>9110-1633 For contracts with aging service access points or other qualified entities for home care case management services and the administration of the home care corporations funded through item 9110-1630 and item 9110-1500; provided, that such contracts shall include the costs of administrative personnel, home care case managers, travel, rent and other costs deemed appropriate by the executive office of elder affairs; provided further that no funds appropriated in this item shall be expended for the enhancement of management information systems; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1630 \$34,941,978</p>	<p>EITHER VERSION.</p>

9110-1636 Protective Services	9110-1636 For the elder protective services program, including protective services case management, guardianship services, the statewide elder abuse hotline, and the elder-at-risk program; provided, that not less than \$495,000 shall be expended for m o n e y m a n a g e m e n t services.....\$10,504,137	9110-1636 For the elder protective services program, including protective services case management, the statewide elder abuse hotline, money management services, the elder-at-risk program, and guardianship services \$9,604,137	** <u>TOP PRIORITY</u> . HOUSE VERSION. The Higher funding level is critical to operating the protective services program and elder at risk program for self-neglect cases. Nearly 600 elders were not investigated this year.
OUTSIDE SECTIONS			
Self-Neglect Elder Abuse Law	Section 14 of Chapter 19A of the General Laws, as so appearing, is hereby amended by striking the <u>definition "abuse"</u> , and replacing it with the following new definition:— "Abuse", an act or omission which results in serious physical or emotional injury to an elderly person or financial exploitation of an elderly person; or the failure, inability or resistance of an elderly person to provide for him or herself one or more of the necessities essential for physical and emotional well-being without which the elderly person would be unable to safely remain in the community; provided, however, that no person shall be considered to be abused or neglected for the sole reason that such person is being furnished or relies upon treatment in accordance with the tenets and teachings of a church or religious denomination by a duly accredited practitioner thereof.	Section 14 of chapter 19A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "person;" in line 6, the following words:- or the failure, inability or resistance of an elderly person to provide for himself one or more of the necessities essential for physical or emotional well-being without which the elderly person would be unable to safely remain in the community;	EITHER VERSION. Mass only one of 4 states that has not added self-abuse language.
Personal Care Attendant Services	Notwithstanding any general or special law to the contrary, the division of medical assistance may develop or amend any standards and regulations applicable to personal care attendant services as the division determines to be necessary and appropriate for the proper and efficient operation of the medical assistance and medical benefits programs administered under chapter 118E of the General Laws. Provided, that said amendments shall be reviewed by a study commission comprised of 3 members of the house of representatives, 2 appointed by the speaker, 1 by the minority leader; 3 members	SECTION 272. The executive office of health and human services shall consult and collaborate with personal care attendant program stakeholders in the development of any substantive change to the personal care attendant program. The executive office of health and human services shall regularly communicate on personal care attendant issues with the personal care attendant program stakeholders including through regular meetings.	HOUSE VERSION. Prefer study commission to report back the General Court.

