

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2176998
Decision Date:	11/19/2021	Hearing Date:	09/27/2021
Hearing Officer:	Marc Tonaszuck	Record Open to:	10/25/2021

Appearance for Appellant:



Appearance for MassHealth:

Patricia Lemke; Jared Krok



*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:	Long Term Care
Decision Date:	11/19/2021	Hearing Date:	09/27/2021
MassHealth's Rep.:	Patricia Lemke; Jared Krok	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 08/19/2021, MassHealth denied the appellant's application for MassHealth Long-Term Care (LTC) Benefits because MassHealth determined that the assets exceed eligibility limits (130 CMR 520.003, 520.004; Exhibit 1). The appellant filed this appeal in a timely manner on 09/13/2021 (130 CMR 610.015(B); Exhibit 2). Denial of assistance constitutes valid grounds for appeal (130 CMR 610.032).

At the fair hearing on 09/27/2021, the appellant's representative requested an extension of time to reduce the assets and make the appellant eligible for MassHealth LTC Benefits. His request was granted, and the record remained open until 10/11/2021 for the appellant's submission and until 10/25/2021 for MassHealth's response (Exhibits 5, 6 and 7).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth LTC Benefits because MassHealth determined that total countable assets exceed eligibility limits.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulations to accurate facts when it denied the appellant's application for MassHealth LTC Benefits upon determining that assets are countable to the appellant and exceed the eligibility limit.

Summary of Evidence

The MassHealth representative testified that the appellant, an unmarried woman, is a resident of a skilled nursing facility. She applied for MassHealth long term care (LTC) benefits on 07/01/2021, seeking a benefit start date of 06/25/2021 (Exhibit 4).

In processing the application, MassHealth determined that the appellant's total countable assets exceed the eligibility asset and issued in "excess asset denial" on 08/31/2021 (Exhibit 1). According to the denial notice, MassHealth determined that the appellant has a life insurance policy with a cash surrender value of \$5,679.00 and bank accounts with balances totaling \$12,232.00 (Exhibits 1 and 4). The MassHealth representative testified that the asset eligibility limit is \$2,000.00 for a single individual.

The appellant was represented by an attorney. The appeal representative testified that the life insurance value needed to be withdrawn and placed in a non-countable pre-need funeral contract. He next addressed the bank account. He testified that the bank account belongs to the appellant's son and was set up for estate tax purposes. Counsel stated that the appellant's social security check is deposited into the account and the son uses those funds to spend on the appellant.

The MassHealth representative responded that she would need verification that the assets held in the life insurance account have been reduced and transferred to a burial account and/or a pre-need funeral contract. Additionally, she stated she would need verification of the ownership of the bank account if it does not belong to the appellant.

During the record open period, the appellant's son provided verification that he has initiated the process of surrendering the life insurance policies (Exhibits 5 and 6). The MassHealth representative responded that the verification of the life insurance was acceptable to make it non-countable at this point, but there was no verification that the bank account balance was reduced (Exhibit 7).

Findings of Facts

By a preponderance of the evidence, I find the following:

1. The appellant, a single individual, is a resident of a skilled nursing facility. She applied for MassHealth long term care (LTC) benefits on 07/01/2021, seeking a

benefit start date of 06/25/2021.

2. Through the application process, MassHealth determined that the appellant's total countable assets exceed the eligibility asset limit and issued an "excess asset denial" on 08/19/2021 (Exhibit 1).
3. According to the denial notice, MassHealth determined that the appellant has \$5,679.00 in cash surrender values of life insurance policies and \$12,232.00 in a bank account (Testimony; Exhibits 1 and 4).
4. The appellant's representative did not dispute the ownership or the amount of the assets in the life insurance policies counted by MassHealth (Testimony).
5. The appellant's representative testified that the bank account balance did not belong to the appellant, but to her son and it was set up for estate tax purposes (Testimony).
6. The appellant's representative requested additional time to submit verification that the appellant's assets were reduced to below the asset limit (Exhibit 5).
7. The appellant's representative's request was granted, and during the record open period, the appellant's son made a submission to the hearing record (Exhibit 6).
8. The appellant's submission provided adequate verification that the values of the life insurance policies were not countable (because they were in the process of being surrendered to purchase a pre-need burial contract) (Exhibit 7).
9. The appellant did not provide verification that the bank account balance had been reduced to less than \$2,000.00 (Exhibit 7).

Analysis and Conclusions of Law

Regulations at 130 CMR 520.003 address the asset limit for long term care benefits as follows:

- (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.

At the fair hearing, MassHealth testified that the appellant, a single individual, has

countable assets totaling \$15,911.00, which exceed the asset limit of \$2,000.00. At the fair hearing, the appellant's representative testified that he would surrender the cash values of the life insurance policies to purchase a pre-need funeral contract. The appellant's son provided verification of this within the record open period.

Also, at the fair hearing the appellant representative testified that the bank account did not belong to the appellant, but to her son and it had been set up for estate tax purpose. He requested time to provide verification of this; however, during the record open period, no verification was provided that the account did not belong to the appellant or, alternatively, that its balance was reduced to less than \$2,000.00.

Although the appellant's representative requested additional time to submit verifications that the assets were reduced to below the \$2,000.00 limit, no submission was made during the record open period to show the bank account balance was less than \$2,000.00. Accordingly, MassHealth's denial is correctly supported by the regulations and the material facts as found above.

This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center,
88 Industry Avenue, Springfield, MA 01104

[REDACTED]