

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2301036
Decision Date:	5/5/2023	Hearing Date:	03/09/2023
Hearing Officer:	Mariah Burns	Record Open to:	04/07/2023

Appearance for Appellant:



Appearance for MassHealth:

Jennifer Moreno, Springfield MassHealth
Enrollment Center



*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:	Long-Term Care - Assets
Decision Date:	5/5/2023	Hearing Date:	03/09/2023
MassHealth's Rep.:	Jennifer Moreno	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote	Aid Pending:	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 January 12, 2023, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the appellant's assets exceeded the allowed amount. 130 CMR 520.003 and Exhibit 1. The appellant filed this appeal in a timely manner on January 13, 2023. 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 long-term care benefits.

Issue

Whether MassHealth was correct in determining that appellant's assets exceed the amount allowed by regulations.

Summary of Evidence

MassHealth was represented telephonically by a worker from the Springfield MassHealth Enrollment Center (MEC), who testified to the following: the appellant applied for MassHealth long-term care benefits on November 9, 2022. MassHealth denied the application on January 12,

2023, after determining that the appellant's assets exceeded the allowed limit by \$3,215.39. This was predominantly due to the \$4,343.42 cash value of a life-insurance policy the appellant owns. MassHealth stated that the policy could be considered a noncountable asset if the appellant provided proof that the ownership *and* beneficiary of the policy was relinquished to the funeral home.

The appellant was represented at hearing by the Business Office Manager of the nursing home, who did not dispute that the appellant was over assets and requested that the record be kept open to obtain documentation of such transfer of ownership of the policy. The record was kept open until March 24, 2023, for the appellant, and MassHealth was given until March 31, 2023, to review any submitted documentation. An extension of the record open period was later granted to April 7, 2023, for the appellant, and April 14, 2023, for MassHealth to review.

During the record open period, on April 4, 2023, the appellant presented a letter, dated March 30, 2023, from the life-insurance company listing the appellant as the owner of the policy and indicating that the policy had been irrevocably assigned to the funeral home up to the cost of the funeral merchandise and services. The assignment documents, executed on March 27, 2023, state that the owner of the policy "retains the right to designate and change the primary beneficiary to another funeral home."

The MassHealth representative stated that MassHealth was unable to accept the submission as proof of transfer of ownership, because it still listed the appellant as the owner of the policy and merely named the funeral home the beneficiary. The appellant's representative responded that the insurance company does not change ownership, only the beneficiary, but did not provide any corroborative documents of such a policy. MassHealth declined to accept the appellant's submitted documents and did not rescind the denial of coverage. The appellant's representative did not respond to any of the hearing officer's attempts to offer an extension of the record open period, and the record officially closed on April 14, 2023.

Findings of Fact

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

1. The appellant is an adult over the age of 65 who applied for MassHealth long-term care benefits on November 9, 2022. Testimony, Exhibit 1.
2. MassHealth denied the appellant's application on January 12, 2023, on the basis that the appellant possessed assets \$3215.39 over the limit allowed by MassHealth regulations. The excess assets were primarily due to the \$4,343.42 cash value of a life insurance policy owned by the appellant. Testimony, Exhibit 1.
3. At hearing, MassHealth indicated that the appellant could "spend down" the assets by transferring ownership of the policy, and the appellant's representative stated an intent to transfer it to the funeral home contracted to conduct the appellant's burial services upon her death. Testimony.

4. The record was kept open for the appellant until March 24, 2023, for the appellant and until March 31, 2023 for MassHealth to respond to any submissions, and then was extended until April 7, 2023 for the appellant and April 14, 2023 for MassHealth. Testimony, Exhibit 5 at 5.

5. On April 4, 2023, the appellant submitted documentation from the insurance company indicating an assignment of beneficiary to the funeral home with the appellant remaining the owner of the policy, retaining the right to assign the policy to a different funeral home. Exhibit 5 at 3.

6. As of the closing of the record open period on April 14, 2023, the only documentation MassHealth received regarding the insurance policy lists the appellant as the owner. There were no further attempts by the appellant or her representative to extend the record open period despite the hearing officer's offer to do so. Exhibit 5 at 1.

Analysis and Conclusions of Law

An applicant for any MassHealth benefits is required to “cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility...” 130 CMR 515.008(A). After receiving an application for benefits, MassHealth proceeds as follows:

The MassHealth agency requests all corroborative information necessary to determine eligibility.

- (1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of receipt of the application.
- (2) The notice advises the applicant that the requested information must be received within 30 days of the date of the request, and of the consequences of failure to provide the information.

130 CMR 516.001(B). “If the requested information...is received [by MassHealth] within 30 days of the date of the request, the application is considered complete...If such information is not received within 30 days of the request, MassHealth benefit may be denied.” 130 CMR 516.001(C).

MassHealth applicants must meet certain financial requirements to be eligible for long-term care services. Specifically, “[t]he total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard” may not exceed \$2000 for an individual and \$3000 for certain couples living together in the community. See 130 CMR 520.003(A). Such assets include “the cash surrender value of a life insurance policy.” 130 CMR 520.007(E). “If the total face value of all countable life-insurance policies owned by the applicant, member, or spouse exceeds \$1,500, the total cash-surrender value of all policies held by that individual is countable.” *Id.*

Applicants who are deemed to have assets exceeding the allowed amount may “[reduce] the assets

to the allowable asset limit within 30 days after the date of the notification of excess assets” and remain eligible for MassHealth. 130 CMR 520.004(A)(b). MassHealth “requires the applicant to verify...that his or her excess assets were reduced to the allowable asset limit within required timeframes.” *Id.*

MassHealth does consider all assets owned by an applicant, as some are deemed to be “inaccessible” when the applicant is in possession of an asset to which it has “no legal access.” 130 CMR 520.006(A). An example of an inaccessible asset would be “the cash-surrender value of life-insurance policies when the policy has been assigned to the issuing company for adjustment.” 520.006(B)(2).

Certain funeral or burial arrangements can also be considered a “noncountable asset, including “life-insurance policies designated exclusively for funeral and burial expenses with a total face value not to exceed \$1,500...the cash-surrender value of burial insurance...and prepaid irrevocable burial contracts or irrevocable trust accounts designated for funeral and burial expense.” 130 CMR 520.008(F)(1).

Here, the documentation provided to MassHealth is clear that the policy in question is a life-insurance policy owned by the appellant that has a cash value that exceeds \$1500. Further, although it is “irrevocably assigned” to the funeral home, the appellant “retains the right to designate and change the primary beneficiary to another funeral home or funeral director licensed in this or in another state...”, giving the appellant some legal access to the policy. Exhibit 5 at 17. The March 30, 2023 letter from the insurance company also indicates that the death benefits have been assigned to the funeral home only “up to the cost of the funeral merchandise and services.” Exhibit 5 at 11. This implies that any remaining balance of the policy would fall to the remaining beneficiary, which appears to be the appellant’s daughter. Exhibit 5 at 13.

Because the policy is owned by the appellant, exceeds a value of \$1,500 despite being designated for funeral and burial expenses, is still legally accessible to the appellant, and does not fall into one of the remaining categories provided in 130 CMR 520.008(F)(1). It is not sufficient that the appellant “irrevocably transferred” the policy to the funeral home as the beneficiary, as the appellant is still the owner, making the policy a countable asset under MassHealth regulations. MassHealth was thereby correct in counting the policy as an asset, and there is no dispute that the policy, in combination with the appellant’s remaining assets, puts her over the asset limit and ineligible for MassHealth long-term care benefits. 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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

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