

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409253
Decision Date:	8/1/2024	Hearing Date:	06/25/2024
Hearing Officer:	Sharon Dehmand	Record Open to:	07/19/2024

Appearance for Appellant:




Appearance for MassHealth:
Eileen Smith, Charlestown MEC



*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; Excess Assets; Coverage start date
Decision Date:	8/1/2024	Hearing Date:	06/25/2024
MassHealth's Rep.:	Eileen Smith	Appellant's Rep.:	
Hearing Location:	Remote	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 April 17, 2024, MassHealth approved the appellant's application for MassHealth benefits with a coverage start date of December 14, 2023. See 130 CMR 520.004 and Exhibit 1. The appellant filed this appeal in a timely manner on June 11, 2024. See 130 CMR 610.015(B) and Exhibit 2. Any action to suspend, reduce, terminate, or restrict a member's assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth approved the appellant for long-term care services with a coverage start date of December 14, 2023.

Issue

Whether MassHealth was correct in determining the appellant's coverage start date of December 14, 2023. See 130 CMR 520.003; 130 CMR 520.004.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. The appellant was represented by representatives from the nursing facility and her son. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is over the age of [REDACTED] and resides in a nursing facility. A long-term care application was submitted on the appellant's behalf on May 22, 2023. MassHealth received three different SC-1 forms requesting three different coverage start dates; namely: December 3, 2023, December 6, 2023, and December 11, 2023. The MassHealth representative stated that the coverage start date of December 3, 2023 was considered by MassHealth in making its determination. She said that as of December 3, 2023, the appellant's assets were over the allowable asset limit of \$2000.00 by \$6,989.00 (\$8,986.00-\$2000.00). See Exhibit 5. Based on this amount, MassHealth calculated a 13-day ineligibility period and determined that the coverage start date would be December 16, 2023. However, through a notice dated April 17, 2024, the appellant was approved for long-term care with an earlier start date of December 14, 2023, which MassHealth will honor.

The appellant's representative stated that the appellant has been in and out of the nursing facility since [REDACTED]. However, since her last admission date of [REDACTED] she has been residing at the nursing facility continuously. The appellant's representative added that two payments made to the facility in [REDACTED] had bounced, but two other payments were processed successfully.

The MassHealth representative stated that the invoice dated March 21, 2024, reflected a zero balance as of December 4, 2023. The appellant's representative requested that the record remain open allowing her time to submit updated bank statements and invoices. The record was left open until July 9, 2024, for the appellant to provide the aforementioned documents. The record was further left open until July 19, 2024, for MassHealth to review the submissions from the appellant and to respond. See Exhibit 7.

Through an email on July 9, 2024, the appellant's representative submitted additional documents including an updated SC-1 form requesting the coverage start date of December 1, 2023. See Exhibit 6. Through an email on July 19, 2024, the MassHealth representative stated that as of December 1, 2023, the appellant's total countable assets were \$33,939.10. After deducting \$2,000.00 for the allowable asset limit, the appellant had \$31,939.10 in excess assets on the requested coverage start date of December 1, 2023. MassHealth then deducted the nursing facility's [REDACTED] payment in the amount of \$22,150.00 from this figure, leaving the appellant with \$9,789.10 in excess assets. MassHealth then divided the remaining excess assets (\$9,789.10) by the private pay daily nursing facility rate (\$545.00) and calculated a 17-day ineligibility period

and determined that the coverage start date would be December 18, 2023. See Exhibit 8. Again, since MassHealth had already approved an earlier coverage start date of December 14, 2023, the MassHealth representative stated that MassHealth will honor this start date.

Findings of Fact

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

1. The appellant is over the age of [REDACTED] and lives in a nursing facility. (Testimony).
2. A MassHealth long-term care application was submitted on the appellant's behalf on May 22, 2023. (Testimony).
3. The appellant requested the coverage start date of December 1, 2023. (Testimony and Exhibit 6).
4. On December 1, 2023, the appellant had total countable assets in the amount of \$33,939.10. (Exhibit 8).
5. The total value of countable assets may not exceed \$2000.00. (Testimony and Exhibit 8).
6. After deducting \$2,000.00 for the allowable asset limit, the appellant had \$31,939.10 in excess assets on the requested coverage start date of December 1, 2023. (Exhibit 8).
7. MassHealth deducted the nursing facility's [REDACTED] payment in the amount of \$22,150.00 from this figure. (Exhibit 8).
8. As of December 1, 2023, the appellant had \$9,789.10 in excess assets. (Exhibit 8).
9. The private pay daily nursing facility rate was \$545.00. (Exhibit 8).
10. MassHealth then divided the remaining excess assets of \$9,789.10 by the private pay daily nursing facility rate of \$545.00 and arrived at a 17-day ineligibility period. (Exhibit 8).
11. Counting forward 17-days from December 1, 2023, MassHealth determined that the coverage start date would be December 18, 2023. (Exhibit 8).
12. Through a notice dated April 17, 2024, MassHealth notified the appellant that she was approved for long-term care services with an effective start date of December 14, 2023. (Testimony and Exhibit 1).

