

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2306643
Decision Date:	09/14/2023	Hearing Date:	08/29/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via video

Appearance for MassHealth:
Kelly Souza (Taunton MEC) *via video*



*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:	Denied	Issue:	Over 65 – Countable Assets
Decision Date:	09/14/2023	Hearing Date:	08/29/2023
MassHealth's Rep.:	Kelly Souza	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Taunton MassHealth 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 August 5, 2023, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that she had more countable assets than MassHealth benefits allowed. (See 130 CMR 520.003, 520.004 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on August 7, 2023. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits because she had more countable assets than MassHealth benefits allow.

Issue

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

Summary of Evidence

The MassHealth representative stated the following: The appellant submitted a MassHealth renewal on March 30, 2023. On June 27, 2023 and July 11, 2023, MassHealth sent the appellant requests for information. (Ex. 6; Ex. 7). Upon processing the appellant's renewal, MassHealth determined that the appellant had more countable assets than permitted for an individual. Under MassHealth rules, an individual is permitted to have countable assets that do not exceed \$2,000. At the time MassHealth sent the denial notice, the appellant's assets consisted of a life insurance policy with a cash value of \$38,149.65, bank accounts totaling \$2,446.95, and security brokerage accounts totaling \$303,886.87. (Ex. 1; Ex. 8; Ex. 9; Ex. 10). The appellant's assets totaled \$344,483.47. (Ex. 1). Subtracting \$2,000, the appellant was \$342.483.47 over the asset limit. (Id.). The appellant did submit verifications prior to the hearing indicating the value of her bank accounts were now \$533. (Ex. 5). The appellant's assets continue to exceed the asset limit, however.

The appellant confirmed that she submitted the renewal request on March 30, 2023. The appellant also confirmed that she received the requests for information and sent in the requested verifications. The appellant stated that she was confused as to what could and could not be counted in terms of the \$2,000 asset limit. She stated that the brokerage accounts, particularly some of the assets in the accounts, cannot be accessed before the age of 70 without the imposition of severe penalties. The appellant stated that she received these brokerage accounts as a result of her aunt's will. The appellant spoke to several people at MassHealth concerning whether these funds are considered accessible and felt she could not get a clear answer. The appellant was just requesting clarity and an explanation.

The MassHealth representative stated that the appellant has full power to access the assets, including the brokerage accounts. These could be used in order to help the appellant pay for her healthcare. The MassHealth representative stated that the brokerage account statements also show that dividends are being earned, which are currently being reinvested but which the appellant could access without penalty.

Findings of Fact

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

1. The appellant submitted a MassHealth renewal on March 30, 2023. (Testimony of the MassHealth representative; Testimony of the appellant).
2. On June 27, 2023 and July 11, 2023, MassHealth sent the appellant requests for information. (Ex. 6; Ex. 7).
3. Upon processing the appellant's renewal, MassHealth determined that the appellant had

more countable assets than permitted for an individual. (Testimony of the MassHealth representative).

4. Under MassHealth rules, an individual is permitted to have countable assets that do not exceed \$2,000. (Testimony of the MassHealth representative).
5. At the time MassHealth sent the denial notice, the appellant's assets consisted of a life insurance policy with a cash value of \$38,149.65, bank accounts totaling \$2,446.95, and securities brokerage accounts totaling \$303,886.87. (Ex. 1; Ex. 8; Ex. 9; Ex. 10).
6. The appellant's assets totaled \$344,483.47 and subtracting \$2,000, the appellant was \$342,483.47 over the asset limit. (Ex. 1).
7. The appellant did submit verifications prior to the hearing indicating the value of her bank accounts were now \$533. (Ex. 5).

Analysis and Conclusions of Law

Countable assets are all assets that must be included in the determination of eligibility. (130 CMR 520.007). Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. (Id.). Countable assets include bank accounts (deposits in a bank, savings and loan institution, credit union, or other financial institution, which may be in the form of savings, checking, or trust accounts, term certificates, or other types of accounts); securities (including stocks, bonds, options, futures contracts, debentures, mutual funds including money-market mutual funds, and other financial instruments); and the cash-surrender value of a life-insurance policy (the amount of money, if any, that the issuing company has agreed to pay the owner of the policy upon its cancellation). (130 CMR 520.007(B)(1),(D),(E)(1)). The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed \$2,000 for that individual. (130 CMR 520.003(A)(1)).

A preponderance of the evidence demonstrates that that the appellant has assets that greatly exceed the \$2,000 asset limit. The appellant stated that she could not access the contents of some of these assets without incurring significant penalties. Although this may be true, the appellant is not legally prevented from accessing these funds, which means that they are not inaccessible as defined under the MassHealth regulations. (See 130 CMR 520.006(A)). Therefore, because the appellant is over the countable asset limit, she is not currently eligible for MassHealth benefits.

For the above stated reasons, 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780