

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved/ Dismissed	Appeal Number:	2308743
Decision Date:	10/20/2023	Hearing Date:	10/11/2023
Hearing Officer:	Thomas J. Goode	Record Open:	11/3/2023

Appearance for Appellant:
Guardian

Appearance for MassHealth:
Tambria Pioggia, Springfield 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:	Approved/ Dismissed	Issue:	Excess Assets
Decision Date:	10/20/2023	Hearing Date:	10/11/2023
MassHealth's Rep.:	Tambria Pioggia	Appellant's Rep.:	Guardian
Hearing Location:	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 September 2, 2023, MassHealth denied Appellant's Senior Application because MassHealth determined that assets exceed program limits (130 CMR 520.003, 520.004 and Exhibit 1). Appellant filed this appeal in a timely manner on September 22, 2023 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's Senior Application because MassHealth determined that assets exceed program limits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, 520.004 in denying Appellant's Senior Application because assets exceed program limits.

Summary of Evidence

The MassHealth representative testified that Appellant is over 65 years of age and submitted a MassHealth Senior Application on July 7, 2023. Appellant is a household size of one non-disabled person living in the community. As of September 2, 2023, Appellant's assets totaled \$74,681.03 held in a bank account. Appellant's representative transferred \$70,700 to a Special Needs Trust which was submitted to MassHealth on October 10, 2023. Appellant's representative also submitted a disability supplement on Appellant's behalf which was approved by MassHealth. MassHealth determined that Appellant's Trust is non-countable, and approved Appellant for MassHealth Standard with Buy in coverage effective October 1, 2023 (Exhibit 5).

Appellant's legal guardian testified that Appellant suffered a stroke on [REDACTED] 2023 and remains hospitalized and will likely require a nursing facility placement. He added that nursing facilities he has spoken with are seeking assurances that MassHealth eligibility is pending. Appellant's representative testified that Appellant's assets outside of the trust are below \$500, and documentation would be sent to MassHealth.¹

Findings of Fact

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

1. Appellant is over 65 years of age and submitted a MassHealth Senior Application on July 7, 2023.
2. Appellant is a household size of one person living in the community.
3. A disability supplement submitted on Appellant's behalf was approved by Disability Evaluation Services. Appellant is permanently and totally disabled.
4. As of September 2, 2023, Appellant's assets totaled \$74,681.03 held in a bank account.
5. During the pendency of the appeal, Appellant's representative transferred \$70,700 to a Special Needs Trust which was submitted to MassHealth on October 10, 2023. MassHealth deemed the trust non-countable and approved MassHealth Standard with Buy In coverage effective October 1, 2023.²

¹ The hearing officer reopened the hearing record for Appellant to verify that assets remaining in a money market account had been spent down. Appellant submitted documentation of the asset spenddown that was acceptable to MassHealth (Exhibit 4).

² The trust is not at issue and is not evidence in the hearing record as MassHealth deemed it non-countable. It is unclear whether "special needs trust" and "pooled trust" are being used interchangeably and if the distinction

Analysis and Conclusions of Law

Pursuant to 130 CMR 610.051(B) the MassHealth agency or the acting entity may make an adjustment in the matters at issue before or during an appeal period. If the adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. During the pendency of the appeal, Appellant demonstrated that assets have been reduced to within program limits (See Exhibits 4, 5). Because the parties have reached resolution as to all matters related to the September 2, 2023 notice, resulting in MassHealth reversing the denial for excess assets and approving MassHealth Standard coverage with Buy In effective October 2, 2023, pursuant to 130 CMR 610.051, 610.035(A)(8), the appeal is APPROVED and DISMISSED.³

Order for MassHealth

Approved MassHealth Standard coverage with Buy In effective October 1, 2023.

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.

between trust types applies to Appellant who is over 65 years of age. See 130 CMR 515.001: definitions of special-needs trusts and pooled trusts.

³ If Appellant disagrees with the benefit start date, he will have appeal rights to the approval notice issued by MassHealth. The instant appeal is limited to the September 2, 2023 notice of denial for excess assets which has resolved to Appellant's favor.

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 you experience problems with the implementation of 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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: Appeals Coordinator: Dori Mathieu, Springfield MassHealth Enrollment Center