

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2154906
<b>Decision Date:</b>	10/26/2021	<b>Hearing Date:</b>	10/19/2021
<b>Hearing Officer:</b>	Cynthia Kopka		

**Appearance for Appellant:**




**Appearance for MassHealth:**

Jamie Silva, Taunton



*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

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Long term care eligibility
<b>Decision Date:</b>	10/26/2021	<b>Hearing Date:</b>	10/19/2021
<b>MassHealth's Rep.:</b>	Jamie Silva	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Taunton (remote)	<b>Aid Pending:</b>	No

## Authority

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

## Jurisdiction

By notice dated June 3, 2021, MassHealth denied Appellant's long term care application because Appellant had more countable assets than MassHealth benefits allow. Exhibit 1. MassHealth determined that Appellant a life insurance policy with a cash surrender value of \$25,269.94, exceeding MassHealth's limit by \$23,269.94. *Id.* at 6. Appellant's daughter filed this appeal on June 25, 2021. Exhibit 2. Challenging the denial of assistance is a valid basis for appeal. 130 CMR 610.032.

On July 7, 2021, the Board of Hearings (BOH) dismissed the appeal for failure to demonstrate that Appellant's daughter had authority to request the hearing pursuant to 130 CMR 610.035(A)(7). Exhibit 4. On September 20, 2021, Appellant's daughter submitted documents demonstrating that she is an appeal representative, as defined by 130 CMR 610.004, with authority to request a hearing on Appellant's behalf. Exhibit 5. On September 27, 2021, BOH scheduled the present appeal. Exhibit 3.

On September 29, 2021, MassHealth approved Appellant's application for benefits with the requested benefit start date of May 1, 2021. Exhibit 6. MassHealth determined that Appellant liquidated and spent down the life insurance policy. Appellant's daughter argued that she should not have had to spend the life insurance policy because it was a term policy, not a whole policy. Appellant's daughter did not dispute that the policy had a cash surrender value of \$25,269.94. *See* 130 CMR 520.007(E). Appellant's daughter did not identify any other issue with the September 29, 2021 approval.

A determination of whether the life insurance policy is a countable asset under 130 CMR 520.007(E) is moot because the policy has been liquidated and properly spent. The September 29, 2021 approval resolves the actionable issue in dispute between the parties. Accordingly, this appeal is dismissed pursuant to 130 CMR 610.035(A)(8).

## **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.

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Cynthia Kopka  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

[REDACTED]