PROTECT POOLED TRUSTS FOR DISABLED SENIORS

Sponsors: Senator Jehlen and Representative Hogan
H2074/S629

Summary: This bill would enable disabled seniors to continue to use special needs pooled trusts without penalty to pay for important services and care not covered by MassHealth.

Why is this Bill Necessary?
For more than 20 years, disabled individuals of any age have been permitted to fund pooled trusts without interfering with their MassHealth eligibility. MassHealth recently proposed regulations that will penalize disabled individuals 65 and over who set up a pooled trust.

Why are Pooled Trusts Critical to Disabled Individuals 65 and Older?
To qualify for MassHealth an individual 65 and over must have assets below $2,000. A pooled trust provides a source of funds to pay for items and services not covered by MassHealth, which are necessary for disabled seniors to live independently in the community. Seniors can use funds from a pooled trust for home care services, uncovered medical, dental and pharmacy costs, transportation, clothing, personal needs and household items, nonmedical therapies, and assisted living expenses. Without pooled trusts, more seniors will be at risk of nursing home placement at greater expense to the Commonwealth.

Why have Pooled Trusts been Favored under Medicaid law?
On the death of the disabled beneficiary, *trust assets are paid to the Commonwealth of Massachusetts to reimburse the State for MassHealth benefits paid* (with a small amount paid to the non-profit administering the pooled trust.) More than $8 million dollars was reimbursed to the Commonwealth last year.

Does Federal law Permit Pooled Trusts for Disabled Seniors?

- The Omnibus Budget Reconciliation Act of 1993 allows disabled individuals of any age to benefit from pooled trusts.
- MassHealth has allowed transfers to pooled trusts for two decades under the federal statute, which has not changed.
- At least 18 other states allow disabled seniors to transfer assets to pooled trusts.
- Since pooled trust funds are used only for the benefit of the disabled senior, a penalty is not required under federal law.

Permitting pooled trusts for disabled individuals *regardless of age* has been a wise public policy that benefits disabled seniors and the Commonwealth and should be continued.

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