

SENATE No. 1977

The Commonwealth of Massachusetts

PRESENTED BY:

Anthony W. Petruccelli

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 Medicaid..

PETITION OF:

NAME:

Anthony W. Petruccelli

DISTRICT/ADDRESS:

First Suffolk and Middlesex

SENATE No. 1977

By Mr. Petruccelli, a petition (subject to Joint Rule 12) of Anthony W. Petruccelli for legislation relative to Medicaid. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to Medicaid..

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. Chapter 175 of the General Laws, as appearing in the 2012 Official
2 Edition, is hereby amended by adding the following new section:

3 Section 223G. Medicaid Life Settlement Program.

4 (a) (1) The owner of a life insurance policy, as those terms are defined in Chapter 175 of
5 the General Laws, section 212, with a face value in excess of \$10,000, may enter into a life
6 settlement contract pursuant to Chapter 175 of the General Laws, section 213 to 223F, inclusive,
7 in exchange for payments directly to a health care provider for long-term care services,
8 hereinafter defined to include home health care, assisted living and nursing home services, as
9 well as any other service or support deemed a long-term care service by the Department of
10 Health and Human Services for the purposes of this section pursuant to regulation, for the
11 recipient of such long-term care services as of the effective date of the life settlement contract in
12 accordance with this section.

13 (2) The proceeds of a life settlement contract entered into pursuant to this section shall
14 not be considered as a resource or asset in determining a Medicaid applicant's or recipient's
15 eligibility for Medicaid and shall only be used as allowed for long-term care services in
16 accordance with this section. No state or federal Medicaid funds can be used for such Medicaid
17 recipient's care until such available proceeds are spent down, except for the amount provided for
18 in subsection (2)(b)(1) of this section.

19 (b) In addition to the requirements of Chapter 175 of the General Laws, section 213 to
20 223F, inclusive, any life settlement contract entered into with respect to this section must include
21 the following:

22 (1) That the lesser of five percent of the face value of the life insurance policy or \$5,000
23 is reserved and be payable to the owner's estate or a named beneficiary of the account
24 established in subsection (c) of this section upon the death of the insured under the policy that is
25 the subject of the life settlement contract for final expenses.

26 (2) That the balance of proceeds of the life settlement contract that are unpaid at the
27 death of the insured must be paid to the owner's estate or a named beneficiary of the account
28 established in subsection (c) of this section.

29 (3) The total amount of the proceeds of the life settlement contract payable on behalf of
30 the recipient of such services pursuant to the life settlement contract.

31 (c) All proceeds of the life settlement contract entered into pursuant to this section must
32 be held in an irrevocable state or federally insured account for the benefit of the recipient of the
33 services and administered in accordance with this section.

34 (d) The type of long-term care services payable from the irrevocable state or federally
35 insured account shall be chosen only by the recipient of the services. Any attempt by any person
36 to require the use of a specific provider to obtain long-term care services pursuant to this section
37 is strictly prohibited and constitutes an unfair trade practice under Chapter 175 of the General
38 Laws, section 223E.

39 (e) Any life settlement provider entering into a life settlement contract pursuant to this
40 section must maintain a surety bond executed and issued by an insurer authorized to issue surety
41 bonds in this state, a policy of errors and omissions insurance, or a deposit of cash, certificates of
42 deposit or securities or any combination thereof in the amount of \$500,000.

43 (f) For purposes of this section, in addition to any requirements of Chapter 175 of the
44 General Laws, section 213 to 223F, inclusive:

45 (1) Life settlement contract forms entered into pursuant to this section must be filed and
46 approved by the Department of Insurance; and

47 (2) Advertising and marketing materials used by a life settlement provider pursuant to
48 this section must be filed with the Department of Insurance.

49 (g) For purposes of this section only, for any policy that is the subject of a life settlement
50 contract that has been in force for five years or more, the provisions of Chapter 175 of the
51 General Laws, section 223B(g), shall not apply.

52 (h) Any claim against a life settlement provider from an owner of a policy, the owner's
53 estate, any beneficiary, or any other person with respect to the life settlement contract may not
54 exceed the face amount of the policy, less the proceeds paid under the life settlement contract,
55 the total amount of premiums paid subsequent to entering into the life settlement contract and

56 any other reasonable costs or expenses associated with the acquisition or maintenance of the
57 policy that is the subject of a life settlement contract. Any payment of a claim by a life
58 settlement provider shall be made from the funds established pursuant to subsection (e) of this
59 section.

60 (i) The Department of Insurance shall conduct periodic market examinations of each life
61 settlement provider regarding the life settlement contracts entered into pursuant to this section, in
62 accordance with Chapter 175 of the General Laws, section 218.

63 (j) The Department of Health and Human Services must provide, as part of the
64 application for enrollment in the Medicaid program, written notice of the options provided in this
65 section.

66 (k) The Department of Health and Human Services, in consultation with the Department
67 of Insurance, is authorized to adopt rules to implement this section to ensure that:

68 (1) The proceeds from the life settlement contract shall be distributed directly to a
69 health care provider in accordance with this section.

70 (2) Eligibility for Medicaid shall be determined without considering the balance of
71 the life settlement proceeds pursuant to Paragraph (a)(2) of this section; and

72 (3) Medicaid and applied income payments shall begin the day following the
73 exhaustion of the life settlement proceeds.

74 SECTION 2. Section 3, Part B, paragraph (a) of Chapter 62 of the General Laws, as
75 appearing in the 1988 Official Edition, is hereby amended by adding the following new
76 paragraph:

77 (17) An amount equal to the amount received by the taxpayer pursuant to a life
78 settlement contract entered into pursuant to section 223G of Chapter 175.

79 SECTION 3. This act shall take effect upon becoming law.