	<p>of the senate, 2 appointed by the senate president, 1 by the minority leader; 1 representative from the division of medical assistance; 1 representative of the governor's commission on people with disabilities, 1 representative of the Massachusetts office on disability; and 1 representative of the statewide independent living council. The commission shall be charged with examining the current practice of determining eligibility and degree of need for personal care attendant services and shall identify options to maximize efficiencies and cost savings in the program. Said options shall include, but not be limited to: (1) requiring a registered nurse or other clinical professional to evaluate the personal care attendant needs of an individual; and (2) requiring the division of medical assistance to certify any diagnosis that would require more than 30 hours per week of personal care attendant services. Said commission shall submit their findings to the house and senate committees on ways and means and the house committee on Medicaid by December 15, 2004.</p>		
<p>Expanded Community Based Waiver</p>	<p>Section 9 of Chapter 118E of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following:— Medicaid benefits under the waiver for home and community based services for the elderly under section 1915(c) of the Social Security Act (42 U.S.C. Sec. 139n(d)), also known as the section 2176 elder care waiver, shall be available to individuals whose income, excluding the income of a spouse, does not exceed three hundred percent of the federal benefit rate under the supplemental security income program, established pursuant to Title XVI, section 1611(b)(1) of the Social Security Act (42 U.S.C. Sec. 1382(b)(1)). The asset test for the home and community based waiver shall be twenty thousand dollars. Individuals eligible for admission to a long term care facility under this chapter shall be given a choice of receiving services in a home or community-based setting or in a nursing facility in order to secure care in the least restrictive setting appropriate to their needs once said waiver is granted and implemented. The division shall obtain any necessary waivers or agreements from the federal government before effectuating this expanded waiver program. Said expansion shall be at no net cost to the state and shall not be implemented without approval of the General Court.</p>	<p>Notwithstanding any general or special law to the contrary, the executive office of elder affairs, in collaboration with the executive office of health and human services, shall by August 31, 2004 apply for an expansion of the section 2176 home and community based waiver. This application shall seek to increase the income eligibility of the section 2176 waiver to up to 300 per cent of the federal benefit rate under the supplemental security income program. This expansion shall seek to maximize federal financial participation for expenditures authorized in item 9110-1500. Benefits under the section 2176 waiver shall be available to individuals up to the maximum income level provided in the approved waiver; provided, that the asset test in the waiver program shall be not less than \$20,000. The executive office of elder affairs shall first enroll members currently receiving benefits through the enhanced community options program into placements made available as a result of the expanded waiver and shall offer members under the waiver a choice of receiving benefits in their home, community based setting or nursing home, whichever is the least restrictive. Said waiver shall utilize additional federal financial participation from said expansion to increase the community benefit plans for eligible individuals at risk of nursing home care, while ensuring that this expansion shall be at no net cost the state. The executive office of elder affairs shall submit a report to the house and senate committees on ways and means and the secretary of administration and finance by March</p>	<p>** TOP PRIORITY: PREFER SENATE LANGUAGE, BUT <u>SUGGEST COMBINED LANGUAGE FROM BOTH VERSIONS, AS SHOWN BELOW:</u></p> <p>Section 9 of Chapter 118E of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following:— Medicaid benefits under the waiver for home and community based services for the elderly under section 1915(c) of the Social Security Act (42 U.S.C. Sec. 139n(d)), also known as the section 2176 elder care waiver, shall be available to individuals whose income, excluding the income of a spouse, does not exceed three hundred percent of the federal benefit rate under the supplemental security income program, established pursuant to</p>

		<p>means and the secretary of administration and finance by March 1, 2005 on this expansion. The report shall detail, at a minimum, the progress of the waiver application, and if applicable, the number of individuals enrolled under this waiver for each month since the waiver was obtained, the number of individuals remaining in the enhanced community options program, and the amount of federal financial participation received or anticipated to be received as a result of approval of the waiver.</p>	<p>program, established pursuant to Title XVI, section 1611(b)(1) of the Social Security Act (42 U.S.C. Sec. 1382(b)(1)). The asset test for the home and community based waiver shall be twenty thousand dollars. Individuals eligible for admission to a long term care facility under this chapter shall be given a choice of receiving services in a home or community-based setting or in a nursing facility in order to secure care in the least restrictive setting appropriate to their needs once said waiver is granted and implemented. The division shall obtain any necessary waivers or agreements from the federal government before effectuating this expanded waiver program. Said waiver shall utilize additional federal financial participation from said expansion to increase the community benefit plans for eligible individuals at risk of nursing home care, while ensuring that this expansion shall be at no net cost the state. The executive office of elder affairs shall submit a report to the house and senate committees on ways and means and the secretary of administration and finance by March 1, 2005 on this expansion. The report shall detail, at a minimum, the progress of the waiver application, and if applicable, the number of individuals enrolled under this waiver for each month since the waiver was obtained, and the amount of federal financial participation received or anticipated to be received as a result of approval of the waiver.</p>
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