

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED/DISMISSED	<b>Appeal Number:</b>	2309578
<b>Decision Date:</b>	3/4/2024	<b>Hearing Date:</b>	01/09/2024
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Jonathan Gonzales



*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

<b>Appeal Decision:</b>	DENIED/DISMISSED	<b>Issue:</b>	Untimely RFH
<b>Decision Date:</b>	3/4/2024	<b>Hearing Date:</b>	01/09/2024
<b>MassHealth's Rep.:</b>	Jonathan Gonzales	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Charlestown MEC		

### 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 21, 2023, MassHealth approved Appellant's application for Senior Buy-In benefits effective January 1, 2023 (testimony). Appellant filed for an appeal in a timely manner on October 11, 2023 (see 130 CMR 610.015(B) and Exhibit A). Eligibility determinations constitute valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved Appellant's application for Senior Buy-In benefits effective January 1, 2023.

### Issue

The appeal issue is whether MassHealth properly applied the controlling regulations to accurate facts when it approved Appellant's application for Senior Buy-In benefits effective January 1, 2023.

## Summary of Evidence

Both parties appeared by telephone. Appellant, the estate of a deceased MassHealth applicant/member, was represented by legal counsel.

At the outset of the hearing, the hearing officer questioned Appellant as to what she was actually appealing, because it was unclear from Appellant's Request for Fair Hearing (Exhibit A). In response, Appellant stated she was appealing a denial due to excess assets relative to a long term care application. Appellant was seeking coverage to pay for time spent in a skilled nursing facility.

The MassHealth representative testified that while the member was still alive, an application for MassHealth Long-Term Care benefits had been filed. Appellant abandoned the long-term care application in January 2023 and filed an application for a waiver and MassHealth community benefits. MassHealth denied the waiver and community benefits on January 11, 2023, because the cash surrender value of a countable life insurance policy exceeded the eligibility limit.

The hearing officer questioned Appellant as to the date of the notice she believed was under appeal. Appellant stated, September 21, 2023.

The MassHealth representative testified that MassHealth issued a notice dated September 21, 2023 informing Appellant that she had been approved for Senior Buy-In benefits effective January 1, 2023.

## Findings of Fact

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

1. Appellant is the estate of a deceased MassHealth applicant/member.
2. Appellant is attempting to appeal a denial due to excess assets relative to a long term care application, seeking coverage to pay for time spent in a skilled nursing facility.
3. While the member was still alive, an application for MassHealth Long-Term Care benefits had been filed.
4. Appellant abandoned the long-term care application in January 2023 and filed an application for a waiver and MassHealth community benefits.
5. MassHealth denied the waiver and community benefits on January 11, 2023 because

the cash surrender value of a countable life insurance policy exceeded the eligibility limit.

6. MassHealth issued a notice dated September 21, 2023 informing Appellant that she had been approved for Senior Buy-In benefits effective January 1, 2023.

## **Analysis and Conclusions of Law**

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

Appellant is attempting to appeal a denial of an application for MassHealth Long-Term Care benefits due to excess assets. The record shows that there is no such denial. Appellant abandoned the Long Term Care application in January 2023 and applied for a waiver and community benefits. MassHealth denied the waiver and community benefits due to excess assets on January 11, 2023, not the long term care application.

Additionally, Appellant cannot timely appeal an action that occurred in January 2023 through a Fair Hearing Request dated October 11, 2023 (Exhibit A and 130 CMR 610.015(B)). The only action that Appellant's Fair Hearing Request can reach is the determination made on September 21, 2023 concerning the approval for Senior Buy-In benefits. Appellant did not dispute this determination.

For the foregoing reasons, MassHealth's notice of September 21, 2023 is upheld and the appeal is DENIED. Appellant's attempt to reach back to actions that are outside of the appeal filing deadline are DISMISSED.

## **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.

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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Nga Tran, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129