

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2409596
<b>Decision Date:</b>	10/22/2024	<b>Hearing Date:</b>	07/10/2024
<b>Hearing Officer:</b>	Emily T. Sabo	<b>Record Open to:</b>	10/04/2024

**Appearances 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long-Term Care; Verifications; Excess Assets
<b>Decision Date:</b>	10/22/2024	<b>Hearing Date:</b>	07/10/2024
<b>MassHealth's Rep.:</b>	Eileen Smith	<b>Appellant's Reps.:</b>	[REDACTED]
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center (Telephone)	<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 April 16, 2024, MassHealth denied the Appellant's application for MassHealth long-term care services in a nursing facility because MassHealth determined that the Appellant did not timely provide MassHealth with the information necessary to determine eligibility. 130 CMR 515.008 and Exhibit 1. The Appellant's conservator filed this appeal in a timely manner on June 18, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth denied the Appellant's application for long-term-care services in a nursing facility.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in determining that the Appellant did not provide MassHealth with the information necessary for MassHealth to make an eligibility determination.

## Summary of Evidence

The hearing was held by telephone. The MassHealth representative testified that the Appellant was admitted to a long-term-care facility on January 23, 2023. The MassHealth representative testified that a prior application was received on June 20, 2023, and denied on October 3, 2023, for failing to submit verifying information, and that denial was not appealed. The MassHealth representative testified that the application appealed was received on December 29, 2023. The MassHealth representative testified that MassHealth denied this application on April 16, 2024, for failing to submit information necessary to determine eligibility, including expenses related to real estate owned by the Appellant, a completed authorized representative form for the Appellant's conservator, deposit and withdrawal information for a bank account, the Appellant's personal needs allowance account, a completed long-term care supplement, and a nursing facility screening notification.

The Appellant was represented by her conservator and a representative from the nursing facility, and they verified the Appellant's identity. The Appellant's conservator explained that she is the granddaughter of the Appellant, and that her late father was previously the Appellant's guardian. The Appellant's conservator testified that the family did not know the Appellant had been admitted to the facility and that it took several months for her to be appointed as the Appellant's conservator. The Appellant's conservator also explained that she was living outside the United States and was going to be traveling for several weeks and so it was a challenge to access the information.

The record was held open until August 16, 2024, for the Appellant to submit the missing information, and until August 30, 2024, for MassHealth to review and respond. The record open was extended for the Appellant until September 20, 2024. MassHealth was given until October 4, 2024, to review and respond. The Appellant's representative submitted information during the record open period. On October 2, 2024, the MassHealth representative responded that

I still do not have proof of where the deposit on 12/15/23 for \$7,868.04 came from into account [xxxx]. See attached. The commonwealth of mass stubs do not match this date. Also, the last bank statement from 7/31/2024 has over \$30,000 and the case is over assets. As it stands, I am not able to process the case due to the missing source of the deposit above.

Exhibit 10. On October 4, 2024, one of the Appellant's representatives submitted bank statements showing that the Appellant's ending account balance, on September 23, 2024, was \$12,068.60. Exhibit 12.

## Findings of Fact

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

1. The Appellant submitted a MassHealth application for long-term-care services in a nursing facility on December 29, 2023 (Testimony).
2. On April 16, 2024, MassHealth denied the Appellant's application for failing to provide requested information (Testimony, Exhibit 1).
3. On June 18, 2024, the Appellant's conservator timely filed an appeal with the Board of Hearings (Exhibit 2).
4. The Appellant is institutionalized in a nursing facility (Testimony).
5. The record was held open until September 20, 2024, for the Appellant's representatives to submit the missing information sought by MassHealth (Exhibits 5 & 7).
6. On October 2, 2024, the MassHealth representative stated that there was still missing information, such that she could not complete an eligibility determination. The MassHealth representative also stated that the Appellant was over assets, based on her account balance (Exhibit 10).
7. On October 4, 2024, one of the Appellant's representatives submitted bank statements showing that the Appellant's ending account balance, on September 23, 2024, was \$12,068.60 (Exhibit 12).

## Analysis and Conclusions of Law

The MassHealth regulations at 130 CMR 515.008 provide that:

### 515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

130 CMR 515.008.

In evaluating financial eligibility for MassHealth, 130 CMR 520.016(A) provides that “[t]he total value of assets owned by an institutionalized single individual or by a member of an institutionalized couple must not exceed \$2,000.” See also 130 CMR 520.003(A)(1). The MassHealth regulations outline how an individual can reduce assets to qualify for MassHealth:

(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.

130 CMR 520.004.

MassHealth denied the Appellant's application for benefits because the Appellant failed to submit the necessary information to determine the Appellant's eligibility. 130 CMR 515.008(A). Furthermore, during the record open period, MassHealth determined that the Appellant's assets rendered her financially ineligible. Even allowing for the Appellant's late submission, the evidence in the record shows that the Appellant has a bank account with a balance of \$12,068.60.<sup>1</sup> Exhibit 12. The asset limit for an institutionalized individual is \$2,000. 130 CMR 520.003(A)(1); 130 CMR 520.0016(A). The Appellant's countable assets exceed the MassHealth limit of \$2,000 and the Appellant is not financially eligible for MassHealth. While I am sympathetic to the challenges faced by the Appellant's conservator, the Appellant has not demonstrated that MassHealth erred in denying the Appellant's application for MassHealth long-term-care services. Accordingly, the appeal is DENIED insofar as the Appellant's assets still exceed the MassHealth limit.

The Appellant shall have 30 days from the date of this decision to submit proof of spend down of the excess assets to MassHealth. If the excess assets are spent down within 30 days of this decision, MassHealth shall reopen the Appellant's December 29, 2023, application and determine if the Appellant made any disqualifying transfers.

## **Order for MassHealth**

The Appellant shall have 30 days from the date of this decision to spend down the excess assets and submit proof of such to MassHealth. If the Appellant submits proof of spend down of assets to MassHealth within 30 days, MassHealth shall reopen the December 29, 2023, application and process it.

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<sup>1</sup> This is in addition to the Appellant's real estate, which was sold during the record open period.

## 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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Emily T. Sabo  
Hearing Officer  
Board of Hearings

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

cc: [REDACTED]

cc: [REDACTED]

cc: [REDACTED]