

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302343
<b>Decision Date:</b>	4/28/2023	<b>Hearing Date:</b>	04/20/2023
<b>Hearing Officer:</b>	Mariah Burns		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Evelyn Daniel, 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long-Term Care Start Date
<b>Decision Date:</b>	4/28/2023	<b>Hearing Date:</b>	04/20/2023
<b>MassHealth's Rep.:</b>	Evelyn Daniel	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 March 8, 2023, MassHealth approved the appellant for long-term care services with a retroactive start date of November 1, 2022. Exhibit 1. The appellant filed this appeal in a timely manner on March 22, 2023, arguing that the start date should be September 1, 2022. Exhibit 2. Challenging individual MassHealth agency determinations regarding scope and amount of assistance is a valid grounds for appeal. 130 CMR 610.032(A)(5).

## Action Taken by MassHealth

MassHealth approved the appellant for long-term care benefits with a retroactive start date of November 1, 2022.

## Issue

The appeal issue is whether MassHealth accurately calculated the retroactive start date for the appellant's long-term care benefits based on the history of the appellant's application process.

## Summary of Evidence

MassHealth was represented by a worker from the Springfield MassHealth Enrollment Center (MEC) who testified telephonically. The appellant appeared by telephone and was joined by her

daughter, who was listed as her appeal representative. The following is a summary of the testimony and physical evidence provided:

On March 8, 2023, the appellant was approved for MassHealth long-term care benefits with a start date of November 1, 2022. The appellant appealed that notice, requesting a start date of September 1, 2022. Multiple applications were submitted on behalf of the appellant prior to the application that resulted in the appealed notice. One such application led to a November 26, 2022<sup>1</sup>, denial notice that indicated that the appellant was both over assets and failed to submit verifications<sup>2</sup>. That notice gave the appellant 30 days to spend down her assets to honor the initial application date.

When the appellant's representative received the November 26 notice, she contacted the appellant's life insurance company and signed over the policy to the nursing home on December 7, 2022. The life insurance company issued a letter on January 3, 2023, indicating as such, and they assured that they would provide the letter to MassHealth. However, MassHealth never received the letter and were not able to honor the application date. The appellant did not appeal the November 26 notice or any notice prior.

The appellant's representative contacted MassHealth sometime after January 3, 2023, and was told that the appellant was denied for long-term care benefits and that a new application would need to be submitted. A new application, which included the letter from the life insurance company, was submitted on February 2, 2023, and the relevant notice was eventually generated approving the appellant for long-term care benefits with a November 1, 2022, start date.

## **Findings of Fact**

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

1. On March 8, 2023, MassHealth issued a notice approving the appellant for MassHealth long-term care benefits with a start date of November 1, 2022.
2. The appellant timely appealed that notice and requested a start date of September 1, 2022.
3. The appellant did not submit a request for fair hearing on any denial notice prior to the March 8 approval notice.

## **Analysis and Conclusions of Law**

The appellant contends that her September application date should have been honored, because the

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<sup>1</sup> A duplicate notice identical to this was also generated and sent on December 5, 2022. It was not appealed.

<sup>2</sup> The verifications notice appear to have been sent prematurely, as the due date for the requested documentation was not until December 21, 2022. However, since the appellant did not submit a request for fair hearing for the November 26 notice, that is not relevant to this appeal.

letter she obtained from her life insurance company indicates that the life insurance policy was signed over to the nursing home on December 7, 2022, which was within the 30 days spend-down period allowed by the November 26, 2022 notice. MassHealth argues that they did not receive that letter within the 30 days, and that because the appellant did not appeal that notice, they could not honor the initial application date when they ultimately received the letter with the February 17, 2023 application.

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, there is a \$2000 asset limit for an individual and a \$3000 limit 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)(1). Applicants who are deemed to have assets in excess of 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.” Any disagreement with a decision made by MassHealth with respect to a particular notice must be appealed pursuant to 130 CMR 610.015.

Here, the appellant did not file an appeal with respect to the November 26 notice, which states, in relevant part “If your application for MassHealth was denied because you did not give us the information or proof we needed to decide if you are eligible for MassHealth, you can either...send us some of the needed information or proof within 30 days of the date on this notice...or...ask for a fair hearing if you want us to go back to your original application date.” Exhibit 6 at 15. Because she did not file a fair hearing request, her rights with respect to that notice are not preserved, and where she is now outside the 60 days allowed by 130 CMR 610.015(B(1) and the 120 days allowed by MassHealth Eligibility Operations Memo 22-09 and its progeny, any issue stemming from that notice is now waived. Thus, at issue is whether MassHealth correctly calculated the appellant’s start date based on her February 17, 2023 application.

MassHealth may allow retroactive coverage for long-term care services “if covered medical services were received during such period, and the applicant or member would have been eligible at the time the services were provided.” 130 CMR 516.005. However, that retroactive coverage may only be “to the first day of the third calendar month before the month of application.” *Id.* The appellant filed her relevant application on February 17, 2023. Therefore, the first day that the appellant may be eligible for coverage of long-term care services is November 1, 2022, the day that MassHealth allowed. MassHealth correctly issued the start date for the appellant’s coverage based on the application date relevant to the notice that she appealed. 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.

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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