

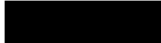
# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2301632
<b>Decision Date:</b>	8/11/2023	<b>Hearing Date:</b>	03/27/2023
<b>Hearing Officers:</b>	Christopher Taffe (Hearing); Rebecca Brochstein (Decision)	<b>Record Open Date:</b>	08/07/2023

Appearance for Appellant:



Appearances for MassHealth:

Jessica Adamiec, Taunton MEC



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

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long-term care eligibility
<b>Decision Date:</b>	8/11/2023	<b>Hearing Date:</b>	03/27/2023
<b>MassHealth's Rep.:</b>	Jessica Adamiec, Taunton MEC	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center (Telephonic)		

### 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 December 16, 2022, MassHealth denied the appellant's application for long-term care services due to excess assets (Exhibit 1<sup>1</sup>). The appellant filed this appeal in a timely manner on February 28, 2023 (130 CMR 610.015(B); Exhibit 2). Denial of benefits is a valid basis for appeal (130 CMR 610.032). The record was held open after hearing for the appellant to submit additional documentation, and the record-open deadline was then extended multiple times at the request of the appellant's representative (Exhibits 5 and 8).<sup>2</sup>

### Action Taken by MassHealth

MassHealth denied the appellant's long-term care application for failure to provide requested verifications.

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<sup>1</sup> The exhibits have been renumbered for purposes of this decision.

<sup>2</sup> During the record-open period, the hearing officer who presided at hearing left his position at the Board of Hearings. With notification to the parties, the appeal was reassigned to another hearing officer (Exhibit 7).

## **Issue**

The appeal issue is whether MassHealth was correct in denying the appellant's MassHealth application.

## **Summary of Evidence**

An eligibility caseworker from the Taunton MassHealth Enrollment Center appeared at the hearing telephonically and testified as follows: The appellant was resident of a nursing facility. On September 12, 2022, a MassHealth long-term care application was filed on her behalf, seeking coverage as of June 22, 2022. On December 16, 2022, MassHealth denied the application due to excess assets. At the time of the denial, the appellant's total assets were valued at \$5,354.53; this exceeds the \$2,000 regulatory asset limit by \$3,354.53. The MassHealth caseworker testified that the appellant's assets consist of three life insurance policies (valued at \$78.94, \$15.92, and \$249.98, respectively), a bank account (valued at \$2,102.70 after income was deducted), and a retirement account (valued at \$2,910.99). See Exhibit 4. She stated that as of the hearing date, the appellant had not provided any updated documentation to show that her assets had been reduced below the \$2,000 limit.

The appellant's representative appeared at the hearing telephonically.<sup>3</sup> She testified that the appellant was discharged from the facility to the community in November 2022, and that she has been trying to work with her and her family members to obtain the necessary documentation of the asset spend-down. She noted that the appellant also owes the facility for past patient-paid amount payments (PPAs). She stated that she believes the funds have been spent down, but needs additional time to obtain the documentation that will verify the current asset levels.

At the close of the hearing, the record was held open for the appellant's representative to obtain and submit documentation of the asset spend-down. Thereafter, the record-open period was extended several times at the request of the appellant's representative, who reported difficulties obtaining documentation from the relevant financial institutions. At the close of the final record-open extension, the MassHealth caseworker reported that she had not received the necessary information. The appellant's representative confirmed that she had not been able to obtain updated documentation from the bank or the life insurance company. See Exhibit 8.

## **Findings of Fact**

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

1. The appellant was a resident of a nursing facility.

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<sup>3</sup> The appellant's representative indicated that she had recently taken over management of the appellant's long-term care application, and did not have all of the documentation that MassHealth used to determine the account balances. The MassHealth representative stated that she would send her the appeal packet containing that documentation following the hearing.

2. A MassHealth long-term care application was submitted on the appellant's behalf on September 12, 2022, seeking coverage as of June 22, 2022.
3. On December 16, 2022, MassHealth denied the long-term care application due to excess assets.
  - a. MassHealth determined the appellant had assets totaling \$5,354.53, which exceeded the regulatory limit of \$2,000.
  - b. The appellant's assets consisted of three life insurance policies (valued at \$78.94, \$15.92, and \$249.98, respectively), a bank account (valued at \$2,102.70 after income was deducted), and a retirement account (valued at \$2,910.99)
4. On February 28, 2023, the appellant filed a timely appeal of the over-asset denial notice.
5. A fair hearing was held on March 27, 2023. As of that date, the appellant had not provided documentation that the assets had been reduced below the \$2,000 limit.
6. The record was held open after hearing for the appellant's representative to obtain and submit documentation of the asset reduction. The record-open period was subsequently extended several times.
7. The appellant has not provided documentation that the assets have been reduced below \$2,000.

### **Analysis and Conclusions of Law**

Under 130 CMR 520.003(A)(1), the total value of countable assets owned by or available to an individual applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed \$2,000. An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth:

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); 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 limit within 30 days after the date of the notification of excess assets.

130 CMR 520.004(A).

In this case, MassHealth denied the appellant's MassHealth long-term care application because

her assets exceeded the \$2,000 regulatory limit. There is no dispute that the appellant still had excess assets as of the hearing date. Further, though she was given substantial time after the hearing to verify that her assets had been reduced, she has not provided any documentation of a spend-down.

This appeal is therefore 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.

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Rebecca Brochstein  
Hearing Officer  
Board of Hearings

cc: Taunton MEC