

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2201078

**Decision Date:** 5/10/2022

**Hearing Date:** 04/07/2022

**Hearing Officer:** Marc Tonaszuck

**Appearance for Appellant:**



**Appearance for MassHealth:**

Jessica Adamiec



*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>	Long Term Care
<b>Decision Date:</b>	5/10/2022	<b>Hearing Date:</b>	04/07/2022
<b>MassHealth's Rep.:</b>	Jessica Adamiec	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	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 date 01/28/2022, MassHealth informed the personal representative of the appellant's estate<sup>1</sup> that it had approved the appellant's application for long-term care benefits with an eligibility begin date of 08/01/2021 (Exhibit 1). The personal representative of the appellant's estate filed this timely appeal on 02/10/2022 (130 CMR 610.015(B); Exhibits 2 and 4). Determination of eligibility begin date is valid ground for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth approved appellant's application for long term care benefits with an eligibility begin date of 08/01/2021.

## Issue

Did MassHealth correctly determine the eligibility begin date when it approved Appellant's application for Long Term Care benefits?

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<sup>1</sup> The appellant died on 09/25/2021. See Exhibit 4.

## Summary of Evidence

The MassHealth representative testified that an application for long term care (LTC) benefits was submitted on the appellant's behalf in May 2021. MassHealth denied the application for excess assets. An appeal was filed on the appellant's behalf; however, it was dismissed by the Board of Hearings.<sup>2</sup> A new LTC application was filed on the appellant's behalf on 11/30/2021. The appellant was admitted to the skilled nursing facility on 11/20/2020 and is seeking a benefit start date of 05/27/2021. The appellant died on 09/25/2021. MassHealth approved the LTC application on 01/28/2022, with a benefit start date of 08/01/2021. The MassHealth representative testified that regulations allow benefits to begin the first day of the third month prior to the date of the approved application. In this case, 08/01/2021 was the earliest date the application could be approved.

Appellant's representative confirmed that the May 2021 LTC application was denied by MassHealth for assets, which were eventually spend down by paying the skilled nursing facility. The notice was appealed to the Board of Hearings; however, the request for a fair hearing was not filed in time and was dismissed by the Board of Hearings. The representative testified that it was not cost effective to appeal the dismissal to Superior Court. He requested that the instant approval date be made retroactive to June 2021, since the facility has an outstanding bill totaling approximately \$28,000.00 for the appellant's care.

## Findings of Fact

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

1. Appellant was admitted to a skilled nursing facility on 11/20/2020 (Testimony).
2. The appellant is seeking MassHealth LTC benefits starting on 05/27/2021 (Testimony; Exhibit 5).
3. In May 2021, a LTC application was submitted to MassHealth (Testimony).
4. The May 2021 application was denied by MassHealth in or about July 2021 (Testimony).
5. The appellant died on 09/25/2021 (Testimony; Exhibit 4).
6. In November 2021 the personal representative of the appellant's estate filed an appeal to the July 2021 MassHealth denial notice (Testimony).

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<sup>2</sup> See Appeal No. 2178576, dismissed by the Board of Hearings for timeliness.

7. The Board of Hearings dismissed the request for a fair hearing (Testimony).
8. The personal representative of the appellant's estate did not appeal the Board of Hearings dismissal to the Superior Court (Testimony).
9. The appellant's representative submitted a new LTC application to MassHealth on 11/30/2021 (Testimony; Exhibit 4).
10. On 01/28/2022, MassHealth approved the appellant's LTC application with a benefit start date of 08/01/2021 (Testimony; Exhibits 1 and 4).

## **Analysis and Conclusions of Law**

Regulations at 130 CMR 516.006(A) address start date of coverage as follows:

- (1) For individuals applying for coverage, the date of coverage for MassHealth is determined by the coverage type for which the applicant may be eligible.
- (2) The begin date of MassHealth Standard, Family Assistance, or Limited coverage may be retroactive to the first day of the third calendar month before the month of application, if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided. If more than one application has been submitted and not denied, the begin date will be based on the earliest application that is approved. Retroactive eligibility does not apply to services rendered under a home- and community-based services waiver provided under section 1915(c) of the Social Security Act.

The appellant was admitted to a skilled nursing facility on 11/20/2020. An application for LTC benefits was submitted to MassHealth in May 2021. It was denied by MassHealth in July 2021, appealed to the Board of Hearings where it was dismissed. A new LTC application was filed with MassHealth on 11/30/2021. Pursuant to the above regulation, the earliest the appellant could be eligible for LTC benefits would be the "first day of the third calendar month before the month of application," or 08/01/2021. The appellant's representative requested that the denied application be resurrected so that an earlier start date could be approved. The appeal representative presented no legal justification for this hearing officer to reopen an application that was denied and not successfully appealed. Accordingly, MassHealth correctly determined the benefit begin date on the approval notice; thus, this appeal is 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.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center,  
367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

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