

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Numbers: 2203446 &
2203453

Decision Date: 7/25/2022

Hearing Date: 07/15/2022

Hearing Officer: Susan Burgess-Cox

Appearance for Appellant:




Appearance for MassHealth:

Kelly Worthen & Brendan Barry



*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:	Eligibility
Decision Date:	7/25/2022	Hearing Date:	07/15/2022
MassHealth's Rep.:	Kelly Worthen & Brendan Barry	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone	Aid Pending:	No

Authority

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

Jurisdiction

Through notices dated April 14, 2022, MassHealth denied the appellant's applications for long-term care services and the Moving Forward Plan Waiver (MFP Wavier) as the assets were over the program limit for each program. (130 CMR 520.000; Exhibit 1A; Exhibit 1B). The appellant filed a timely appeal for each decision on May 5, 2022. (130 CMR 610.015(B); Exhibit 2A; Exhibit 2B). Hearings were scheduled for May 27, 2022. (Exhibit 3A; Exhibit 3B).

Prior to the hearing for each appeal, the Board of Hearings was contacted by an individual appointed as the appellant's guardian/conservator. (Exhibit 4). The individual requested new hearing dates as she was not provided with notices from the Board of Hearings and had a conflict on the May hearing date. (Exhibit 4). The Board of Hearings rescheduled the hearings for July 15, 2022. (Exhibit 5A; Exhibit 5B). This decision consolidates two appeals as the parties and facts are common to each case. (130 CMR 610.073).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant has more countable assets than MassHealth allows for long-term care and the Moving Forward Plan Waiver program (MFP Waiver).

Issue

Whether MassHealth was correct in determining that the appellant has more countable assets than MassHealth allows for long-term care and MFP Waiver.

Summary of Evidence

MassHealth representatives from the MFP Waiver Program and Springfield MassHealth Enrollment Center (Springfield MEC) appeared by telephone. The appellant's guardian/conservator appeared by telephone and noted that the appellant would not be appearing at the hearing.

The appellant became eligible for MassHealth long-term care in 2019. Around the time of filing the application, a petition was filed for the appointment of a guardian and conservator. MassHealth determined the appellant eligible for long-term care at that time by deeming the assets inaccessible during the appointment process. An individual was appointed as guardian and conservator in May 2021. In December 2021, MassHealth sent the appellant a request for information. In March 2022, MassHealth sent a second request for information.

In April 2022, MassHealth determined the appellant ineligible for long-term care due to having more countable assets than MassHealth benefits allow. MassHealth also received a request for enrollment in the MFP Waiver program. The appellant was not eligible for the MFP Waiver program due to having assets over the program limit. Each program has an asset limit of \$2,000 for an individual. At the time of each decision, the appellant had assets totaling \$5,587.33 which provided an excess asset amount of \$3,587.33. As of the date of the hearing, the appellant had assets totaling \$2,537. While the appellant lowered the asset amount, it still exceeded the limit for each program.

The appellant's guardian/conservator responded that at the time of the application and redetermination, some of assets were not known to the guardian/conservator. The guardian/conservator was able to access and spend down most of the assets prior to the date of hearing but did not dispute the fact

that there were some outstanding. As noted above, the guardian/conservator was appointed in May 2021, MassHealth began the redetermination process in December 2021, a hearing in May 2022 was rescheduled for a date in July 2022. As of the hearing date in July 2022, appellant's guardian/conservator did not have evidence of the assets being spent down below the program limits.

Findings of Fact

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

1. The appellant became eligible for MassHealth long-term care in 2019.
2. Around the time in filing the original application, a petition was filed for the appointment of a guardian and conservator.
3. MassHealth determined the appellant eligible for long-term care by deeming the appellant's assets as inaccessible during the appointment process.
4. An individual was appointed as guardian and conservator in May 2021.
5. In December 2021, MassHealth sent the appellant a request for information to redetermine eligibility.
6. In March 2022, MassHealth sent a second request for information.
7. In April 2022, MassHealth determined the appellant ineligible for long-term care due to having more countable assets than MassHealth benefits allow.
8. MassHealth received a request for enrollment in the MFP Waiver program.
9. In April 2021, MassHealth determined ineligible for the MFP Waiver program due to having assets over the program limit.
10. Each program has an asset limit of \$2,000 for an individual.
11. At the time of each decision, the appellant had assets totaling \$5,587.33.
12. The appellant had excess assets totaling \$3,587.33.

13. As of the date of the hearing, the appellant had assets totaling \$2,537.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Countable assets are all assets that must be included in the determination of eligibility. (130 CMR 520.007). Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. (130 CMR 520.007). Assets owned exclusively by an applicant or member and the spouse are counted in their entirety when determining eligibility for MassHealth. (130 CMR 520.005(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 \$2,000 for an individual. (130 CMR 520.003(A)(1)). At the time of the decision, the appellant's assets exceeded this limit. During the appeal process, the appellant failed to demonstrate that the asset amount determined by MassHealth was not correct or that the assets were spent down. The decision made by MassHealth was correct.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186

Appellant Representative: [REDACTED]
[REDACTED]