

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part Denied in part	Appeal Number:	2312131
Decision Date:	2/21/2024	Hearing Date:	12/20/2023
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Patricia Lemke



*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 in part Denied in part	Issue:	LTC eligibility start date
Decision Date:	2/21/2024	Hearing Date:	12/20/2023
MassHealth's Rep.:	Patricia Lemke	Appellant's Rep.:	
Hearing Location:	Springfield 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 November 2, 2023, MassHealth approved Appellant's application for MassHealth Long Term Care benefits with a start date of July 28, 2023 (Exhibit A). Appellant filed for an appeal in a timely manner on November 28, 2023 seeking a start date of July 16, 2023 (see 130 CMR 610.015(B) and Exhibit A). Determining an eligibility start date constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved Appellant's application for MassHealth Long Term Care benefits with a start date of July 28, 2023.

Issue

The appeal issue is whether Appellant is entitled, by proper application of the controlling regulation(s) to accurate facts, to a start date prior to July 28, 2023.

Summary of Evidence

The MassHealth representative appeared in person. Appellant appeared by telephone. MassHealth submitted a packet of documentation (Exhibit B). Appellant filed only her Fair Hearing Request (Exhibit A).

The MassHealth representative testified that Appellant filed an application for MassHealth Long Term Care benefits on 6/27/2023 with a requested start date (SC-1 date) of 7/16/2023. MassHealth approved the application on 11/2/2023 with a start date of 7/28/2023.

According to MassHealth, on the requested start date of 7/16/2023, Appellant was over the \$2000 asset limit by \$4019. Consequently, MassHealth performed a HALEY calculation dividing the excess by the average daily private pay rate (\$4019/\$350) to yield 12 days of private pay. This entitled Appellant to a start date of 7/28/2023 (12 days of private pay added to the requested date of 7/16/23 yields coverage through to and including 7/27/23).

According to MassHealth, Appellant's countable assets in July 2023 include:

[REDACTED]	
[REDACTED]	\$1426
[REDACTED]	\$2781
[REDACTED]	\$1312
<hr/>	
	\$6019
Minus the allowed assets	-2000
<hr/>	
	\$4019 of excess assets

Lastly, the MassHealth representative testified that Appellant spent her assets down to the \$2,000 eligibility limit on 9/29/2023 by writing a check in the amount of \$4700 to cover incurred snow plowing and lawn care expenses. MassHealth testified that these are not expenses that can be used to preserve an SC-1 date. MassHealth determined that the date reached by the HALEY calculation (7/28/2023) is more favorable to Appellant than the date of 9/29/2023 when the member actually spent down the excess assets.

Appellant's representative testified that she was just seeking an earlier start date but provided no authority for doing so. The hearing officer asked Appellant's representative on what basis could an earlier start date be granted. Appellant's representative indicated that she had no basis to cite.

Appellant's representative noted, however, that she did send in verification of a private payment made to the nursing facility in the amount of \$500.00. The MassHealth representative acknowledged receipt of the verification and agreed to grant an additional two days of coverage by moving the start date from 7/28/23 to 7/26/23.

Findings of Fact

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

1. Appellant filed an application for MassHealth Long Term Care benefits on 6/27/2023 with a requested start date (SC-1 date) of 7/16/2023.
2. MassHealth approved the application on 11/2/2023 with a start date of 7/28/2023.
3. On the requested start date of 7/16/2023, Appellant was over the \$2000 asset limit by \$4019.
4. MassHealth performed a HALEY calculation dividing the excess by the average daily private pay rate (\$4019/\$350) to yield 12 days of private pay.
5. Appellant also spent her assets down to the \$2,000 eligibility limit on 9/29/2023 by writing a check in the amount of \$4700 to cover incurred snow plowing and lawn care expenses.
6. The date reached by the HALEY calculation (7/28/2023) is more favorable to Appellant than the date of 9/29/2023 when the member actually spent down the excess assets.
7. Subsequent to the determination, Appellant filed verification of a private payment made to the nursing facility in the amount of \$500.00.
8. MassHealth acknowledged receipt of the verification and agreed to grant an additional two days of coverage by moving the start date from 7/28/23 to 7/26/23.

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 has not met her burden. Appellant has failed to demonstrate, or even assert, in any way that the subject determination was based on an error of fact or law at the time it was made. At hearing, Appellant did reference a verification of a \$500 payment made to the facility after the subject determination was made. MassHealth accepted the verification and granted an additional two days of MassHealth coverage by moving the start date from 7/28/23 to 7/26/23. Appellant made no objection to the adjusted start date.

MassHealth was correct in not adjusting the HALEY-determined start date based on Appellant's payment of \$4700 to cover incurred snow plowing and lawn care expenses. A start date can only be adjusted by allowable medical expenses (130 CMR 520.004). Expenses for snow plowing and lawn care are not medical expenses.

On this record, there is no basis in fact or law to disturb MassHealth's actions. For the foregoing reasons, the appeal is APPORVED as to the modified eligibility start date of 7/26/23, but DENIED as to granting eligibility prior to 7/26/2023,

Order for MassHealth

Change the start date to 7/26/2023 as agreed to at hearing.

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.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186