

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2155223
<b>Decision Date:</b>	12/1/2022	<b>Hearing Date:</b>	10/11/2022
<b>Hearing Officer:</b>	Radha Tilva	<b>Record Open to:</b>	11/29/2022

**Appearance for Appellant:**




**Appearance for MassHealth:**

Eileen Smith, Chelsea MEC Rep.



*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>	Denied	<b>Issue:</b>	LTC - assets
<b>Decision Date:</b>	12/1/2022	<b>Hearing Date:</b>	10/11/2022
<b>MassHealth's Rep.:</b>	Eileen Smith	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center	<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

Through a notice dated April 26, 2021, MassHealth denied the appellant's application for MassHealth long-term care benefits because MassHealth determined that appellant has more countable assets than MassHealth allows (Exhibit 1). The appellant filed this appeal in a timely manner on August 16, 2021 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

At the time of the appeal the Board of Hearings was informed that a personal representative was being sought after for appellant's estate. A personal representative was eventually appointed and paperwork was sent to the Board of Hearings on September 2, 2022. A hearing was scheduled for October 11, 2022. At hearing the record was held open initially until November 8, 2022 for appellant's personal representative to submit proof of the spenddown. The hearing officer provided another opportunity for appellant to submit proof of the spenddown or to ask for an extension, but the personal representative failed to do so. The record closed on November 29, 2022.

## Action Taken by MassHealth

MassHealth denied appellant's MassHealth long-term care application for MassHealth benefits because MassHealth determined that appellant has more countable assets than MassHealth allows.

## Issue

The appeal issue is whether MassHealth was correct in determining that appellant is over the asset limit for MassHealth long-term care benefits.

## Summary of Evidence

MassHealth was represented telephonically by Eileen Smith. MassHealth received an application for long-term care benefits on March 19, 2021. Appellant was admitted in [REDACTED] and was seeking an eligibility start date of February 5, 2021. Appellant died on [REDACTED]. The MassHealth representative explained that based off of bank statements dated March 19, 2021 appellant had \$1,031.84 in the account ending in #1909 and \$17,885.00 for the account ending in #5450. The asset limit for MassHealth benefits is \$2,000.00 thus appellant was \$15,117.00 over the asset limit.

Appellant's estate was represented by the personal representative and the regional business office manager of the facility who explained that the delay in getting the personal representative appointed had to do with the legal firm handling the case losing attorneys and the case thus being left unhandled by the firm. The personal representative explained that she is waiting an IRS state pin and once received can do the spend down. The representative requested the pin one week prior to the hearing. At the end of the hearing the record was left open for appellant to submit proof of the spenddown by November 8, 2022. On November 15, 2022 the MassHealth representative stated that she had not received any information from appellant regarding the spenddown. On that same date the personal representative responded and stated that she thought the other representative was going to reach out to MassHealth about the case. The representative explained that she is still awaiting a check to send to Social Security and then would spend down to the nursing facility and close out the case. The representative did not ask for additional time, but did ask the hearing officer or MassHealth representative to call her. The hearing officer responded on November 15, 2022 that she could not have an ex parte communication, but did state that appellant could request an extension to the record open period. On November 22, 2022 the hearing officer received no response and again sent communication stating that she would allow until the end of that day for appellant's representatives to respond. Appellant's representative responded and stated that she thought the personal representative would respond. The representative further stated that her company did receive their portion of the spend down. No response from the personal representative was received by the end of the business day November 30, 2022.

## Findings of Fact

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

1. MassHealth received an application for MassHealth long-term care benefits on March 19, 2021.

2. Appellant was admitted to the nursing facility in [REDACTED]
3. Appellant sought an eligibility start date of February 5, 2021.
4. Appellant had approximately \$1,031.84 in one bank account and \$17,885.00 in another bank account as of March 19, 2021.
  - a. MassHealth issued the notice on appeal finding that appellant was over the asset limit by \$15,117.00.
5. Appellant passed away on [REDACTED]
6. A personal representative was eventually appointed and a fair hearing was scheduled for October 11, 2022.
7. The appellant's representatives did not submit proof of spend down.

## **Analysis and Conclusions of Law**

Under 130 CMR 520.003(A)(1) the total value of countable assets owned by or available to applicants is \$2,000.00 for individuals. Appellant's assets as of March 19, 2021 exceed the \$2,000.00 limit by \$15,117.00. Therefore, MassHealth was correct in issuing the denial notice dated April 26, 2021. The regulations, however, allow an applicant with the opportunity to reduce his or her assets under 130 CMR 520.004(A)(1)(a) or (A)(1)(b). Post-hearing the record was left open for appellant's representative to provide proof of the spenddown. No proof was submitted as of November 30, 2022. Therefore, MassHealth did not err in denying appellant's long-term care application.

## **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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Radha Tilva

Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Jennifer Vitt, Charlestown MassHealth Enrollment Center, 529  
Main Street, Suite 1M, Charlestown, MA 02129

[REDACTED]

[REDACTED]