

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	APPROVED	Appeal Number:	2306257
Decision Date:	10/23/2023	Hearing Date:	09/06/2023
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Kathleen Towle



*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:	APPROVED	Issue:	Disqualifying Asset Transfer
Decision Date:	10/23/2023	Hearing Date:	09/06/2023
MassHealth's Rep.:	Kathleen Towle	Appellant's Rep.:	
Hearing Location:	Springfield MEC		

Authority

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

Jurisdiction

Through notice dated July 18, 2023, MassHealth denied Appellant's application for MassHealth benefits upon determining that Appellant had made a disqualifying transfer of assets (Exhibit A). Appellant filed this appeal in a timely manner on July 27, 2023 (Exhibit A). Denial of assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's application for MassHealth benefits upon determining that Appellant had made a disqualifying transfer of assets.

Issue

The appeal issue is whether or MassHealth properly applied the controlling regulation(s) to accurate facts when it determined that Appellant made a disqualifying transfer of assets.

Summary of Evidence

Both parties appeared by telephone.

The MassHealth representative testified that Appellant filed an application for MassHealth Long-Term Care Benefits on June 5, 2023. The application was denied on July 18, 2023 due to a disqualifying transfer of assets made within the five-year look back period from the date of application. According to MassHealth, Appellant gave her adult daughter \$30,000.00 to purchase a car. MassHealth assessed a period of ineligibility extending on and between June 6, 2023 and August 25, 2023 (Exhibit A).

Appellant's representative appeared along with Appellant's daughter. The daughter acknowledged that Appellant did give her \$30,000 in 2022 in order for the daughter to purchase a new car for herself. The daughter offered testimony consistent with a one-page, typed statement that was signed and witnessed (Exhibit A, page 18).

The daughter testified that in 2022 her car was 19 years old and had been driven over 200,000 miles. The daughter was experiencing repeated costly repairs. In September 2022, the car broke down again and she was advised that it was no longer worth repairing. She sold it to salvage for \$450. The daughter noted that this was during the Covid pandemic and prices for both used and new cars had increased dramatically. The daughter testified that she reached out to multiple financial institutions to obtain a loan to purchase a new car, but due to her credit having been diminished due to a number of marital and financial setbacks, she was unable to obtain the needed credit. Ultimately, the daughter's parents offered to help buy her a new car. The daughter testified that this was not unusual in that her parents had provided both her and her brother with financial assistance on numerous occasions throughout their lives. The daughter submitted a signed itemization of funds the parents had gifted to both her and her brother since the 1980s amounting to approximately \$55,000, not including the \$30,000 at issue (Exhibit A, page 19). The daughter also submitted copies of five credit denials and documentation concerning financial difficulties (Exhibit A, pages 20-33).

Upon questioning by the hearing officer, the MassHealth representative stated that she found Appellant to be credible on the matter of intent. She also noted that had the \$30,000.00 not been transferred, it would have been shifted to the community spouse as part of the community spouse's retained asset amount. The MassHealth representative also testified that, but for the transfer, Appellant would have been eligible for Long Term Care benefits on the requested start date.

Findings of Fact

By a preponderance of the evidence, this record supports the following findings:

1. Appellant filed an application for MassHealth Long-Term Care Benefits on June 5, 2023.
2. MassHealth denied the application on July 18, 2023 due to a disqualifying transfer of assets made within the five-year look back period from the date of application.
3. In 2022, Appellant gave her adult daughter \$30,000.00 to purchase a car.
4. MassHealth assessed a period of ineligibility extending on and between June 6, 2023 and August 25, 2023 (Exhibit A).
5. In 2022 the daughter's car was 19 years old and had been driven over 200,000 miles.
6. The daughter's car was experiencing repeated costly repairs.
7. In September 2022, the car broke down again and the daughter was advised that it was no longer worth repairing.
8. The daughter sold her car to salvage for \$450.
9. Because of the Covid pandemic, prices for both used and new cars have increased dramatically.
10. The daughter reached out to multiple financial institutions to obtain a loan to purchase a new car, but due to her credit having been diminished due to a number of marital and financial setbacks, she was unable to obtain the needed credit.
11. Appellant and her husband offered to help the daughter buy a new car.
12. Appellant and her husband had gifted money to both their daughter and son on multiple occasions since the 1980s amounting to approximately \$55,000, not including the \$30,000 at issue (Exhibit A, page 19).
13. Appellant and her husband transferred the \$30,000.00 to their daughter to purchase a needed new car which she could neither afford nor finance, not to reduce their assets to qualify for MassHealth assistance.
14. Had the \$30,000.00 not been transferred, it would have been shifted to the community

spouse as part of the community spouse's retained asset amount.

15. But for the transfer, Appellant would have been eligible for Long Term Care benefits on the requested start date.

Analysis and Conclusions of Law

This record supports a finding that the subject transfer was not made in order for Appellant to reduce her assets to qualify for MassHealth. The daughter's testimony about her sudden need for a new car, her inability to finance a new car as well as the financial assistance provided to her and her brother by her parents over the years was credible. MassHealth agreed with this finding. Accordingly, MassHealth should not impose a period of ineligibility for this transfer in accordance with 130 CMR 520.019(F).

Additionally, had the funds not been transferred, they would have been shifted to the community spouse as part of his retained asset amount. These funds would have never gone to pay for Appellant's nursing home care.

For the foregoing reasons, the appeal is APPROVED.

Order for MassHealth

Rescind Notice of July 18, 2023 and approve Appellant for benefits according to the subject application.

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 the Enrollment Center gives you any problems with implementing 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]