

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2204224
<b>Decision Date:</b>	8/31/2022	<b>Hearing Date:</b>	07/05/2022
<b>Hearing Officer:</b>	Alexandra Shube	<b>Record Open to:</b>	08/23/2022

**Appearance for Appellant:**  
*Via telephone:*



**Appearance for MassHealth:**  
*Via telephone:*  
Jamie Lapa, 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

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	LTC Eligibility – Assets
<b>Decision Date:</b>	8/31/2022	<b>Hearing Date:</b>	07/05/2022
<b>MassHealth’s Rep.:</b>	Jamie Lapa	<b>Appellant’s Rep.:</b>	POA/Daughter
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center Remote	<b>Aid Pending:</b>	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 May 4, 2022, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the appellant had more countable assets than MassHealth benefits allow (see 130 CMR 520.003 and Exhibit 1). The appellant filed this appeal in a timely manner on June 3, 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’s application for MassHealth benefits because MassHealth determined that the appellant had more countable assets than MassHealth benefits allow.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, in determining that the appellant was over the allowable asset amount.

## Summary of Evidence

The MassHealth representative appeared via telephone and testified as follows: On February 4, 2022, MassHealth received an application for long-term care benefits on behalf of the appellant requesting a start date of April 1, 2022. On May 4, 2022, MassHealth denied the appellant's application for having more countable assets than MassHealth allows. The MassHealth representative needed the most recent bank statement showing that the bank account was under \$2,000, as well as verification for the annuities showing that the Commonwealth of Massachusetts has been listed as the first position beneficiary.

The appellant was represented at hearing via telephone by his daughter who is his power of attorney. She explained that there was stock sold last week for which she received checks, but there is a payment due to the nursing facility which will be made automatically on July 11, 2022. She has also already sent in the beneficiary change forms for the annuities and was told that the change was in process.

The record was held open until August 9, 2022 for the appellant to provide the updated bank statements and annuities. MassHealth was given until August 23, 2022 to review and respond to the appellant's submission. The appellant's representative made a submission on August 8, 2022. On August 18, 2022, MassHealth responded that she was still missing a statement from the bank account. But on August 24, 2022, MassHealth confirmed that she had the necessary information to determine that the appellant was within the asset limit and issue a new determination, honoring the original application date.

## Findings of Fact

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

1. On February 4, 2022, MassHealth received an application for long-term care benefits on behalf of the appellant requesting a start date of April 1, 2022 (Testimony and Exhibit 4).
2. On May 4, 2022, MassHealth denied the appellant's application for having more countable assets than MassHealth allows (Testimony and Exhibit 1).
3. The appellant timely appealed the denial on June 3, 2022 (Exhibit 2).
4. MassHealth required the most recent bank statement showing that the bank account was under \$2,000, as well as verification for the annuities showing that the Commonwealth of Massachusetts has been listed as the first position beneficiary (Testimony and Exhibit 4).
5. The record was held open until August 9, 2022 for the appellant to provide the requested documentation and until August 23, 2022 for MassHealth to review and respond (Exhibit 6).
6. On August 24, 2022, MassHealth informed parties that she received the necessary information

to show that the appellant was within the asset limit and she could issue a new determination honoring the original application date (Exhibit 7).

## **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 the following limits: (1) for an individual — \$2,000; and (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.”

Additionally, pursuant to 130 CMR 520.004(A), MassHealth allows for asset reduction when:

- (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.

The issue in this appeal is whether MassHealth was correct in determining that the appellant was over the allowable asset limit and denying him MassHealth benefits. After the record open period, MassHealth had the necessary information to determine that the appellant was within the asset limit and issue a new determination, honoring the original application date.

As the issue in this appeal is being over the allowable asset limit and that issue has been resolved, the appeal is dismissed.

## **Order for MassHealth**

If not already done, issue a new determination honoring the original application date of February 4, 2022.

## 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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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

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

[REDACTED]