

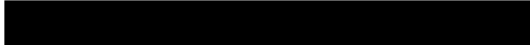
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2313423
Decision Date:	6/17/2024	Hearing Date:	01/16/2024
Hearing Officer:	Scott Bernard	Record Open to:	01/19/2024; extended to 04/05/2024

Appearance for Appellant:



Appearance for MassHealth:

Eileen Smith (Charlestown MEC) *via* telephone



*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:	Denied	Issue:	Long Term Care/Assets
Decision Date:	6/17/2024	Hearing Date:	01/16/2024
MassHealth's Rep.:	Eileen Smith	Appellant's Rep.:	
Hearing Location:	Charlestown MassHealth Enrollment Center	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 November 28, 2023, MassHealth denied the appellant's application for MassHealth Long Term Care (LTC) benefits because MassHealth determined that the appellant had more countable assets than MassHealth allows. (See 130 CMR 520.003; 520.016; and Exhibit (Ex.) 1, pp. 2-4). The appellant, through her court appointed conservator, filed this appeal in a timely manner on December 20, 2023. (See 130 CMR 610.015(B) and Ex. 1, pp. 5-10). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the request of the appellant's conservator, the record remained open until January 19, 2024, and was later extended to April 5, 2024 to give MassHealth time to review evidence submitted. (See Ex. 4; Ex. 5; Ex. 6; Ex. 7).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Standard for long term care residents.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003 and 520.016, in determining that the appellant's assets exceed the limit for MassHealth Standard for long term care residents.

Summary of Evidence

MassHealth was represented by a benefits eligibility and referral social worker from the Charlestown MassHealth Enrollment Center (MEC), and the appellant was represented by her conservator. Both parties attended the hearing by telephone.

The MassHealth representative testified to the following. The appellant is a single individual. (Testimony). MassHealth received the appellant's application for LTC benefits on February 8, 2023. (Testimony; Ex. 3, p. 1). The facility admitted the appellant at the end of [REDACTED] (Id.). The appellant previously received MassHealth, but her benefits closed on [REDACTED] due to excess assets from a home sale. (Testimony). According to the Status Change (SC-1) form, the nursing facility requested a start date of September 1, 2022. (Testimony; Ex. 3, p. 9). The earliest date MassHealth can approve based on the application date is November 1, 2022. (Testimony; Ex. 3, p. 1). MassHealth previously denied this application for failure to submit requested verifications. (Testimony). That appeal was resolved and MassHealth has now denied the application because the appellant is over the countable asset limit. (Testimony; Ex. 1, pp. 2-4; Ex. 3, pp. 2-4). MassHealth came to this conclusion based on the following documentation:

1. [REDACTED] A bank statement dated July 17, 2023 shows an account balance of \$2,460.10. (Ex. 3, p. 5; Testimony).
2. [REDACTED] A bank statement dated July 17, 2023 shows an account balance of \$21,357.72. (Ex. 3, p. 6; Testimony).
3. Representative payee account: A statement dated September 13, 2023 shows a balance of \$748.80. (Ex. 3, p. 7; Testimony).
4. Personal Needs Account (PNA): As of July 7, 2023 the balance was \$291.55. (Ex. 3, p. 8; Testimony).

The appellant's bank account balances total \$24,566.62. (Exhibit 1, p. 2). The appellant's countable assets total \$24,858.17, which exceeds the MassHealth asset limit of \$2,000.00 by \$22,858.17. (Testimony; Ex. 1, pp. 2-4). MassHealth issued the denial notice for excess assets on November 28, 2023. (Exhibit 1).

¹ Both the name of the bank and the account numbers have been changed in order to protect the appellant's personal identifiable information.

The appellant's conservator stated that the bank accounts were closed out the month prior to the hearing and deposited into a conservatorship account. The appellant's conservator later corrected that statement and said the account balances were deposited into a representative payee account. The MassHealth representative stated that she would need bank statements from September, 2023 to the closing date for the closed bank accounts, and statements for the accounts into which the funds were deposited. The appellant's representative requested that the record be kept open until the end of the week to give her the opportunity to submit the updated records to MassHealth.

The record was left open until January 19, 2024 to give the appellant's representative the opportunity to submit updated and closing statements for the bank accounts; updated statements for the representative payee account; and updated statements for the PNA account. (Exhibit 4).

