

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2404404
Decision Date:	5/8/2024	Hearing Date:	04/08/2024
Hearing Officer:	Susan Burgess-Cox	Record Open to:	04/22/2024

Appearances for Appellant:




Appearance for MassHealth:

Joanne Weldon



*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:	Eligibility
Decision Date:	5/8/2024	Hearing Date:	04/08/2024
MassHealth's Rep.:	Joanne Weldon	Appellant's Reps	
Hearing Location:	All Parties Appeared by Telephone		

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 January 31, 2024, MassHealth denied the appellant's application for long-term care services because the appellant has more countable assets than MassHealth benefits allow. (130 CMR 520.003; 130 CMR 520.004; Exhibit 1). An appeal was filed on March 21, 2024 by an individual naming himself as the appellant's attorney-in-fact. (Exhibit 2). The Board of Hearings dismissed the appeal as the individual filing the appeal did not provide authorization to act on the appellant's behalf. (130 CMR 610.034; 130 CMR 610.035; Exhibit 3). In response to the dismissal, the individual filing the appeal provided a copy of a General Durable Power of Attorney naming the individual as the appellant's attorney-in-fact. (Exhibit 4). The Board of Hearings scheduled a hearing for April 8, 2024. (Exhibit 5).

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

At the hearing, the Board of Hearings granted a request from the appellant's representative to keep the record open for the submission of additional evidence. This action resulted in an extension of the decision due date to June 3, 2024.

Action Taken by MassHealth

MassHealth determined that the appellant has more countable assets than MassHealth benefits allow. (130 CMR 520.003; 130 CMR 520.004).

Issue

Whether MassHealth was correct in determining that the appellant has more countable assets than MassHealth benefits allow.

Summary of Evidence

The MassHealth representative presented documents that were incorporated into the hearing record as Exhibit 6. In April 2023, the appellant submitted an application for long-term care seeking coverage as of January 8, 2023. (Testimony; Exhibit 6). MassHealth denied the application due to the appellant having excess assets. (Testimony; Exhibit 1; Exhibit 6). The countable assets include bank accounts with balances totaling over \$16,669, a life insurance policy with a cash surrender value of approximately \$12,236, and securities totaling over \$5,188 for total countable assets of \$34,095. MassHealth determined that the appellant had to spend \$32,095 to qualify for long-term care benefits. At hearing, the MassHealth representative testified that the agency received information about one bank account being spent down. However, the spenddown of this account alone did not make the appellant eligible for long-term care as the total available assets still exceeded \$2,000.

The MassHealth representative testified that this application was initially denied in August 2023 as the appellant failed to provide information necessary for the agency to determine eligibility. The appellant filed an appeal, the issue was resolved and MassHealth sent a second information request in November 2023. Upon receipt of information related to that request, MassHealth issued the notice on appeal.

The appellant's representative acknowledged that they were still in the process of spending down the assets as of the date of hearing in April 2024. The appellant's attorney-in-fact attributed the failure to spend the assets on the fact that the asset information was with his ex-wife so he did not have all of the information necessary to spend down the assets. Despite having well over the regulatory 30 days to demonstrate that the appellant spent down the assets and the processing of an application for over a year, the record was held open to provide the representatives the opportunity to present verification of an asset spenddown. (Exhibit 7). The appellant's representatives presented some information regarding the assets at issue. (Exhibit 8).

The documents submitted by the appellant's representatives show a cash surrender value of a life insurance policy and requests to various entities to liquidate shares. Most of these actions occurred after the date of the hearing.

The MassHealth representative responded that documents disclosing a policy cash surrender value, an intent to sell shares and the closure of an account do not demonstrate that the assets were spent down below the regulatory limit. Instead, the documents show assets exceeding \$2,000 are still available to the appellant. The MassHealth representative also noted that the agency did not receive any updates on a bank account that showed a balance of \$13,449 as of July 20, 2023.

Findings of Fact

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

1. The appellant applied for MassHealth long-term care.
2. MassHealth denied the application due to the appellant having excess assets.
3. Countable assets include:
 - a. Bank accounts with balances totaling \$16,669;
 - b. A life insurance policy with a cash surrender value of \$12,236; and
 - c. Securities totaling \$5,188
4. The appellant did not dispute the ownership or value of the assets.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Countable assets are all assets that must be included in the determination of eligibility. (130 CMR 520.007). The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed \$2,000 for an individual. (130 CMR 520.003(A)(1)). At the time of the eligibility decision, the appellant's assets exceeded this limit. During the appeal, the appellant failed to demonstrate that the asset amount presented by MassHealth was not correct or that the assets were spent

down. As noted above, the appellant submitted an application for long-term care almost one year prior to the hearing date. The appellant had ample opportunity to spend down the assets at issue and failed to do so. The decision made by MassHealth was correct.

This 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616

[REDACTED]