

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2313223
Decision Date:	02/29/2024	Hearing Date:	January 09,2024
Hearing Officer:	Brook Padgett		

Appellant Representative:




MassHealth Representative:

Alexsandra DeJesus, Springfield MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	130 CMR 520.019 Long-Term-Care Eligibility Transfer
Decision Date:	02/29/2024	Hearing Date:	January 09, 2024
MassHealth Rep.:	A. DeJesus	Appellant Rep.:	
Hearing Location:	Springfield	Record Open to	February 09, 2024

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The appellant received a notice dated November 17, 2023, stating: MassHealth has reviewed your application for MassHealth long-term-care services which you filed on 04/22/23. You are not eligible because you recently sold or gave away assets to make yourself eligible for MassHealth long-term-care services. MassHealth calculated a period of ineligibility from April 20, 2023 to July 19, 2024. (130 CMR 520.018 520.019)(Exhibit 1).

The appellant filed this appeal timely on December 14, 2024. (130 CMR 610.015); Exhibit 2).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth has denied the appellant MassHealth long-term-care benefits.

Issue

Did MassHealth correctly determine the appellant' long-term-care eligibility?

Summary of Evidence

MassHealth testified that the appellant was admitted to nursing facility on [REDACTED] and applied for MassHealth long term care benefits on April 22, 2023 requesting a start date of April 20, 2023. The appellant, who is [REDACTED] years old, transferred real estate on March 14, 2019, keeping a life estate interest. MassHealth determined the transfer occurred within the 5-year look back period and calculated a disqualification period of 452 days. The disqualification period was determined based on the 2022 value of the property \$217,200.00 multiplied by the Tiger Table Life Estate Interest Table of 0.88803 (using an interest rate of 3.2) resulting in a remainder interest of \$192,880.11 which divided by the nursing facility daily room rate of \$452.00 determined a disqualification period from April 20, 2023 to July 19, 2024. (Exhibit 4, 5 and 6).¹

The appellant's representatives disputed the value of the home as MassHealth used a 2022 evaluation rather than when the property was transferred in 2019. The representatives indicated they were going to provide a property assessment from 2019 for a recalculation of the penalty period and determine whether they would transfer the property back to the appellant and list the property for sale.

At the request of the appellant's representatives the hearing record was extended until February 09, 2024, to allow the submission of the 2019 evaluation along with any changes to the property deed and/or verification the property is for sale. (Exhibit 7).

On January 19, 2024, the appellant's representative submitted the 2019 valuation of the transferred property (\$153,400.00) and indicated the appellant had passed away on [REDACTED] (Exhibit 8). MassHealth responded on January 19, 2024 that the new disqualification period would be 301 days, based on the 2019 assessment of \$153,400.00 x .88803 Tiger tables using an interest rate of 3.2 = \$136,223.80 remainder interest which divided by the nursing facility room rate of \$452.00 per day = 301 days or from April 20, 2023 to February 15, 2024. (Exhibit 9).

On February 12, 2024, a representative from the facility indicated she understood the appellant would remain disqualified and would contact the family to withdraw the appeal. (Exhibit 10).

On February 14, 2024, the facility responded there has been no activity regarding property deed and the appellant's family was no longer communicating directly with the facility. (Exhibit 11). No additional evidence was provided prior to the close of the record open period.

¹ MassHealth stated that during the record open period it was determined the disqualification period of April 20, 2023 to July 19, 2024 (452 days) was incorrect as well as the calculation of the \$192,702.00 remainder interest. Using the \$217,200.00, 2022 assessment, the remainder interest should have been \$192,880.11 resulting in a disqualification period from April 20, 2023 to June 19, 2024 or 426 days (\$192,880.11/\$450.00). However once the 2019 property valuation was provided all the calculations utilizing the 2020 evaluation were deemed irrelevant.