By email dated January 24, 2024, the MassHealth representative informed the Hearing Officer that the appellant had not submitted the requested information. (Exhibit 7, p. 8). At the time the decision was due in March, 2024, the hearing officer reached out to the appellant's representative to confirm that nothing had been submitted. (Exhibit 7, p. 7). Through email dated March 18, 2024, the appellant's representative asked a colleague if there was anything to submit. (Exhibit 7, p. 6). The appellant's representative's colleague submitted a packet of information on March 22, 2024. (Exhibit 7, p. 6; exhibit 5). The MassHealth representative requested that the record be reopened until April 5, 2024 to allow her time to review the submitted packet and such request was approved by the hearing officer. (Exhibit 7, p. 5). By note dated April 3, 2024, the MassHealth representative reported that the requested PNA activity was not submitted; the bank statements for one account from July 18, 2023 to present or closing were not submitted; the bank statements on a second account from September 14, 2023 to October 31, 2023 were not submitted; there was no explanation as to how the nursing facility applied a February 20, 2024 check for \$14,628, noting that such should be applied to private pay within the retro period because the appellant's income goes into the PNA account. (Exhibit 7, p. 3). The MassHealth representative noted that MassHealth is not able to determine that the appellant's assets have been spent down. (Exhibit 7, p. 3). No further record open extensions were requested or approved.

Findings of Fact

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

1. The appellant is a single individual.
2. MassHealth received the appellant's application for LTC benefits on February 8, 2023.
3. The facility admitted the appellant at the end of [REDACTED] and she previously received MassHealth until April 2, 2021 when her MassHealth was terminated due to excess assets from a home sale.
4. The nursing facility requested a start date of September 1, 2022, however the earliest possible

start date on a February, 2023 application is November 1, 2023.

5. MassHealth previously denied this application for failure to submit requested verifications.
6. The appellant appealed the denial and the application date was preserved.
7. As of July 17, 2023, the appellant had assets totaling \$2,460.10 in one bank account. (Ex. 3, p. 5; Testimony).
8. As of July 17, 2023, the appellant had assets totaling \$21,357.72 in a second bank account. (Ex. 3, p. 6; Testimony).
9. As of September 13, 2023, the appellant had a balance of \$748.80 in her representative payee account. (Ex. 3, p. 7; Testimony).
10. As of July 7, 2023, the appellant had \$291.55 in her PNA account.
11. At the time of the denial notice on appeal, the appellant's assets totaled \$24,858.17.
12. The appellant's representative requested that the record be kept open until the end of the week to give her the opportunity to submit the updated records to MassHealth.
13. The record was left open until January 19, 2024 to give the appellant's representative the opportunity to submit updated and closing statements for the bank accounts; updated statements for the representative payee account; and updated statements for the PNA account. (Exhibit 4).
14. The appellant submitted nothing during the record open period.
15. At the time the decision was due in March, 2024, the hearing officer reached out to the appellant's representative to confirm that nothing had been submitted.
16. Through email dated March 18, 2024, the appellant's representative asked a colleague if there was anything to submit and the appellant's representative's colleague submitted a packet of information on March 22, 2024.
17. The MassHealth representative requested that the record be reopened until April 5, 2024 to allow her time to review the submitted packet and such request was allowed by the hearing officer. (Exhibit 7, p. 5).
18. By note dated April 3, 2024, the MassHealth representative reported that the requested PNA activity was not submitted; the bank statements for one account from July 18, 2023 to present or closing was not submitted; the bank statements on a second account from September 14, 2023 to October 31, 2023 was not submitted; there was no explanation as to how the nursing

facility applied a February 20, 2024 check for \$14,628, noting that such should be applied to private pay within the retro period because the appellant's income goes into the PNA account. (Exhibit 7, p. 3).

19. The MassHealth representative noted that MassHealth is not able to determine that the appellant's assets have been spent down. (Exhibit 7, p. 3).

20. No further record open extensions were requested or approved.

Analysis and Conclusions of Law

The total value of countable assets owned by or available to individuals applying MassHealth LTC benefits may not exceed \$2,000 for that individual. (130 CMR 520.003(A)(1); 520.016(A)). An applicant whose countable assets exceed the asset limit may be eligible for MassHealth either as of the date the applicant reduces their excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents, or as of the date the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets. (130 CMR 520.004(A)(1)).

As of the date of the hearing, the appellant's assets totaled \$24,858.17 and exceeded the MassHealth limit by \$22,858.17. The appellant's representative stated that evidence of an asset spend down would be submitted by January 19, 2024, however nothing was submitted during the allowed record open period. The appellant did not request an extension to the record open period, but after inquiry by the hearing officer on March 18, 2024, a packet of information was submitted on March 22, 2024. The hearing officer allowed MassHealth time to review the submission. The MassHealth representative reported that certain requested information was not submitted and MassHealth could not determine that the appellant's assets were spent down. Even after an additional two-month period in which to get requested information in, the appellant did not submit the requested documentation to allow for MassHealth to determine if the appellant reduced assets by an appropriate spend down pursuant to 130 CMR 520.004.

For the above stated reasons, 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]