

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2203884
Decision Date:	9/29/2022	Hearing Date:	06/23/2022
Hearing Officer:	Rebecca Brochstein	Record Open Date:	09/26/2022

Appearance for Appellant:




Appearances for MassHealth:

Tamika Eutsay, Taunton 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:	Denied	Issue:	Long-term care eligibility
Decision Date:	9/29/2022	Hearing Date:	06/23/2022
MassHealth's Rep.:	Tamika Eutsay, Taunton MEC	Appellant's Rep.:	
Hearing Location:	Board of Hearings (Remote)		

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 19, 2022, MassHealth denied the appellant's application for long-term care services due to excess assets (Exhibit 1). The appellant filed this appeal in a timely manner on May 23, 2022 (130 CMR 610.015(B); Exhibit 2). Denial of benefits is a valid basis for appeal (130 CMR 610.032). After hearing on June 23, 2022, the record was held open (and the record-open period was subsequently extended) for additional information (Exhibit 6).

Action Taken by MassHealth

MassHealth denied the appellant's long-term care application due to excess assets.

Issue

The appeal issue is whether MassHealth was correct in denying the appellant's MassHealth application.

Summary of Evidence

The MassHealth representative testified that the appellant is a resident of a nursing facility. A MassHealth long-term care conversion application was filed on September 29, 2021, and MassHealth sent a request for information on October 28, 2021. On December 2, 2021, MassHealth denied the application due to missing verifications; the appellant filed an appeal of the denial, preserving the application date of September 29, 2021. After a hearing on January 10, 2022, and several record-open extensions (as well as the addition of a new appeal representative), the appellant's representative provided all the necessary verifications.¹ On April 19, 2022, MassHealth denied the application for excess assets. At the time of the denial, the appellant had excess assets of \$28,226.56.

The MassHealth representative testified that the appellant's appeal representative (his sister) was appointed as conservator around May 2022. She stated that the consultant working with the sister asked MassHealth to consider the excess assets temporarily inaccessible because the sister was only able to make small withdrawals each day and was worried she would get into trouble due to the number of transactions. MassHealth declined to consider the funds inaccessible.

The appellant was represented at hearing by a Medicaid consultant. She reiterated the sister's concern about making repeated withdrawals when her name is not on the appellant's account. The consultant stated that the sister had been appointed conservator but did not yet have the court paperwork to enable her to properly spend down the appellant's account. She asked for additional time to enable the sister to effectuate the spend-down.

The record was held open until July 22, 2022, for the appellant's representatives to complete the spend-down. On July 20, 2022, they requested an extension, reporting that financial institution that holds the account informed the sister she had to take additional steps before she could access the funds in the account. The hearing officer granted the request, extending the appellant's record-open deadline to August 22, 2022. On August 19 and 26, the Medicaid consultant reported the sister was still having trouble accessing the account, but expected the problem would resolve shortly. On August 31, 2022, the hearing officer granted an extension until September 9, 2022, for verification of the spend-down. The MassHealth worker assigned to the case reported on September 20, 2022, that she had still not received verification of the spend-down. See Exhibit 6.

Findings of Fact

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

1. The appellant is a resident of a nursing facility.
2. On September 29, 2021, a MassHealth long-term care conversion application was filed on the appellant's behalf.

¹ The appellant filed another MassHealth application on March 23, 2022.

3. On October 28, 2021, MassHealth sent a request for information.
4. On December 2, 2021, MassHealth denied the application due to missing verifications. The appellant filed a timely appeal of that denial, preserving the application date of September 29, 2021.
5. On January 10, 2022, a hearing was held on the appeal of the December 2 denial.
6. During the record-open period that followed the January 10 hearing, the appellant's representatives provided the outstanding verifications.
7. On April 19, 2022, MassHealth denied the application for excess assets in the amount of \$28,226.56. The appellant filed a timely appeal.
8. On June 23, 2022, a hearing was held on the appeal of the April 19 denial.
9. After hearing, the record was held open to allow the appellant's representatives more time to gain access to his account and spend down the excess assets.
10. The hearing officer subsequently extended the appellant's record-open deadline to September 9, 2022.
11. On September 20, 2022, the MassHealth case worker reported that she had still not received verification of the asset spend-down.

Analysis and Conclusions of Law

Under 130 CMR 520.003(A)(1), the total value of countable assets owned by or available to an individual applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed \$2,000. 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.

130 CMR 520.004(A).

In this case, MassHealth denied the appellant's MassHealth long-term care application because

he had assets in excess of the \$2,000 regulatory limit. The appellant still had excess assets as of the hearing date, and the record was held open to give his representatives more time to gain access to the account and effectuate the spend-down. However, despite two record-open extensions and reports that the spend-down was imminent, they did not verify that the assets had been reduced.

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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Taunton MEC

