

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2208494
Decision Date:	3/16/2023	Hearing Date:	12/14/2022
Hearing Officer:	Kenneth Brodzinski	Record Open to:	01/18/2023

Appearance for Appellant:



Appearance for MassHealth:

K'eisha McMullen



*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

Appeal Decision:	DENIED	Issue:	Countable Assets
Decision Date:	3/16/2023	Hearing Date:	12/14/2022
MassHealth's Rep.:	K'eisha McMullen	Appellant's Rep.:	[REDACTED]
Hearing Location:	Springfield		

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 November 2, 2022, MassHealth denied Appellant's application for MassHealth Long Term Care benefits upon determining Appellant's countable assets exceed the eligibility limit (Exhibit A). Appellant filed this appeal in a timely manner on November 15, 2022. (see 130 CMR 610.015(B) and Exhibit B). Eligibility determinations constitute valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's application for MassHealth Long Term Care benefits upon determining Appellant's countable assets exceed the eligibility limit.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied Appellant's application for MassHealth Long Term Care benefits upon determining Appellant's countable assets exceed the eligibility limit.

Summary of Evidence

Both parties appeared by telephone. At the hearing, MassHealth submitted a one-page appeal worksheet along with copies of financial verifications (Exhibit B). Appellant filed a packet of documents. After the hearing, Appellant filed additional documentation (Exhibit E) and refiled a number of documents that included those filed at the time of hearing (collectively, Exhibit C). MassHealth filed a written response (Exhibit D).

The MassHealth representative testified that Appellant, a resident of a skilled nursing facility in Massachusetts, filed an application for MassHealth Long Term Care benefits. The application revealed that Appellant had the following assets: Life Insurance cash surrender value: \$181.81; bank account: \$510.03; and a mobile home located in the state of Louisiana valued at \$38,340.00. The MassHealth representative testified that because these assets total more than the eligibility limit of \$2,000.00, the application was denied and Appellant was advised of the need to properly spend down the excess assets (Exhibit A).¹

Appellant was represented by the manager of the business office of the skilled nursing facility where Appellant resides. Appellant's representative testified that the mobile home belongs to Appellant's daughter, not Appellant. Appellant's representative referred to the "Final Sales Order" dated November 11, 2014, showing that Appellant's daughter purchased a new mobile home from a manufacturer in Louisiana and the home was to be set-up in Louisiana (Exhibit C, page 10).

In response, the MassHealth representative stated that the sales document identifies a set-up address that differs from Appellant's former home in Louisiana. Appellant's representative testified that the mobile home was moved between the time it was initially set-up and the time that Appellant left it to return to Massachusetts. According to Appellant's representative, Appellant lived with her daughter in the mobile home while she was living in Louisiana.

The MassHealth representative further testified that the value of the mobile home was garnered from a document from the local Assessor's Office which identifies Appellant as the 100% owner of the mobile home as of January 4, 2016 (Exhibit B, page 2).

In response, Appellant's representative noted that the tag number identifying the mobile home is the same on both the sales document and the Assessor's Office document indicating that this is the same mobile home that Appellant's daughter purchased in 2014. Appellant's representative also testified that when Appellant went to live with her daughter in 2016, she went to the local Assessor's Office to apply for a Homestead tax exemption in the mobile home. According to Appellant's representative, Appellant does not own the land

¹ The subject notice contains an error in that the mobile home value was incorrectly listed as \$3,834.00 (Exhibit A). This was later corrected by notice dated January 18, 2023 (Exhibit F)

on which the mobile home is situated, but under Louisiana law, a Homestead tax exemption may still be granted for a mobile home even if the land is not owned by the person who owns the mobile home. Appellant's representative also asserts that you do not need to establish that you are the owner of the mobile home in order to get the tax exemption. Appellant's representative highlighted a section of a document from the local Assessor's Office which states that the only documentation a Homestead applicant needs to provide is copy of the applicant's valid driver's license or government-issued ID and proof of the square footage of the home (Exhibit C, page 22). According to Appellant's representative, an applicant does not need to establish that he/she is the owner. Appellant's representative testified that Appellant went to the Assessor's office and applied for the Homestead tax exemption when she moved into the mobile home in 2016 and provided a copy of her license and the square footage.

