

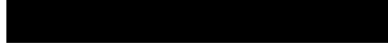
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2308422
<b>Decision Date:</b>	11/17/2023	<b>Hearing Date:</b>	10/16/2023
<b>Hearing Officer:</b>	David Jacobs		

**Appearances for Appellant:**



**Appearances for MassHealth:**

Elizabeth Rodriguez, Tewksbury MEC



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

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over Assets
<b>Decision Date:</b>	11/17/2023	<b>Hearing Date:</b>	10/16/2023
<b>MassHealth Rep.:</b>	Elizabeth Rodriguez	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings (Remote)		

### 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 24, 2023, MassHealth denied the appellant's application for MassHealth long-term care benefits due to excess assets (Exhibit 1). Appellant's representative filed an appeal in a timely manner on September 15, 2023 (Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

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

### Issue

The appeal issue is whether MassHealth was correct in denying the appellant's application for MassHealth long-term care benefits?

## Summary of Evidence

The MassHealth representative testified that on August 24, 2023, the appellant's benefits were changed to Senior Buy-in due to excess assets of \$1,616.24 (Exhibit 1). The MassHealth representative identified that the excess funds were located in two life insurance policies. Documents from the life insurance provider submitted by the appellant during her application show that the two policies had cash surrender values of \$2,216.04 and \$1,335.36 respectively (Exhibit 5). The appellant appeared and testified that she needed the money in these policies to pay for her funeral expenses and they had no cash out value. In response the MassHealth representative requested that the appellant submit proof of her arrangement with the life insurance provider and burial company. The appellant responded that she did not have a detailed understanding about how life insurance worked and was unsure whether it had been assigned to a burial company. Therefore, it was requested that the appellant submit any documents related to the matter from either the life insurance provider or a burial company (Exhibit 6). The record was held open until October 30, 2023 for the appellant representative to submit the requested documents (Exhibit 6). MassHealth was given until November 6, 2023 to review the submitted documents (Exhibit 6). On October 30, 2023, the appellant submitted a blank assignment form from a burial company and a letter from the life insurance provider stating in summary that the life insurance policies in question had no cash return value and could only be claimed in the event of the appellant's death (Exhibit 7). On November 15, the MassHealth representative sent an email rejecting the submitted documents as insufficient for two reasons (Exhibit 8). First, the letter contradicts earlier documents the appellant submitted showing cash surrender values for the two life insurance policies at issue (Exhibit 8). Second, the submitted letter is not credible as it is fully typed and does not have a proper letter head of the insurance provider similar to the earlier submissions (Exhibit 8).

## Findings of Fact

Based on a preponderance of the evidence, I find as follows:

1. On August 24, 2023, MassHealth denied the appellant's application for long-term care benefits due to excess assets of \$1,616.24.
2. The assets in question were located in two life insurance policies.
3. The two life insurance policies had a cash surrender value of \$2,216.04 and \$1,335.36 respectively.
4. The record was held open until October 30, 2023 for the appellant to submit proof that she did not have access to the cash surrender value of the life insurance policies at issue.
5. As of November 15, 2023, the appellant still had access to the cash surrender value of the

life insurance policies at issue.

## **Analysis and Conclusions of Law**

The total value of countable assets owned by or available to an individual receiving MassHealth benefits may not exceed \$2,000 (130 CMR 520.003(A)(1)). The two life insurance policies at issue have a cash surrender value that exceeds \$2,000.00 (Exhibit 5). Although the appellant submitted a letter from the life insurance provider stating the policies have no cash return value and are only accessible upon the appellant's death (Exhibit 7, pg. 3), this is not credible. The letter directly contradicts earlier documents submitted by the appellant showing that her policies had cash surrender values (Exhibits 5 and 7, pg. 3). The submitted letter gives no explanation for this discrepancy (Exhibit 7, pg. 3). Furthermore, considering this discrepancy, the hearing officer agrees with MassHealth that the credibility of the new letter is questionable (Exhibit 8). It is fully typed with no letterhead, the name of the provider is incorrect, and it is signed by a person with an email address not associated with the provider (Exhibit 7, pg. 3). Meanwhile the earlier provider document has an official letterhead at the top and appears to have been created in the regular course of business for the provider (Exhibit 5). Therefore, it is found that the life insurance policies in question did have a cash surrender value in excess of \$2,000. Although the appellant testified she needs the life insurance policies at issue for funeral costs, there is no exception for need for 130 CMR 520.003(A)(1).

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.

---

David Jacobs  
Hearing Officer  
Board of Hearings

cc:  
Tewksbury MEC