



Mass Home Care Expresses Support for Class Action Suit filed by the Center for Public Representation to Compel Massachusetts to Stop Unnecessary Institutionalization of People with Disabilities and Charging Massachusetts with Violations of the Americans with Disabilities Act and the Medicaid Act.

November 15, 2022

For the past 50 years, aging older adults and people with disabilities and their families have turned to the Commonwealth's network of 27 Aging Services Access Points (ASAPs) and Area Agencies on Aging (AAAs) for help navigating the available long-term care services and supports, including Massachusetts Medicaid (MassHealth) offerings. We offer one-stop access to a complex home care system.

Mass Home Care, Inc. (MHC), the industry trade association for the ASAPs and AAAs, agrees with the goals of a recent class action lawsuit to help many more people currently living in skilled nursing facilities to make appropriate and well-thought transitions to vibrant community-based settings. (See [ADA Class Action Seeks to Compel Massachusetts to Stop Unnecessary Institutionalization of People with Disabilities](#), October 11, 2022, Center for Public Representation)

Helping older adults and people with disabilities live full, safe, independent lives with dignity and respect, in an individual's community of choice, is the mission of our agencies. We work and advocate daily to ensure that older adults and individuals in need, regardless of income level and walk of life, have the option of receiving long-term care services in the least restrictive setting of their choice. To best support housing-challenged older adults residing in nursing homes, the Commonwealth must do more to improve the proposition for their transitioning out of the nursing home and avoiding the initial placement altogether. The ASAP network and Mass Home Care want to be part of these solutions.

ASAPs provides information and education about eligibility criteria, and clinical assessment and eligibility for Medicaid-funded institutional and community—based care and services. Our dedicated staff create linkages, authorize purchases of services for those who qualify for supports, and provide service plan development and coordination with home care providers who employ the caregiving workforce that supports older adults and people with disabilities in local communities throughout the Commonwealth.

The class action lawsuit points to the need for not only personalized care options but equally important *systemic solutions*, thoughtful policy decisions and sound procedures, to assure that older adults and people with disabilities have greater, equitable access to these programs, services and supports. We propose enhancements and expansions to the long-term care system to respond to the needs of people like the plaintiffs named in the class action lawsuit, and the many more like them.

COMPLEX CARE MANAGEMENT. Complex care transitions require careful planning, raise questions and spotlight the need for individuals and their families to fully understand options and make sound decisions. It is the intention of MHC's 2021-2022 bill, "An Act relative to intensive case management for clinically complex older adults" (H740 / S398) to address each person's needs and situations as unique.

This bill would amend MGL Chapter 19A (Department of Elder Affairs) to establish an intensive case management program for the purposes of supporting individuals who are current or prospective participants of the Department's home care program who are determined to be clinically complex and therefore require sustained, in-depth case management exceeding the level provided under the current program. This enhanced service provides intensive case management to transition an individual into receiving home care program services, or to retain an active enrollee who is experiencing program



participation challenges due to 1) serious mental illness or behavioral disturbances; 2) complex dynamics involving the family and informal support networks that impact the acceptance or delivery of critical home care services; or 3) multiple medical and/or functional needs that put at risk the ability of the Department to appropriately serve the enrollee.

The bill(s) further would define clinically complex and further require the Department to establish intensive case management reimbursement rates that reasonably reflect the level of expertise and commitment of time required to successfully support a qualifying individual's enrollment and ongoing participation in the State Home Care program. These bills would create a stronger care management system for older adults and those living with complex conditions.

PERSONAL CARE HOMES. For over ten years, MHC has worked with leaders within Massachusetts' Legislature to advocate for the establishment of a Personal Care Homes model for older adults (H745/S418). These homes would expand housing with support options for individuals in need throughout the Commonwealth. We believe small, personalized care homes, with supported housing services and complex care management, are essential to help those looking to transition from facility-based environments to more independent, home-like settings embedded in the life of local communities.

Regulated / Licensed as "Personal Care Homes", these homes would be developed to enable groups of 4 to 6 unrelated individuals to reside together in one home where every resident has a private bedroom, and the common areas are shared. Home care staff would be assigned to the home to provide direct care services and assist residents with their daily LTSS needs including meal preparation, shopping, laundry, and personal care. The expansion of this small group home model will serve as an attractive alternative to institutional placement for many individuals as they age.