Analysis and Conclusions of Law

At the outset it should be noted that the total value of countable assets owned by or available to an individual applying for MassHealth Standard for long-term care assistance may not exceed \$2,000.00. See 130 CMR 520.003(A)(1).

Bank accounts are considered countable assets pursuant to 130 CMR 520.007(B) and are to be verified as follows:

...(3) Verification of Account Balances. The MassHealth agency requires verification of the current balance of each account at application, during eligibility review, and at times of reported change.

(a) Noninstitutionalized individuals excluding the individuals described at 130 CMR 519.007(B): *Home- and Community-Based Services Waiver-Frail Elder* must verify the amount on deposit by bank books or bank statements that show the bank balance within 45 days of the date of application or the date that the eligibility review is received in a MassHealth Enrollment Center or outreach site.

(b) Nursing-facility residents as described at 130 CMR 515.001: *Definition of Terms* must verify the amount on deposit by bank books or bank statements that show the current balance and account activity during the look-back period.

(c) If during an eligibility review the member states either orally or in writing that an account other than a checking account contains a balance of \$25 or less, the MassHealth agency does not require verification provided that, in combination with other countable assets, it would not affect continued eligibility.

(d) If lack of either access to or ownership of funds in an account is verified, the MassHealth agency will not consider the funds a countable asset.

Here, the appellant's representative submitted a number of bank statements, demonstrating a total of \$33,939.10 in countable assets as of December 1, 2023.¹ This amount exceeds the \$2,000.00 threshold allowed by MassHealth. The appellant neither disputed MassHealth's figures nor calculations but requested a December 1, 2023, coverage start date. As the countable assets owned by the appellant applying for MassHealth long-term care exceeded the allowed \$2,000.00 threshold, she was not eligible for coverage on December 1, 2023. The question then becomes when her coverage start date would begin based on her excess assets.

¹ The appellant submitted three different SC-1 forms with three different requested coverage start dates prior to the hearing. During the record open, the appellant submitted a revised SC-1 form with the requested coverage start date of December 1, 2023. MassHealth considered the last revised SC-1 form in its determination of the start date of coverage.

Pursuant to 130 CMR 520.004, the amount of an applicant's total countable assets affects the start date for MassHealth long-term care benefits in the following manner:

(A) Criteria.

(1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or

(b) as of the date, described in 130 CMR 520.004(C), 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.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

(1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: *Date of Application*; and

(2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

In this case, MassHealth correctly determined that on December 1, 2023, the appellant's total countable assets were \$33,939.10. After deducting \$2,000.00 for the allowable asset limit, the

appellant had \$31,939.10 in excess assets on the requested coverage start date of December 1, 2023. MassHealth then deducted the nursing facility's [REDACTED] payment in the amount of \$22,150.00 from this figure, leaving the appellant with \$9,789.10 in excess assets.

As there were no other allowable medical expenses that MassHealth could appropriately consider,² MassHealth then calculated the date the appellant would be eligible for MassHealth benefits pursuant to 130 CMR 520.004(C). MassHealth divided the remaining excess assets (\$9,789.10) by the private pay daily nursing facility rate (\$545.00) and calculated a 17-day period of ineligibility. As such, MassHealth correctly determined that the appellant was eligible for MassHealth benefits starting on December 18, 2023.³

For the foregoing reasons, 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

² The appellant's representative submitted an updated billing statement for the nursing facility dated July 9, 2024. See Exhibit 6. This statement reflected an outstanding balance of \$6,825.00 for the period of December 1, 2023 to December 13, 2023. Since this amount is less than the amount of \$9,789.00 in excess assets, then it will not affect the start date. See 130 CMR 520.004(C)(the date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets).

³ Since MassHealth had previously determined eligibility date to be December 14, 2023, this earlier date should be honored by MassHealth.

Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

CC:



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