

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2409269
Decision Date:	09/20/2024	Hearing Date:	July 15, 2024
Hearing Officer:	Stanley M. Kallianidis	Record Open Date:	August 29, 2024

Appellant Representative:



MassHealth Representative:

Kelly Rosati, Springfield



*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:	Lien
Decision Date:	09/20/2024	Hearing Date:	July 15, 2024
MassHealth Rep.:	Kelly Rosati	Record Open Date:	August 29, 2024
Hearing Location:	Taunton		

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 May 27, 2024, MassHealth announced that it would place a lien on the appellant's property because it determined that the appellant would not be returning to her home and no exempt relatives of the appellant lived in the home (see 130 CMR 515.012 and Exhibit 1). The appellant filed this appeal in a timely manner on June 11, 2024 (see 130 CMR 610.015 and Exhibit 2).

A proposed lien is valid grounds for appeal (see 130 CMR 610.032).

On June 20, 2024, notice of the hearing was sent to the parties (Exhibit 3).

Action Taken by MassHealth

MassHealth notified the appellant that it would place a lien on property in which she had a legal interest.

Issue

Pursuant to 130 CMR 515.012(A), is MassHealth authorized to place a lien against the appellant's property?

Summary of Evidence

The MassHealth representative testified that the appellant, a MassHealth long-term care recipient beginning in November 2023, entered her nursing facility in [REDACTED] 2023. She received a home maintenance deduction from December 2023-May 2024 because her physician indicated that she was a short-term admission (six months or less) on her SC-1 admission form dated February 8, 2024 (Exhibit 4).

The representative stated that the appellant has a legal interest in property located in [REDACTED], Massachusetts (Exhibit 4). MassHealth is planning on placing a lien on the property because the appellant has been in the facility for over six months and has not returned home as planned. Also, she does not have a spouse, a disabled child or a sibling with an equity interest living in the property (Exhibit 1).

The appellant's attorney contended that a lien should not be placed on the property because the appellant still intends to return home even though more than six months had elapsed since her nursing home admission. He also stated that the appellant had a reverse mortgage on the property and that a lien would result in a default of her loan and the need to file for bankruptcy protection.

The record was left open for the appellant to supply a letter from her physician stating that she still has the intention to return home (Exhibit 5).

At the close of the hearing record on August 29, 2024, the MassHealth representative indicated that she had not received any additional verifications during the record-open period (Exhibit 6).

Also on August 29, 2024, the appellant's attorney explained that the facility had refused to allow either the facility physician or an independent physician to issue a letter regarding the appellant's condition and likelihood to return home. As a result of this, as well as the appellant owing the facility \$13,000.00, the appellant is contemplating a bankruptcy filing (Exhibit 6).

Findings of Fact

Based on a preponderance of the evidence, I find as follows:

1. The appellant, a MassHealth long-term care recipient beginning November 2023, entered her nursing facility in [REDACTED] 2023 (testimony).
2. The appellant received a home maintenance deduction from December 2023-May 2024 because her physician indicated that she was a short-term admission (six months or less) on her SC-1 admission form dated February 8, 2024 (Exhibit 4).
3. The appellant has a legal interest in property located in [REDACTED], Massachusetts (Exhibit 4).
4. The appellant does not have a spouse, a disabled child or a sibling with an equity interest living in the property (Exhibit 1).
5. MassHealth is planning on placing a lien on the property because the appellant has been in the facility for over six months and has not returned home as planned (testimony).
6. The record was left open for the appellant to supply a letter from her physician stating that she still has the intention to return home (Exhibit 5).
7. No physician letter regarding the appellant's likelihood to return home was submitted into the hearing record during the record-open period (Exhibit 6).

Analysis and Conclusions of Law

According to 130 CMR 515.012(A), the MassHealth agency is authorized to place liens against any property in which the member has a legal interest subject to the following:

(1) per court order or judgment; or

(2) without a court order or judgment, if all of the following requirements are met:

(a) the member is an inpatient receiving long-term or chronic care in a nursing facility or other medical institution and

(b) none of the following relatives resides in the home:

(i) a spouse;

(ii) a child under the age of 21, or a blind or permanently and totally disabled child; or

(iii) a sibling who has an equity interest in the property and has been living in the house for at least one year prior to the member's admission to the medical institution;

(c) the MassHealth agency determines that the member cannot reasonably be expected to be discharged from the medical institution and return home; and

(d) the member has received notice of MassHealth's determination that the above conditions have been met and that a lien will be placed. The notice shall include the member's right to a fair hearing.

The record shows, and I have found, that the appellant, a MassHealth long-term care recipient beginning November 2023, entered her nursing facility in [REDACTED] 2023. The appellant has a legal interest in property located in [REDACTED], Massachusetts that MassHealth is planning on placing a lien on because the appellant has been in the facility for over six months. She has not returned home as planned according to her SC-1 admission form dated February 8, 2024. The appellant does not have a spouse, a disabled child or a sibling with an equity interest living in the property.

The record was left open for the appellant to supply a letter from her physician stating that she still has the intention to return home. However, no physician letter regarding the appellant's likelihood to return home was submitted into the hearing record during the record-open period.

Based upon the above regulations and findings, I conclude that the appellant cannot reasonably be expected to be discharged from her facility and return home. MassHealth's decision to place a lien on the property is therefore valid.

The appeal is therefore denied.

Order for MassHealth

The lien is authorized as planned.

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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings

cc:

Springfield MEC

Lien Coordinator, UMASS Medical-Estate Recovery Unit, P.O. Box 15205, Worcester, MA 01615

[REDACTED]