

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2301395
<b>Decision Date:</b>	3/28/2023	<b>Hearing Date:</b>	03/23/2023
<b>Hearing Officer:</b>	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Jonathan Gonzalez (Charlestown MEC)



*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>	Dismissed	<b>Issue:</b>	Long Term Care (LTC) Assets
<b>Decision Date:</b>	3/28/2023	<b>Hearing Date:</b>	03/23/2023
<b>MassHealth's Rep.:</b>	Jonathan Gonzalez	<b>Appellant's Rep.:</b>	[REDACTED]
[REDACTED]	[REDACTED]		
	Enrollment Center		

## 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 19, 2023, MassHealth denied the appellant's application for MassHealth LTC benefits because MassHealth determined that he had more countable assets than MassHealth benefits allowed. (See 130 CMR 520.003; 520.004 and Exhibit (Ex.) 1, p. 5; Ex. 2, p. 5). The appellant filed this appeal in a timely manner on February 21, 2023. (See 130 CMR 610.015(B) and Ex. 1). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's application for LTC benefits because he had countable assets exceeding the asset limit

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003 and 520.004, in determining that the appellant was over the countable asset limit.

## Summary of Evidence

The MassHealth representative stated that the appellant applied for LTC benefits on March 31, 2022. The MassHealth representative stated that a data match indicated that an individual with the appellant's name owned a piece of property in another state. The appellant's representatives were unable to show that the appellant did not own this property prior to the January denial, and therefore MassHealth determined that the appellant owned that asset. The MassHealth representative stated that MassHealth concluded this incorrectly, since the name on the deed that MassHealth obtained was not precisely the same as the appellant's name. The MassHealth representative stated that the deed indicated that property was conveyed to the owner of that property by that person's named uncles. The appellant's representatives confirmed that the appellant did not have uncles by those names. The MassHealth representative deemed this sufficient to show that the appellant did not, in fact, own the property. The MassHealth representative stated that MassHealth would issue a new notice approving coverage with the start date the appellant requested.

## Findings of Fact

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

1. The appellant applied for LTC benefits on March 31, 2022. (Testimony of the MassHealth representative)
2. A data match indicated that an individual with a name similar to the appellant's owned a piece of property in another state. (Testimony of the MassHealth representative).
3. The appellant's representatives were unable to show that the appellant did not own this property prior to the January denial, and therefore MassHealth determined that the appellant owned that asset. (Testimony of the MassHealth representative).
4. On January 19, 2023, MassHealth issued a determination denying the appellant's eligibility for MassHealth LTC benefits because he was over the countable asset limit. (Ex. 1, p. 5; Ex. 2, p. 5). (Testimony of the MassHealth representative).
5. The deed indicated that the property was conveyed to the individual who owned the property by two named uncles. (Testimony of the MassHealth representative).
6. The appellant does not have uncles with those names. (Testimony of the appellant's representatives).
7. The MassHealth representative stated that this was sufficient to show that the appellant did not own the property. (Testimony of the MassHealth representative).
8. The MassHealth representative stated he would authorize issuance of a new notice approving the appellant for LTC benefits with his requested start date. (Testimony of the MassHealth representative).

## Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035<sup>1</sup> as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (Id.). The only issue under consideration in this hearing was whether the appellant was over the countable asset limit. After questioning, the appellant's representatives were able to show, to the MassHealth representative's satisfaction, that the appellant did not own the one asset putting him over the countable asset limit.

For the above stated reasons, the appeal is DISMISSED.

## Order for MassHealth

If it has not already done so, MassHealth should issue a new determination approving the appellant for LTC benefits with the requested coverage start date as it indicated it would do during the hearing.

## 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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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

[REDACTED]

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<sup>1</sup> Specifically, 130 CMR 610.035(A)(8) seems the most applicable to this appeal and states that “BOH will dismiss a request for a hearing when...BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties...”