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant was admitted to the nursing facility on [REDACTED] and applied for MassHealth long term care benefits on April 22, 2023 requesting a start date of April 20, 2023. (Exhibit 4 and testimony).
2. The appellant transferred property on March 14, 2019, valued at \$153,400.00, retaining a life estate interest. (Exhibit 4 and testimony).
3. At the time of the transfer the appellant was [REDACTED] years old. (Exhibit 4 and testimony).
4. MassHealth determined the appellant's life estate remainder interest in the property to be \$136,223.80, based on the appellant's age and the Tiger Table Life Estate Interest Table of 0.88803. (Exhibit 5 and 6).
5. \$136,223.80 remainder interest divided by the nursing facility daily room rate of \$452.00 equals 301 days of ineligibility or from April 20, 2023 to February 15, 2024. (Exhibit 9).

Analysis and Conclusions of Law

The appellant was admitted to nursing facility on [REDACTED] and applied for MassHealth long term care benefits on April 22, 2023 requesting a start date of April 20, 2023. MassHealth reviewed the appellant's application for MassHealth long term care services and determined the appellant had transferred an asset on March 14, 2019. This transfer is within the 60 month look back period. (130 CMR 520.019).²

Disqualifying Transfer of Resources. The MassHealth agency considers any transfer during the appropriate look-back period by the nursing-facility resident or spouse of a resource, or interest in a resource, owned by or available to the nursing-facility resident or the spouse (including the home or former home of the nursing-facility resident or the spouse) for less than fair-market value a disqualifying transfer unless listed as permissible in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019(J). The MassHealth agency may consider as a disqualifying transfer any action taken to avoid receiving a resource to which the

² 130 CMR 520.019: Transfer of Resources Occurring on or after August 11, 1993 (B) Look-Back Period. Transfers of resources are subject to a look-back period, beginning on the first date the individual is both a nursing-facility resident and has applied for or is receiving MassHealth Standard. (2) For transfers of resources occurring on or after February 8, 2006, the period generally extends back in time for 60 months. The 60-month look-back period will begin to be phased in on February 8, 2009. Beginning on March 8, 2009, applicants will be asked to provide verifications of their assets for the 37 months prior to the application. As each month passes, the look-back period will increase by one month until the full 60 months is reached on February 8, 2011.

nursing-facility resident or spouse is or would be entitled if such action had not been taken. Action taken to avoid receiving a resource may include, but is not limited to, waiving the right to receive a resource, not accepting a resource, agreeing to the diversion of a resource, or failure to take legal action to obtain a resource. In determining whether or not failure to take legal action to receive a resource is reasonably considered a transfer by the individual, the MassHealth agency considers the specific circumstances involved. A disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available. (130 CMR 520.019(C)).

Duration of Ineligibility. If the MassHealth agency has determined that a disqualifying transfer of resources has occurred, the MassHealth agency will calculate a period of ineligibility. The number of months in the period of ineligibility is equal to the total, cumulative, uncompensated value as defined in 130 CMR 515.001: Definition of Terms of all resources transferred by the nursing-facility resident or the spouse, divided by the average monthly³ cost to a private patient receiving nursing-facility services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency. (130 CMR 520.019(G)(1)).

Begin Date. For transfers occurring before February 8, 2006, the period of ineligibility begins on the first day of the month in which resources have been transferred for less than fair-market value. For transfers occurring on or after February 8, 2006, the period of ineligibility begins on the first day of the month in which resources were transferred for less than fair-market value or the date on which the individual is otherwise eligible for MassHealth agency payment of long-term-care services, whichever is later. (130 CMR 520.019(G)(3)).

There is no dispute that the appellant did not receive fair market value for the transfer of the remainder interest in her real estate property totaling \$136,223.80. This transferred remainder interest when divided by the nursing facility room rate of \$452.00 per day equals 301 days of disqualification, or from April 20, 2023 to February 15, 2024.

The appellant is not financially eligible for MassHealth long term care services until February 15, 2024 and this appeal is DENIED.

Order for MassHealth


None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, in part or whole, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a

³ MassHealth uses the average daily private pay nursing facility cost in calculating the ineligibility period.

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.



Brook Padgett
Hearing Officer
Board of Hearings

cc:

MassHealth representative:
Springfield MEC

[REDACTED]