HOUSE DOCKET, NO. 1515 FILED ON: 1/20/2011

HOUSE . . . . . No. 1097

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:

An Act relative to assist families care for elders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	*11th Middlesex*
Frank I. Smizik	*15th Norfolk*
Bruce J. Ayers	*1st Norfolk*
Jennifer E. Benson	*37th Middlesex*
Antonio F. D. Cabral	*13th Bristol*
Carolyn C. Dykema	*8th Middlesex*
James B. Eldridge	☐ *[District]* ☐
John V. Fernandes	*10th Worcester*
Patricia D. Jehlen	☐ *[District]* ☐
Thomas P. Kennedy	☐ *[District]* ☐
Peter V. Kocot	*1st Hampshire*
Elizabeth A. Malia	*11th Suffolk*

Mark C. Montigny	*[District]*
Alice Hanlon Peisch	*14th Norfolk*
Denise Provost	*27th Middlesex*
Kathi-Anne Reinstein	*16th Suffolk*
Carl M. Sciortino, Jr.	*34th Middlesex*
Stephen Stat Smith	*28th Middlesex*
Joyce A. Spiliotis	*12th Essex*
David B. Sullivan	*6th Bristol*

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HOUSE . . . . . No. 1097

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 1097) of Kay Khan and others relative to personal care or managerial services contracts for families caring for elderly relatives. Elder Affairs.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *536* OF 2009-2010.]

The Commonwealth of Massachusetts

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

17 return of any prepaid monies to the applicant or member or his estate if the caregiver becomes
18 unable to fulfill his/her duties under the contract or if the applicant or member dies before his/her
19 calculated life expectancy.

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

22 "Applicant" or "member" shall include the legal representative of the applicant or
23 member.

24 "Managerial services" shall include the acquisition, coordination and monitoring of
25 medical, financial, accounting, home maintenance and legal services to benefit the applicant or
26 member.