

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2206449
Decision Date:	11/14/2022	Hearing Date:	September 26, 2022
Hearing Officer:	Stanley M. Kallianidis	Record Open Date:	November 9, 2022

Appellant Representative:



MassHealth Representative:

Jamie Silva, Taunton



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved	Issue:	Asset Inaccessibility
Decision Date:	11/14/2022	Hearing Date:	September 26, 2022
MassHealth Rep.:	Jamie Silva	Appellant Rep.:	[REDACTED]
Hearing Location:	Taunton		

Authority

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

Jurisdiction

Notice dated August 10, 2022 was sent to the appellant stating that MassHealth had denied his application for MassHealth benefits due to excess assets (Exhibit 1). The appellant filed this appeal on August 26, 2022 and, therefore, it is timely (see Exhibit 2 and 130 CMR 610.015). A denial of MassHealth benefits is grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits due to excess assets.

Issue

Pursuant to 130 CMR 520.006, is the appellant's asset in question temporarily inaccessible?

Summary of Evidence

The MassHealth representative testified that the appellant's June 14, 2022 long-term care application was denied due to excess assets (Exhibit 3). The countable assets were from life insurance valued at \$3,007.00 and \$37.00 in a bank account (Exhibit 3). Given the \$2,000.00 asset limit and the nominal value of the bank account, the sole issue was the life insurance that left him \$1,037.00 over the asset limitation (Exhibit 1).

The appellant's guardian testified that she had submitted the life insurance policy to the issuing company for surrender, but the company has up to now refused to surrender it.

The record was left open until October 26, 2022 for the appellant's guardian to take further action to obtain access to the life insurance, and until November 6, 2022 for MassHealth's response (Exhibit 4).

During the record open period, the appellant's guardian submitted documentation that the life insurance company refused to surrender the policy to her due to a lack of proper authority. In addition, she submitted a copy of a motion for a court order filed with the Probate Court on October 18, 2022 which, if granted, would allow her to redeem the policy (Exhibit 5). In her response during the record open period, the MassHealth representative indicated that she would await a hearing decision on the issue of asset inaccessibility (Exhibit 6).

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant applied for MassHealth long-term care on June 14, 2022 (Exhibit 3).
2. The appellant's application was denied due to a failure to provide verification that his assets had been reduced to below \$2,000.00 (Exhibit 1).
3. The countable assets were from life insurance valued at \$3,007.00 and \$37.00 in a bank account (Exhibit 3).
4. The appellant's guardian had submitted the life insurance policy to the issuing company for surrender, but the life insurance company refused to surrender the policy to her due to a lack of proper authority (Exhibit 5).
5. On October 18, 2022 the appellant's guardian requested that the Probate Court issue an order giving her the authority to redeem the life insurance policy (Exhibit 5).

Analysis and Conclusions of Law

520.006: Inaccessible Assets

(A) Definition. An inaccessible asset is an asset to which the applicant or member has no legal access. The MassHealth agency does not count an inaccessible asset when determining eligibility for MassHealth for the period that it is inaccessible or is deemed to be inaccessible under 130 CMR 520.006.

130 CMR 520.006(B) states that the Examples of Inaccessible Assets. Inaccessible assets include, but are not limited to

(1) property, the ownership of which is the subject of legal proceedings (for example, probate and divorce suits); and

(2) the cash-surrender value of life-insurance policies when the policy has been assigned to the issuing company for adjustment.

Pursuant to 130 CMR 520.006(C)(1), The date of accessibility is the date of application or acquisition whichever is later...

In the instant case, the record shows that the appellant's assets consist of \$3,007.00 in a life insurance policy and \$37.00 in a bank account. The appellant's guardian has contacted the issuing company for surrender of the policy, but they have refused, citing a lack of proper authority. Consequently, on October 18, 2022 the appellant's guardian requested that the Probate Court now issue an order to give her the authority to redeem the life insurance policy. Although the life insurance value exceeds the asset limit of \$2,000.00 for one person, as stated above, life insurance policies, such as this one, that are in the process of being accessed and surrendered are temporarily inaccessible.

In accordance with Section 520.006(C)(2)(a), the appellant's life insurance is inaccessible pending the acquisition of the proceeds. This would leave the appellant with no excess assets at this time.

Accordingly, the appeal is approved.

Order for MassHealth

Approve appellant's application if otherwise eligible.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this notice, you should contact your local office. 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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings