

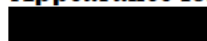
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2203522
Decision Date:	7/12/2022	Hearing Date:	06/08/2022
Hearing Officer:	Alexandra Shube	Record Open to:	07/08/2022

Appearance for Appellant:

 Medicaid Specialist


Appearance for MassHealth:

K'eisha McMullen, Springfield 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:	Denied	Issue:	LTC – Over Assets
Decision Date:	7/12/2022	Hearing Date:	06/08/2022
MassHealth’s Rep.:	K’eisha McMullen	Appellant’s Rep.:	
Hearing Location:	Springfield MassHealth Enrollment Center	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 a notice dated April 12, 2022, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that she was over the allowable asset limit (see 130 CMR 520.003 and Exhibit 1). The appellant filed this appeal in a timely manner on May 10, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant MassHealth benefits because she was over the allowable asset limit.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, in determining that the appellant was over assets to qualify for MassHealth benefits.

Summary of Evidence

The MassHealth representative appeared at hearing via telephone and testified as follows: On February 17, 2022, MassHealth received a long-term care application for the appellant, a single individual over the age of 65. On April 12, 2022, MassHealth denied the application for being over the allowable asset limit. At the time of the notice, the appellant had the following assets: personal needs allowance (PNA) account with \$36.41 and a bank account with \$25,010.18, totaling \$25,046.59 in assets. The MassHealth representative testified that a single institutionalized individual can retain \$2,000 in assets. The appellant's assets exceeded that limit by \$23,046.59.

The appellant was represented at hearing via telephone by a Medicaid specialist from the facility who testified as follows: the facility is in the process of getting a court-appointed conservator. The appellant is unable to go to the bank herself and a conservator is needed to complete the spend down. The facility has started the conservator process with an attorney.

The record was held open for the appellant until July 8, 2022 to provide an update on the conservator process along with any paperwork filed by the attorney as proof that the petition for conservator was filed. This hearing officer did not have any response from the appellant by July 8, 2022. On July 11, 2022, this hearing officer emailed both parties, asking MassHealth whether it had heard from the appellant within the record open period. MassHealth responded that it had not heard from the appellant's representative. On July 11, 2022, the appellant's representative responded that "the facility is still in the process of having one assigned, unfortunately the process is not yet complete." The appellant's representative did not request additional time or provide proof that the attorney had filed the petition for conservator, as requested.

Findings of Fact

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

1. On February 17, 2022, MassHealth received a long-term care application for the appellant, a single individual over the age of 65 (Testimony and Exhibit 4).
2. On April 12, 2022, the application was denied for having excess assets. At the time of the notice, the appellant had \$25,046.59 in assets, which exceeded the asset limit of \$2,000 by \$23,046.59 (Testimony and Exhibit 2).
3. The appellant was represented by a Medicaid specialist from the facility who testified that the facility, with the assistance of an attorney, had begun the process of getting a court-appointed conservator (Testimony).
4. The record was held open for the appellant until July 8, 2022 to provide an update on the conservator process along with any paperwork filed by the attorney (Exhibit 5).
5. By July 8, 2022, the appellant did not respond with an update or proof of filing the petition for

conservator (Exhibit 6).

6. On July 11, 2022, in response to this hearing officer's inquiry, the appellant stated via email that "the facility is still in the process of having one assigned, unfortunately the process is not yet complete." (Exhibit 6).
7. The appellant's representative did not request additional time for the record open period or provide proof that the attorney had filed the petition for conservator (Exhibit 6).

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 \$2,000 for an individual. Furthermore, 130 CMR 520.004 states the following regarding asset reduction:

(A) Criteria.

- (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...
- (C) The treatment of a married couple's assets when one spouse is institutionalized is described in 130 CMR 520.016(B).

MassHealth denied the appellant's application for being over the allowable asset limit. At hearing, MassHealth testified that the appellant was \$23,046.59 over the allowable limit. The appellant's representative requested a record open period to allow time for a conservator to be appointed. The record was left open until July 8, 2022 for the appellant to provide an update on the conservator process, along with the paperwork filed by the attorney as proof that the petition was filed. The appellant did not respond by the record open due date of July 8, 2022. On July 11, 2022, this hearing officer followed up with the parties. The appellant's representative stated that there was no conservator yet, but did not request an extension and did not provide any proof that the petition for conservator had been filed.

As the appellant is still over the allowable asset limit, 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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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

Appellant Representative: [REDACTED]