Frontline ASAP staff and elder stakeholders consistently highlight the limited options for community-based, residential care settings available for older adults. As noted in EOE's FY20 Annual Legislative Report, "The cost of housing, healthcare, and transportation in Massachusetts is among the highest in the country." In 2019, the "Elder Index", developed by the Gerontology Institute at UMASS Boston, found that in Massachusetts more than six out of ten older adults living alone, and three out of ten living in two-person households, cannot afford the basic necessities like food, housing, and health care.

These "basic necessities" are today increasingly seen as Social Determinants of Health (SDoH) that the health care industry is looking to as a way to keep all adults, regardless of age, healthy and vibrant members of their communities, and out of expensive acute and long-term care systems. Research like UMB's finds that initiatives focused on expanding the availability of *affordable housing and offering access to home care* helps reduce the hardship posed by economic insecurity for many older adults.

In the 2021-2022 MA Legislative Session, MHC partnered with Senator Lovely and Representative Kearns to file S418/H745, "An Act Relative to Expanding the Availability of Personal Care Homes for Older Adults." This proposed legislation addresses the Assisted Living (AL) regulatory concern by creating a licensing process for personal care homes which aligns with implementation from other states.

Frail Elder Waiver (FEW). Mass Home Care (MHC) and the ASAP network are proud of the services that the Frail Elder Waiver (FEW) offers to individuals who want to age in place. However, our network has consistently highlighted the limited options for community-based, residential care settings available to FEW participants. It is important to note that residential services are available in two of the other



waivers available for individuals of any age who live in Massachusetts with intellectual, developmental and/or acquired brain injury disabilities.

MHC is a steadfast supporter of establishing “Assisted Living as a Service” in the FEW to provide housing support options to individuals as they age. Currently, there are limited affordable Assisted Living Residence (ALR) options for low-income individuals with LTSS needs. While older adults in 44 states can choose to live in an affordable ALR, increasingly few Massachusetts residents have this option.

Data suggests significant disparities exist between the percentage of individuals receiving Medicaid-funded supports in Skilled Nursing Facilities (SNF) when compared with the percentage of individuals receiving Medicaid-funded supports in ALRs. In 2019, 64% of SNF beds in Massachusetts were occupied by a resident to whom Medicaid was the primary payor source. In comparison, only 11% of ALR residents received some measure of Medicaid-funded supports.

During both the 2019-2020 and 2021-2022 Massachusetts Legislative sessions, the Massachusetts Assisted Living Association (Mass-ALA) filed S361 and S410 respectively, “An Act directing the administration to amend the Frail Elder Home and Community-Based Waiver to permit eligible older adults to choose to reside in Certified Assisted Living Residences”. This legislation received favorable reports during both sessions, from both the Joint Committee on Elder Affairs and the Joint Committee on Health Care Finance. MHC offers our support for efforts to provide the ALR model to FEW enrollees.

The institution of **Complex Care Management**, **Personal Care Homes** and the **Frail Elder Waiver (FEW)** services and supports into Assisted Living Residences, are just three examples of systemic solutions that MHC would like to advance. There is a need for innovative programs, services and solutions that are forward-looking, collaborative, and person-centered, offering supports to people living with the most challenging of conditions and disabilities, whether cognitive, medical, behavioral and/or physical.

We welcome the opportunity to collaborate and innovate with key leaders in the Legislature and the newly elected Governor’s Administration, and across the Commonwealth’s health and home care stakeholder groups to make a reality the vision of older adults and those living with disabilities to dwell in the right place, at the right time, with the right programs or services, delivered by the right people.

About Mass Home Care

Mass Home Care, Inc. (MHC), founded in 1983, is the non-profit trade association representing the Commonwealth of Massachusetts network of 27 Aging Services Access Points (ASAPs) and Area Agencies Aging (AAAs). This single, statewide network of coordinated care delivers home and community-based services to over 60,000 individuals per month, providing over \$600 million per year in services, with \$300+ million of this spent helping nearly half of those on MassHealth who are clinically eligible for nursing facility care avoid more costly options such as institution-based long-term care.

The mission of MHC and our member agencies is to help individuals live at their highest level of functioning possible, in the least restrictive setting possible, for as long as possible. The safety net of resources and supports our aging network provides to Massachusetts residents over the age 60 and their caregivers has never been more important than it is during these unprecedented times.

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