

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307649
Decision Date:	10/10/2023	Hearing Date:	09/12/2023
Hearing Officer:	Emily T. Sabo	Record Open to:	10/03/2023

Appearance for Appellant:




Appearance for MassHealth:

Irmalyn Hernandez, Taunton MEC



*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:	Long Term Care Eligibility; Over 65; Excess Assets
Decision Date:	10/10/2023	Hearing Date:	09/12/2023
MassHealth's Rep.:	Irmalyn Hernandez	Appellant's Rep.:	
Hearing Location:	Taunton MassHealth Enrollment Center (Remote)	Aid Pending:	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 29, 2023, MassHealth denied the appellant's application for MassHealth long-term care services in a nursing facility because MassHealth determined that the appellant had more countable assets than allowed (see 130 CMR 520.003, 130 CMR 520.004, and Exhibit 1). The appellant's guardian filed this appeal in a timely manner on May 29, 2023 (see 130 CMR 610.015(B) and Exhibit 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 long-term-care services in a nursing facility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003 and 130 CMR 520.004, in determining that the appellant had more countable assets than allowed.

Summary of Evidence

The MassHealth representative appeared telephonically and testified as follows: the appellant is a single individual over the age of 65. The appellant was admitted to a long-term-care facility on [REDACTED]. MassHealth received a request for a long-term-care conversion for the appellant on November 28, 2022, requesting a start date of August 1, 2022. On December 13, 2022, MassHealth requested further information from the appellant. On January 18, 2023, MassHealth denied the application. The appellant appealed the denial and submitted all missing information to MassHealth. MassHealth preserved the appellant's November 28, 2022, application date and processed his application. By notice dated March 29, 2023, after determining the appellant's assets exceed the MassHealth limit of \$2,000 for a single individual, MassHealth denied the application. Due to a savings account containing \$15,879.53, MassHealth found the appellant had an excess \$13,879.53 in assets.

The appellant's guardian and representative appeared telephonically and verified the appellant's identity. The appellant's guardian testified that the appellant's savings account had closed, and that a conservatorship account had been opened. The appellant's guardian testified that the appellant's assets had been spent down in paying the long-term-care facility. The appellant's guardian requested that the record be held open until September 19, 2023, in order to submit supporting information to MassHealth and the Board of Hearings. The MassHealth representative requested until October 3, 2023, to respond.

The appellant's guardian did not submit additional information to MassHealth or the Board of Hearings during the record open period.

Findings of Fact

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

1. The appellant is a single individual over the age of 65 (Testimony, Exhibits 1 & 4).
2. The appellant submitted a MassHealth application for long-term-care residents on November 28, 2022, seeking an August 1, 2022, MassHealth start date (Testimony).
3. The appellant had a savings account with a balance of \$15,879.53 (Testimony, Exhibit 1).
4. MassHealth determined that the appellant was not eligible for MassHealth long-term-care services because he had excess assets of \$13,879.53 (Testimony, Exhibit 1).

5. The appellant is institutionalized (Testimony).

Analysis and Conclusions of Law

In evaluating financial eligibility for MassHealth, 130 CMR 520.016(A) provides that “[t]he total value of assets owned by an institutionalized single individual or by a member of an institutionalized couple must not exceed \$2,000.” See also 130 CMR 520.003(A)(1). The MassHealth regulations outline how an individual can reduce assets to qualify for MassHealth:

(A) Criteria.

(1) 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.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

(1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: Date of Application; and

(2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

130 CMR 520.004.

MassHealth denied the appellant's application for benefits because it determined that the appellant's assets rendered him financially ineligible. The appellant had a savings account with a balance of \$15,879.53. The asset limit for a single, institutionalized individual is \$2,000. 130 CMR 520.003(A)(1); 130 CMR 520.0016(A). The appellant's countable assets exceeded the MassHealth limit of \$2,000 by \$13,879.53 and the appellant was not financially eligible for MassHealth.

While the appellant's guardian testified that the appellant had reduced his assets, as allowed by 130 CMR 520.004, no supporting evidence was provided during the record open period. Therefore, MassHealth did not err in denying the appellant's application for MassHealth long-term-care services. Accordingly, the appeal is denied insofar as the appellant's assets still exceed the MassHealth limit.

The appellant shall have 30 days from the date of this decision to submit proof of spend down of the excess assets to MassHealth. If the excess assets are spent down within 30 days of this decision, MassHealth shall reopen the appellant's November 28, 2022, application and determine if the appellant made any disqualifying transfers.

Order for MassHealth

The appellant shall have 30 days from the date of this decision to spend down \$13,879.53 and submit proof of such to MassHealth. If the appellant submits proof of spend down of assets to MassHealth within 30 days, MassHealth shall reopen the November 28, 2022, application and process it.

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.

Emily T. Sabo
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

Appellant's Representative: [REDACTED]