

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2176222
Decision Date:	10/01/2021	Hearing Date:	09/29/2021
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:



Appearance for MassHealth:


Via telephone:

Kristin McMahon, 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:	Dismissed	Issue:	LTC Eligibility – Assets
Decision Date:	10/01/2021	Hearing Date:	09/29/2021
MassHealth’s Rep.:	Kristin McMahon	Appellant’s Rep.:	
Hearing Location:	Tewksbury 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 May 3, 2021, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the appellant had more countable assets than MassHealth benefits allow (see 130 CMR 520.003 and Exhibit 1). The appellant filed this appeal in a timely manner on August 11, 2021 (see 130 CMR 610.015(B) and Exhibit 2).¹ Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

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's application for MassHealth benefits because MassHealth determined that the appellant had more countable assets than MassHealth benefits allow.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, in determining that the appellant was over the allowable asset amount.

Summary of Evidence

The MassHealth representative appeared via telephone and testified as follows: On May 3, 2021, MassHealth denied the appellant's application for having more countable assets than MassHealth allows. Since the denial was issued, MassHealth received proof of spend down from the appellant. On August 13, 2021, MassHealth issued a new determination approving the appellant for long-term care, honoring the original application date of March 15, 2021.

The appellant was represented at hearing by her attorney and her daughter who both appeared via telephone. The attorney explained that he appealed the May 3, 2021 notice because after submitting spend down documents, he did not receive any further communication from MassHealth. In August, a nursing facility liaison shared the August 13, 2021 approval notice with him. He stated that neither he nor the appellant's daughter received a copy of that notice, which approved the appellant for long-term care beginning January 23, 2021. The appellant had requested a start date of January 1, 2021 and the appellant's attorney disagreed with the start date.

The MassHealth representative responded that she had no Permission to Share (PSI) or Authorized Representative Designation (ARD) for the appellant's daughter, so could not send a notice to her. The system shows that a notice was issued to the appellant at the facility and also the appellant's attorney and she confirmed that she had the correct address for the attorney. The MassHealth representative explained that the notice on appeal is for excess assets and that issue was resolved; however, she explained that once an appellant is asset eligible, MassHealth determines the start date by considering the available assets at the time of the requested start date. She stated that if the appellant disagrees with the start date or has questions as to how the start date was calculated, he can appeal the August 13, 2021 notice.

Findings of Fact

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

1. On March 15, 2021, the appellant filed an application for MassHealth long-term care benefits, requesting a start date of January 1, 2021 (Testimony).
2. On May 3, 2021, MassHealth sent a denial notice to the appellant for being over the allowable asset limit (Testimony and Exhibit 1).
3. The appellant timely appealed the May 3, 2021 denial notice on August 11, 2021 (Exhibit 2).
4. Since the denial was issued, MassHealth received proof of spend down from the appellant (Testimony).
5. On August 13, 2021, MassHealth issued a new determination approving the appellant for long-term care benefits with a start date of January 23, 2021, honoring the original application date (Testimony and Exhibit 2).

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 the following limits: (1) for an individual — \$2,000; and (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.”

Additionally, pursuant to 130 CMR 520.004(A), MassHealth allows for asset reduction when:

- (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.

The issue in this appeal is whether MassHealth was correct in determining that the appellant was over the allowable asset limit and denying her MassHealth benefits. Prior to hearing, the appellant spent down her remaining assets and provided the required proof of spend down. MassHealth issued a new determination on August 13, 2021 approving the appellant for long-term care with a start date of January 23, 2021, honoring the original application date of March 15, 2021.²

As the issue in this appeal is being over the allowable asset limit and that issue has been resolved, the appeal is dismissed.

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: Sylvia Tiar, Tewksbury MassHealth Enrollment Center
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² If the appellant disagrees with the start date, she can still timely appeal the August 13, 2021 notice under the flexibilities provided by the MassHealth Eligibility Operations Memo 20-09 dated April 7, 2020.