

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2204847
<b>Decision Date:</b>	9/14/2022	<b>Hearing Date:</b>	08/05/2022
<b>Hearing Officer:</b>	Susan Burgess-Cox	<b>Record Open to:</b>	09/02/2022

**Appearance for Appellant:**



**Appearance for MassHealth:**

Patricia Rogers



*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>	Approved	<b>Issue:</b>	Eligibility
<b>Decision Date:</b>	9/14/2022	<b>Hearing Date:</b>	08/05/2022
<b>MassHealth's Rep.:</b>	Patricia Rogers	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	All Parties Appeared by Telephone	<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 June 22, 2022, MassHealth denied the appellant's application for long-term care services because the appellant had more countable assets than MassHealth benefits allow. (130 CMR 520.000; Exhibit 1). The appellant filed an appeal in a timely manner on June 29, 2022. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

The appellant's representative made a request to keep the record open for the submission of additional evidence. The Board of Hearings approved this request. This action resulted in an extension of the decision due date to October 27, 2022.

### Action Taken by MassHealth

MassHealth determined that the appellant has more countable assets than MassHealth benefits allow.

### Issue

Whether MassHealth was correct in determining that the appellant has more

countable assets than MassHealth benefits allow.

## **Summary of Evidence**

The MassHealth representative presented documents that were incorporated into the hearing record as Exhibit 4. The appellant applied for MassHealth long-term care coverage. (Testimony; Exhibit 4). MassHealth denied the application due to the appellant having excess assets. (Testimony; Exhibit 1; Exhibit 4). The assets at issue included a bank account with a balance of approximately \$8,230. (Testimony; Exhibit 4). MassHealth determined that the appellant had to spend approximately \$6,230 to qualify for MassHealth.

The appellant's representative testified that the appellant spent down the assets through monthly expenses and payments to the facility. At hearing, the appellant's representative did not present any records to verify the spend down. The record was held open to provide the appellant's representative the opportunity to submit records to demonstrate that the assets were spent down. (Exhibit 5).

During the record open period, the appellant's representative presented statements showing monthly deposits of \$386 from the Social Security Administration, monthly expenses as well as checks made out to the facility in the amount of \$5,324.66 and \$800. (Exhibit 6). The most recent bank statement reflects a withdrawal for the check in the amount of \$5,324.66 but not the check for \$800. (Exhibit 6). This statement shows a balance of \$2,784.74 which included the monthly deposit from the Social Security Administration of \$386.

The MassHealth representative determined that the agency could not accept the information presented to show an asset balance of less than \$2,000 as the statement from August 15, 2022 still showed a balance over \$2,000. (Exhibit 6). MassHealth did not accept a copy of a check in the amount of \$800 as evidence of the spenddown as it was not reflected in the statements presented during the appeal. (Exhibit 6). If the statement ending August 15, 2022 included the check in the amount of \$800 as well as the income deduction of \$386, the appellant's account balance would be below the regulatory limit of \$2,000.

## **Findings of Fact**

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

1. The appellant applied for MassHealth long-term care.
2. MassHealth denied the application due to the appellant having excess

assets.

3. The assets at issue included a bank account with a balance of approximately \$8,230.
4. The appellant did not dispute the ownership or value of the assets.
5. The appellant incurred monthly expenses and made payments to the facility in the amount of \$5,324.66 and \$800.
6. A bank statement through August 15, 2022 reflected withdrawal for the check in the amount of \$5,325.66 with a balance of \$2,784.74.
7. Withdrawal of the check in the amount of \$800 as well as an income deduction of \$386 would result in an account balance below \$2,000.

## **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). 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)). During the appeal process, the appellant's representative demonstrated that actions were taken to reduce the assets below the regulatory limit. The check in the amount of \$800 that MassHealth did not include in the calculation of an asset amount is from the account in question and made to a third party. The appellant should not be penalized for not having a statement to reflect clearance of a check that would reduce the asset amount below \$2,000. The decision made by MassHealth was not correct.

This appeal is approved.

## Order for MassHealth

Continue to determine eligibility with a determination that the appellant has less than \$2,000 in countable assets.

### Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

Appellant Representative: [REDACTED]