

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2153670
Decision Date:	9/03/2021	Hearing Date:	06/16/2021
Hearing Officer:	Alexandra Shube	Record Open to:	09/01/2021

Appearance for Appellant:

Via telephone:



Appearance for MassHealth:

Via telephone:

Kim McAvinchey, Tewksbury MEC



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	LTC Eligibility – Assets
Decision Date:	9/03/2021	Hearing Date:	06/16/2021
MassHealth's Rep.:	Kim McAvinchey	Appellant's Rep.:	██████████
Hearing Location:	Springfield MassHealth Enrollment Center		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated April 2, 2021, MassHealth denied the appellant's application for MassHealth long-term care benefits because MassHealth determined the appellant was over the allowable asset limit (see 130 CMR 520.003 and Exhibit 1). The appellant filed this appeal in a timely manner on May 16, 2021 (see 130 CMR 610.015(B) and Exhibit 2).¹ Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

The record in this appeal was held open until September 1, 2021, after extensions requested by the appellant.

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

Action Taken by MassHealth

MassHealth denied the appellant MassHealth benefits because she was over the allowable asset limit

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, in determining that the appellant was over assets to qualify for MassHealth benefits.

Summary of Evidence

The MassHealth representative appeared via telephone and testified as follows: the appellant is a single individual over the age of 65 and a resident of a nursing facility. On August 13, 2020, MassHealth received an application for long-term care benefits on behalf of the appellant with a requested start date of August 29, 2020. On April 2, 2021, MassHealth denied the application for being over the allowable asset limit. Between two bank accounts, the appellant had \$5,735.67 in assets, which put her \$3,735.67 over the \$2,000 limit. MassHealth would need new statements showing the most recent balances on both accounts, as well as verifications of the expenditures.

The appellant's representative appeared via telephone and testified as follows: the appellant's son is her power of attorney. He has written a couple of checks to the facility, which the facility has not cashed. The facility's business office manager was let go and the checks could not be found. The son has written new checks and hand-delivered them to the facility. She is waiting for the checks to clear and then will provide updated statements.

The record in the appeal was initially held open until July 1, 2021 for the appellant to provide proof of spend down and until July 8, 2021 for MassHealth to review and respond to the appellant's submission. After multiple extensions requested by the appellant were granted, on August 27, 2021, the MassHealth representative stated via email that she had not received any documents from the appellant. Upon inquiry from the hearing officer, on September 1, 2021 the appellant's representative confirmed via email that she did not have the bank statements MassHealth needs to verify that the appellant is under assets. She stated that she alerted the facility of the issue and requested a written decision.

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The appellant is a single individual over the age of 65 and a resident of a nursing facility (Testimony and Exhibit 5).

2. On August 13, 2020, MassHealth received an application for long-term care benefits on behalf of the appellant with a requested start date of August 29, 2020 (Testimony and Exhibit 5).
3. On April 2, 2021, MassHealth denied the application for being over the allowable asset limit (Testimony and Exhibit 1).
4. The appellant timely appealed the denial on May 16, 2021 (Exhibit 2).
5. As of the date of hearing, the appellant had \$5,735.67 between two checking accounts, putting her \$3,735.67 over the allowable asset limit (Testimony and Exhibit 5).
6. After multiple extensions, the record was ultimately held open until September 1, 2021 (Exhibits 6-8).
7. On August 27, 2021, the MassHealth representative stated via email that she had not received any documents from the appellant (Exhibit 8).
8. On September 1, 2021, the appellant's representative confirmed via email that she did not have the bank statements MassHealth needs to verify that the appellant is under assets and requested a decision be issued (Exhibit 8).

Analysis and Conclusions of Law

Pursuant to 130 CMR 520.003(A), the total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed \$2,000 for an individual. Furthermore, 130 CMR 520.004 states the following regarding asset reduction:

(A) Criteria.

(1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or

(b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

While it appears that the appellant has made an effort to spend down her assets and encountered difficulty with checks not being deposited by the facility, by the end of an extended record open period, MassHealth did not receive the necessary verification to show that the appellant's assets were at or below the allowable limit of \$2,000. The appellant's representative acknowledged that

she did not have the necessary updated bank statements to show proof of spend down. For these reasons, the MassHealth decision was correct and the appeal is denied.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Alexandra Shube
Hearing Officer
Board of Hearings

cc: Dori Mathieu, Springfield MassHealth Enrollment Center