



# DignityAlliance Massachusetts

Respect • Self-determination • Choices

September 13, 2022

Honorable Karen Spilka  
President of the Senate  
State House – Room 332  
Boston, MA 02133

Honorable Ronald Mariano  
Speaker of the House  
State House – Room 350  
Boston, MA 02133

Dear Madam President:

Dear Mr. Speaker:

Dignity Alliance Massachusetts strongly urges the Senate and House of Representatives to override the Governor's poorly reasoned veto of House Bill 4792 – An Act to Preserve Special Needs Trusts for Disabled Seniors. (See House 5188 for veto message.) As a statewide coalition of individuals and organizations advocating for older adults, people with disabilities and caregivers, we applaud the Legislature for enacting H. 4792, and believe that this matter should become law notwithstanding the Governor's veto.

- The Governor's assertion that federal financial participation (FFP) in the Massachusetts Medicaid program would be affected by H.4792 invokes extreme consequences that are inconsistent with the history of pooled trusts. Massachusetts currently has no age limit for pooled trusts, and, in the 29 years the pooled trust statute has existed, has never had one. The Centers for Medicare and Medicaid Policy (CMS) has never withheld, or threatened to withhold, federal cost-sharing due to this policy. Nor is Massachusetts alone: 17 other states have had the same policy, and CMS has not withheld FFP from any of them in connection with the policy, for nearly three decades.
- A pooled trust is always a "payback" trust, which returns at least 80% — and in many cases 95% — of the account to the Medicaid program when the beneficiary dies. The state thus provides Medicaid benefits, not for free, but on a key condition: that at death it receives almost the entire value of the trust account to pay for services Medicaid provided during the individual's life.
- Maryland enacted pooled trust legislation in 2010 to codify its longstanding policy against any age limit on pooled special needs trusts. In the twelve years since it passed that law, Maryland has continued to receive federal cost-sharing for its Medicaid

program, and it has continued to have normal cooperation with CMS around waiver requests and other policy interactions with the federal agency

- Finally, pooled trusts are simply not a financial burden to the Commonwealth. They ensure Medicaid reimbursement with complete transparency and almost no costs of collection for the Commonwealth.

Dignity Alliance proudly stands with other organizations in urging you to take up the override of H4792 as soon as possible.

Sincerely,

Paul J/ Lanzikos  
Coordinator  
Dignity Alliance Massachusetts

Richard M. Moore  
Chair  
Legislative Workgroup  
Dignity Alliance Massachusetts

This correspondence has been endorsed by 33 members of Dignity Alliance Massachusetts including:

Alzheimer's Association, MA/NH  
Rebecca J. Benson  
Boston Center for Independent Living  
Charlie Carr- Disability Policy Consortium  
Center for Living & Working, Inc.  
Patrick G. Curley, Certified Elder Law  
Attorney, Curley Law Firm LLP  
Marianne DiBlasi, Principal of Disability  
Visibility  
Disability Law Center  
Maura Donahue  
Easterseals Massachusetts  
John J. Ford, Northeast Justice Center  
Wynn Gerhard  
Arlene Germain, Co-Founder and Former  
Executive Director, MA Advocates for  
Nursing Home Reform

Margaret M. Gullette  
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Sandy Hovey  
Anne Johansen, BCIL volunteer  
Julie A. Katz, MSW  
Dale Mitchell, Retired CEO, Ethos  
Daniel O'Leary  
Victoria Pulos, Massachusetts Law Reform  
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Liane Zeitz  
Brianna Zimmerman