

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303482
Decision Date:	6/22/2023	Hearing Date:	June 20, 2023
Hearing Officer:	Stanley Kallianidis		

Appellant Representative:



MassHealth Representative:

Michelle Araujo, Taunton



***Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171***

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Excess Assets
Decision Date:	6/22/2023	Hearing Date:	June 20, 2023
MassHealth Rep.:	Michelle Araujo	Appellant Rep.:	[REDACTED]

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Notice dated 02/21/23 was sent to the appellant stating that MassHealth had denied her application for MassHealth benefits due to excess assets (Exhibit 1). The appellant filed this appeal on 04/19/23 and, therefore, it is timely (see Exhibit 2 and 130 CMR 610.015). A denial of MassHealth benefits is grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's long-term care application for MassHealth benefits.

Issue

Pursuant to 130 CMR 515.001 and 130 CMR 519.006, was the appellant an institutionalized individual subject to the \$2,000.00 allowable asset limitation at the time her application was denied?

Summary of Evidence

The MassHealth representative testified that the appellant, a MassHealth CarePlus member, is a disabled adult under 65 years of age. She was admitted to a rehab hospital on [REDACTED] 2022, and subsequently discharged directly to her nursing facility on [REDACTED] 2022. She was considered a short-term admission through [REDACTED] 2022 only, as this was the end of the six months that is considered a short-term stay. A long-term care conversion application was received on [REDACTED] 2022. The appellant was determined to have bank account assets of \$36,414.00 according to a bank match. Consequently, on February 21, 2023, the appellant's long-term care application was denied for having assets in excess of \$2,000.00 (Exhibit 3).

The MassHealth representative explained that MassHealth, pursuant to its policy, does not consider the assets of a member for the first six months of a short-term institutionalized stay. She further explained that the definition of institutionalization includes a rehab hospital stay as long as there was no break in time between the hospital and nursing facility (Exhibit 4).

The appellant did not dispute that she has assets of \$36,414.00. The appellant and her representative contended however, that they were not aware that the hospital stay was considered part of the short-term stay. The appellant stated that she would have left the nursing facility at the end of [REDACTED] 2022 instead of in early [REDACTED] 2023 had she known that her short-term stay was expiring. Her representative stated that the appellant has incurred a \$26,000.00 nursing home bill for the approximately two months that MassHealth has not covered her stay at the facility- [REDACTED] 2023- [REDACTED] 2023 (Exhibit 2). The appellant cannot afford this bill, she added.

Findings of Fact

The record shows, and I so find:

1. The appellant, a disabled adult under 65 years of age and a MassHealth CarePlus member, was admitted to a rehab hospital on [REDACTED] 2022, and subsequently discharged directly to her nursing facility on [REDACTED] 2022 (Exhibit 3).
2. The appellant's long-term care conversion application was received on December 27, 2022 (Exhibit 3).
3. The appellant has bank account assets of \$36,414.00 (Exhibit 3).
4. The appellant was considered a short-term admission through [REDACTED] 2022 as this was the end of her six months of continuous institutionalization (Exhibits 3, 4 and testimony).
5. The appellant's bank account is still over the \$2,000.00 asset limit for her household size

(testimony).

6. The appellant has incurred a \$26,000.00 nursing home bill for the approximately two months that MassHealth has not covered her stay at the facility (Exhibits 2 & 3).

Analysis and Conclusions of Law

130 CMR 515.001 Definitions:

Institution (Medical) – a public or private facility providing acute, chronic, or long-term care, unless otherwise defined within 130 CMR 515.000 through 522.000: Other Division Programs. This includes acute inpatient hospitals, licensed nursing facilities, state schools, intermediate-care facilities for the mentally retarded, public or private institutions for mental diseases, freestanding hospices, and chronic-disease and rehabilitation hospitals.

Institutionalization – placement of an individual in one or more medical institutions, where placement lasts or is expected to last for a continuous period of at least 30 days.

Pursuant to 130 CMR 519.006: Long-Term-Care Residents (A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must (1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant; (2) be determined medically eligible for nursing-facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services; (3) contribute to the cost of care as defined at 130 CMR 520.026: Long-Term-Care General Income Deductions; (4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets When One Spouse Is Institutionalized; and (5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

The asset limit for institutionalized individuals is set at \$2,000.00 in accordance with the regulations set for above. By these definitions, MassHealth considers a period of institutionalization to include time at a hospital as well as a nursing home as long as it is continuous. While the time to be deemed institutionalized is set at 30 days, MassHealth does not look at assets of MassHealth members for the first six months if they are coded as short-term.

In this case, I agree with MassHealth that the appellant's short-term admission began on [REDACTED] 2022, and ended [REDACTED] 2022. While she started at a rehab hospital on [REDACTED] 2022 and did not enter her nursing facility until [REDACTED] 2022, there was no break in her stay in an institution as she did not return to the community at any time until her nursing home discharge of [REDACTED] 2023.

I have found that there was no dispute that the appellants assets were \$36,414.00 when she filed her long-term care conversion application on December 27, 2022. Additionally, there was no indication at hearing that the appellant has reduced her assets anywhere near the \$2,000.00 limit for a long-term care individual. MassHealth's action to deny her long-term care application for excess assets was correct and the decision stands.

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.

Stanley Kallianidis
Hearing Officer
Board of Hearings

cc:

Taunton MEC