The hearing officer question Appellant's representative as to who paid the taxes. Appellant's representative testified that the daughter paid the taxes. The record was left open for Appellant to verify that the daughter pays the taxes on the mobile home.

Appellant filed two post-hearing submissions (Exhibits C and F). Exhibit C largely consists of documentation already filed by Appellant prior to hearing. Exhibit F is an email from Appellant's representative asserting that taxes are not paid on the mobile home. This was reasserted along with supporting documentation in Exhibit C, pages 1 and 2.

MassHealth filed a response by email stating the additional documentation still does not prove that the daughter is the owner of mobile home (Exhibit D).

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant is a resident of a skilled nursing facility in Massachusetts who filed an application for MassHealth Long Term Care benefits.
2. The application revealed that Appellant had the following assets: life Insurance cash surrender value: \$181.81; bank account: \$510.03; and a mobile home located in the state of Louisiana valued at \$38,340.00.
3. Because these assets total more than the eligibility limit of \$2,000.00, MassHealth denied the application and advised Appellant she needed to properly spend down the excess assets (Exhibit A).
4. A "Final Sales Order" dated November 11, 2014, shows that Appellant's daughter purchased a new mobile home from a manufacturer in Louisiana and the home was to be set-up in Louisiana (Exhibit C, page 10).

5. In 2016, Appellant left Massachusetts to live with her daughter in the mobile home in Louisiana.
6. The mobile home was moved between the time it was initially set-up and the time that Appellant left it to return to Massachusetts.
7. The tag number identifying the mobile home is the same on both the sales document and the Assessor's Office document indicating that this is the same mobile home that Appellant's daughter purchased in 2014.
8. A document from the local Assessor's Office identifies Appellant as the 100% owner of the mobile home as of January 4, 2016 (Exhibit C, page 14).
9. At some time, Appellant went to the local Assessor's Office to apply for a Homestead tax exemption in the mobile home and the application was granted.
10. Taxes are not paid on the mobile home (Exhibit C, pages 1 and 2).

Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

This record presents MassHealth with two documents to consider in determining the ownership of the subject mobile home. First, the Final Sales Order clearly shows that on November 11, 2014, Appellant's daughter purchased the mobile home, not Appellant. The Final Sales Order does not reveal anything about the disposition of the mobile home after November 11, 2014. Second, a copy of the 2023 Assessment Listing from the Assessor's Office which shows that Appellant, not the daughter, has been the "primary owner" of 100% of the subject property since January 4, 2016.

Appellant's representative essentially argues that the identification of Appellant as the owner of the mobile home in the 2023 Assessment Listing arises from Appellant's application for a Homestead tax exemption in 2016. This assertion has not been adequately supported. The 2023 Assessment Listing does indicate that the property is subject to a Homestead, but there is no reliable indication of exactly when the Homestead was applied for and granted. What is clear, however, is that as of January 4, 2016, Appellant was deemed by the Assessor's Office to own 100% of the subject property (Exhibit C, page 14).

To be entitled to receive the Homestead tax exemption, an applicant must be the owner (either in total or in part) of the property and reside at the property (see, Louisiana Laws CONST 7 20, section 20.(A)(1) at Exhibit C, page 17). Appellant obtained a Homestead

tax exemption, so a reasonable inference can be made that Appellant must be an owner of the property. Appellant's representative asserts, however, that a Homestead applicant in Louisiana only needs to produce their legal identification and proof of the square footage, but they do not need to prove ownership of the property. Again, there is not enough evidence in this record to support this assertion. Production of the applicant's legal identification could easily be the means to verify that the Homestead applicant is the same person who is already on record at the assessor's office as being the owner and resident of the property.

On this record, Appellant has not put forth sufficient reliable evidence that the determination/designation of Appellant as the owner of the subject property by local government officials in Louisiana was made in error. It bears mentioning that this record lacks any testimony from either Appellant or her daughter. Additionally, no explanation was provided as to why the daughter hasn't taken steps to correct the ownership issue with the Assessor's Office if an error regarding the designation of the proper owner of the mobile home had in fact been made.

MassHealth has relied on a current government document issued by a proper authority to conclude that Appellant has been the sole owner of the property since January 4, 2016. Appellant has not met her burden of showing that MassHealth's determination is invalid.

For the foregoing reasons, the appeal is 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center,
88 Industry Avenue, Springfield, MA 01104, 413-785-4186

[REDACTED]