

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2177451
Decision Date:	11/19/2021	Hearing Date:	11/03/2021
Hearing Officer:	Rebecca Brochstein	Record Open Date:	11/22/2021

Appearances for Appellant:




Appearances for MassHealth:

Gabe Gillis, Chelsea MEC



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

APPEAL DECISION

Appeal Decision:	Approved	Issue:	Long-term care eligibility
Decision Date:	11/19/2021	Hearing Date:	11/03/2021
MassHealth's Rep.:	Gabe Gillis, Chelsea MEC	Appellant's Reps.:	
Hearing Location:	Board of Hearings (Remote)		

Authority

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

Jurisdiction

Through a notice dated September 22, 2021, MassHealth approved appellant's application for MassHealth benefits with an eligibility start date of August 24, 2021 (Exhibit 1). Appellant filed a timely appeal on September 30, 2021 (Exhibit 1). A determination of an eligibility start date is a valid basis for appeal (130 CMR 610.032). After hearing on November 3, 2021, the record was reopened for submission of additional documentation (Exhibit 6).

Action Taken by MassHealth

MassHealth approved appellant's application for MassHealth benefits with an eligibility start date of August 24, 2021.

Issue

The issue on appeal is whether appellant is entitled to an earlier start date.

Summary of Evidence

A MassHealth eligibility worker appeared at hearing telephonically and testified that the appellant is a resident of a nursing facility. A MassHealth long-term care application was filed on her behalf on May 13, 2021, seeking coverage as of May 1, 2021. The appellant later amended the requested start date to June 24, 2021. MassHealth denied the application on June 30, 2021, for missing verifications; the appellant filed an appeal and subsequently provided the necessary verifications. On September 22, 2021, MassHealth approved the appellant for coverage as of August 24, 2021.

The MassHealth representative testified that the appellant became financially eligible for long-term care benefits by transferring assets into a pooled trust. He stated that while the appellant's representatives wrote two checks to the pooled trust on April 30 and June 23, 2021 (for \$47,781 and \$142,705, respectively), the pooled trust representatives did not execute the joinder agreement or deposit the two checks until August 24, 2021. He testified that the appellant did not become asset eligible for MassHealth until that point because that is when the contract became binding and she was no longer able to recall those checks.

The appellant was represented by two Medicaid consultants, who appeared telephonically. They testified that the process to open a pooled trust account requires several steps once they send the paperwork to the trust company, and that it can take a long time for the agreement to be executed. They stated that they have done this numerous times before and that MassHealth has always honored the date of the bank check used to fund the pooled trust.

After the hearing, while a decision was pending, the hearing officer reopened the record to request that the appellant's representatives submit certain bank statements for the account from which the two checks at issue were drawn. As requested, the appellant's representatives submitted those statements. They reflect a withdrawal of \$47,781 on April 30, 2021, and another withdrawal of \$142,705 on June 23, 2021. See Exhibit 6.

Findings of Fact

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

1. Appellant is a resident of a nursing facility.
2. In or around April 2021, the appellant's representatives began the process of setting up a pooled trust account for her benefit.
3. On April 30, 2021, the appellant's representatives secured a bank check for \$47,781, payable to the pooled trust company. The funds were withdrawn from the appellant's bank account as of the date of the check.

4. On May 13, 2021, a MassHealth long-term care application was filed on the appellant's behalf, seeking coverage as of May 1, 2021. The appellant later amended the requested start date to June 24, 2021.
5. On June 23, 2021, the appellant's representatives secured a second bank check, for \$142,705, payable to the pooled trust company. The funds were withdrawn from the appellant's account on that date.
6. On June 30, 2021, MassHealth denied the application for missing verifications. The appellant filed an appeal of the denial and subsequently provided the missing documents.
7. On September 22, 2021, MassHealth approved the appellant for coverage as of August 24, 2021.
8. On September 30, 2021, the appellant filed a timely appeal of the MassHealth notice.

Analysis and Conclusions of Law

Under 130 CMR 520.004(A)(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.

The issue on appeal is the start date of the appellant's long-term care coverage. The date of coverage relates to when her assets were spent down below the \$2,000 regulatory limit; in this case, the issue is when her assets were transferred to a pooled trust, which effectuated the final asset spend-down. MassHealth determined that the assets were spent down as of August 24, 2021, which is when the pooled trust company executed the joinder agreement and deposited the appellant's two checks. MassHealth argues that there was no valid agreement between the appellant and the trust company prior to that date and that the appellant could have reclaimed the funds.

The appellant argues that the spend-down date should instead be June 23, 2021, which is the date the appellant's representatives secured the second bank check payable to the pooled trust (for \$142,705). This position is persuasive. The bank statements show that with both the April and the June checks, the funds were debited from the appellant's bank account immediately, as of the date each bank check issued. Once the funds were withdrawn from her bank account, they were

no longer available to her.¹ The appellant is therefore correct that she reduced her assets as of the date of the second check, or June 23, 2021.

This appeal is approved.

Order for MassHealth

Adjust the start date of the appellant's long-term care coverage in accordance with this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date hereon, you should contact your MassHealth Enrollment Center. If you experience further problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Chelsea MEC



¹ MassHealth's contention that the appellant could have rescinded the transaction (which involved a bank check, not a personal check) is not persuasive here.