

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2206450
Decision Date:	11/14/2022	Hearing Date:	September 27, 2022
Hearing Officer:	Stanley Kallianidis		

Appellant Representative:





MassHealth Representative:

Gloria Medeiros, 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:	Denied	Issue:	Excess assets
Decision Date:	11/14/2022	Hearing Date:	September 27, 2022
MassHealth Rep.:	Gloria Medeiros	Appellant Rep.:	 

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 1, 2022 was sent to the appellant stating that MassHealth had approved her application for MassHealth benefits beginning January 15, 2022 (Exhibit 1). The appellant filed this appeal on August 26, 2022; therefore, it is timely (see Exhibit 1 and 130 CMR 610.015). A dispute over the start date for MassHealth is grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's application for MassHealth benefits as of January 15, 2022.

Issue

As per 130 CMR 520.004, did the appellant reduce her excess assets to the allowable asset limitation as of her requested eligibility date? In the alternative, is the appellant entitled to an adjustment in her eligibility date?

Summary of Evidence

The MassHealth representative testified that the appellant's application was approved for long-term care benefits on January 15, 2022. The appellant applied for benefits on March 1, 2022 and requested benefits beginning December 1, 2021. As of December 1, 2021, the appellant was determined to have assets of \$22,688.00 and excess assets of \$20,688.00. The MassHealth representative stated that while preparing for the appeal, she noticed that one of the appellant's bank accounts had assets that were approximately \$9,000.00 greater than what was originally thought. She stated, however, that she would not change her original start date determination as it was more beneficial to the appellant (Exhibit 3).

the representative further stated that the appellant did not reduce her assets to below \$2,000.00 on July 16, 2022 when a check for \$19,337.00 was made out to a pooled trust. In order to determine if the appellant was entitled to an earlier start date than July 16, 2022, the appellant's excess assets were compared to her medical expenses in the three-months prior to her application date. The MassHealth representative concluded that using the appellant's nursing home per diem of \$458.00, her excess assets were exceeded by medical expenses on January 15, 2022. This was her allowable start date (Exhibit 3).

The appellant's representative did not contest the method and manner in which the appellant's asset spend-down was calculated. His contention, rather, was that the appellant was facing circumstances beyond her control due to COVID and could not therefore reduce her assets in a timely matter.

Findings of Fact

The record shows, and I so find:

1. The appellant applied for benefits on March 1, 2022 and requested benefits beginning December 1, 2021 (Exhibit 3).
2. MassHealth approved her application for MassHealth benefits beginning January 15, 2022 (Exhibit 1).
3. The appellant reduced her assets to below \$2,000.00 on July 16, 2022 (Exhibit 3).
4. As of December 1, 2021, the appellant was determined to have assets of \$22,688.00 and excess assets of \$20,688.00 (Exhibit 3).
5. The appellant's nursing home per diem was \$458.00 (Exhibit 3).

Analysis and Conclusions of Law

With regard to asset reduction, 130 CMR 520.004 provides as follows:

(A) Criteria

(1) An applicant whose countable assets exceed the asset limitation may be eligible for MassHealth:

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limitation without violating the transfer of asset provisions for nursing facility residents at 130 CMR 520.018(C) 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 limitation within 30 days of the date of the notification of excess assets.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. MassHealth will not be responsible for payment of that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility:

(1) cannot be incurred earlier than the first day of the third month prior to the date of the application as described at 130 CMR 516.002; and

(2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004 (A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If, after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), MassHealth will readjust the date of eligibility.

(2) In no event shall the first day of eligibility be earlier than the first day of the third month prior to the date of the application.

(D) Verification

The applicant will be required to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limitation within required time frames.

In the instant appeal, I have found that the appellant filed her application on March 1, 2022. I have also found that the appellant is requesting December 1, 2021 as her eligibility date, which, by regulation, would be her earliest potential start date. I have also found that she reduced her assets to below \$2,000.00 on July 16, 2022.

On December 1, 2021, the appellant had \$20,688.00 in excess assets. Using her private room rate of \$458.00 per day, the appellant's excess assets were not exceeded by medical expenses until January 15, 2022, which was the established MassHealth start date. Unfortunately, there is no regulation which allows for an adjustment to the start date based on exceptions or extenuating circumstances.

The appeal is therefore denied in that the appellant is not entitled to an adjustment in her established eligibility date, January 15, 2022.

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.

Stanley Kallianidis
Hearing Officer
Board of Hearings

cc:

