

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2405182
Decision Date:	06/07/2024	Hearing Date:	04/29/2024
Hearing Officer:	Mariah Burns	Record Open to:	05/29/2024

Appearance for Appellant:



Appearance for MassHealth:

Lynn Bloomquist, Tewksbury MassHealth  
Enrollment Center



*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	<b>Issue:</b>	Over 65; Long-Term Care; Assets
<b>Decision Date:</b>	06/07/2024	<b>Hearing Date:</b>	04/29/2024
<b>MassHealth's Rep.:</b>	Lynn Bloomquist	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 March 20, 2024, MassHealth denied the appellant's application for MassHealth long-term benefits because MassHealth determined that the appellant was over the asset limit to qualify. *See* 130 CMR 520.003 and Exhibit 1. The appellant filed this appeal in a timely manner on March 29, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits.

### Issue

The appeal issue is whether the appellant showed that she properly spent down her assets to qualify for MassHealth.

### Summary of Evidence

The appellant is an adult over the age of 65 who currently resides in a skilled nursing facility. She

was represented at hearing by a worker from that facility. MassHealth was represented by a worker from the Tewksbury MassHealth Enrollment Center. The following is a summary of the evidence and testimony provided at hearing:

On January 11, 2024, the appellant filed an application for MassHealth long-term care benefits. On March 20, 2024, MassHealth denied that application after determining that the appellant was over the asset limit to qualify. At hearing, the MassHealth representative reported that MassHealth verified that the appellant owned a life insurance policy with a cash surrender value of \$2469.58 and a had a bank account balance of \$3054.86, putting her \$3,524.44 over the asset limit. To show proof of spenddown, MassHealth requested a private pay statement from the facility and documentation of how the life insurance policy was cashed out, if at all.

The appellant's representative agreed that the appellant was over the asset limit and requested that the record be kept open in order form the appellant to demonstrate proof of a spenddown of her assets. The record was therefore kept open until May 20, 2024, for the appellant to provide the necessary documentation, and until May 29, 2024, for MassHealth to review and respond. As of June 3, 2024, neither MassHealth nor the Board of Hearings has received any documentation from the appellant regarding this appeal.

## **Findings of Fact**

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

1. The appellant is an adult over the age of 65 who currently resides in a skilled nursing facility. Testimony, Exhibit 1, Exhibit 5.
2. On January 11, 2024, the appellant filed an application for MassHealth long-term care benefits. Exhibit 1.
3. On March 20, 2024, the application was denied after MassHealth determined that the appellant was \$3,524.44 over the asset limit to qualify. Exhibit 1.
4. The appellant filed a timely request for fair hearing on March 29, 2024. Exhibit 2.
5. The appellant agrees that she is over the asset limit but asked for time to provide proof that she properly spent down her assets. Testimony.
6. The appellant did not provide proof of a spenddown during the record open period.

## Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

Long-term care residents are eligible for MassHealth Standard coverage if they meet the following requirements:

- (1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;
- (4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets When One Spouse Is Institutionalized; and
- (5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

130 CMR 519.006(A). Applicants have an opportunity to show a reduction of assets to the allowable limit to establish eligibility. See *generally* 130 CMR 520.004. In such instances, "MassHealth...requires the applicant to verify that...[their] excess assets were reduced to the allowable asset limit within the required timeframes." *Id.* at 520.004(D). This reduction of assets is colloquially known as a "spend-down," and must be done without violating the transfer of resource provisions for nursing facility residents at 130 CMR 520.019(F), or risk incurring a period of ineligibility in accordance with that regulation. *Id.* at 520.004(A)(1).

Here, the appellant agrees that she is over the asset limit to qualify for benefits. As she did not provide proof that she properly spent down those assets during the time allowed, there can be no error found in MassHealth's decision to deny her long-term care benefit application.

For the foregoing reasons, the appeal is hereby 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.

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Mariah Burns  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

