

# **HOUSE . . . . . No. 04190**

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## The Commonwealth of Massachusetts

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HOUSE, June 21, 2012

The committee on Health Care Financing to whom was referred the petition (accompanied by bill, House, No. 2083) of John V. Fernandes and others relative to transfers of assets by MassHealth members, reports recommending that the accompanying bill (House, No. 4190).

For the committee,

STEVEN M. WALSH.

The Commonwealth of Massachusetts

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**In the Year Two Thousand Twelve**  
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An Act relative to transfers of assets by MassHealth members.

*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 28 of chapter 118E of the General Laws is hereby amended by inserting at  
2 the end thereof, the following section:

3 The division shall not impose a period of ineligibility against an individual who demonstrates  
4 that a transfer of assets by said individual or his spouse was intended exclusively for a purpose  
5 other than qualifying for MassHealth or was intended to be a transfer for fair market value. The  
6 division shall consider specific factors in determining whether the individual has met his burden  
7 in establishing such intent including but not limited to the following:

8 1) The individual provides documentation demonstrating a regular pattern of small transfers for  
9 at least three years consistent with the transfer in question;

10 2) The individual or his spouse made the transfer to a religious institution, charity or other non-  
11 profit entity in an amount consistent with prior charitable giving ;

12 3) at the time of the transfer the individual and his spouse had resources at or below the  
13 allowable limit for MassHealth eligibility for long term care;

14 4) the transfer was intended to alleviate a relative's financial crisis, prevent a relative's mortgage  
15 foreclosure or pay for a relative's medical care; or

16 5) at the time of the resource transfer, the individual's medical record did not indicate a  
17 significant likelihood that the individual would require nursing home services in the near future.

18 If the individual establishes any of the above factors, then the burden of proving that the  
19 individual intended the transfer of assets to qualify the individual for MassHealth shifts to the  
20 division.

21 The division shall promulgate regulations implementing this section.