

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2410135
Decision Date:	9/23/2024	Hearing Date:	07/29/2024
Hearing Officer:	Kimberly Scanlon	Record Open to:	08/27/2024

Appearances for Appellant:

Via telephone



Appearance for MassHealth:


Via telephone

Gina Ciaramella-Burbank – Taunton 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:	Dismissed	Issue:	Eligibility; Over 65; Long-term care; Over asset
Decision Date:	9/23/2024	Hearing Date:	07/29/2024
MassHealth's Rep.:	Gina Ciaramella- Burbank	Appellant's Rep.:	
Hearing Location:	Taunton MassHealth Enrollment Center (Remote)	Aid Pending:	Yes

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 June 20, 2024, MassHealth notified the appellant that his long-term benefits were ending on that same date because MassHealth determined that he has more countable assets than MassHealth benefits allow for him and his spouse (130 CMR 520.003; 520.016; Exhibit 1). The appellant filed this appeal in a timely manner on June 28, 2024 (130 CMR 610.015(B); Exhibit 2). Termination and/or reduction of assistance is valid grounds for appeal (130 CMR 610.032). Following the hearing, the record was left open for a brief period to allow the appellant to submit additional documentation pertaining to the asset spend down (Exhibit 8).

During the record open period, the appellant's representative informed the parties that the appellant had passed away on July 31, 2024. Additionally, the representative confirmed that there had not been a petition filed related to the appointment of a personal representative or administrator of the appellant's estate. The appeal was subsequently placed on hold, pending appointment of a personal representative (See, 130 CMR 610.016(B)(1); Exhibit 9). The Board of Hearings was subsequently informed that a personal representative would not be appointed for the appellant's estate (Exhibit 10, pp. 3-4).

The appellant's representative no longer has authority to represent the appellant, and therefore does not have standing to continue with this appeal, in accordance with 130 CMR 610.004.¹ Because the party requesting this hearing is not an applicant, MassHealth member, nursing facility resident, or appeal representative as defined in 130 CMR 610.004, the appeal is dismissed pursuant to 130 CMR 610.035(A)(7).²

Order for MassHealth

None, other than to remove aid pending.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

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

¹ 130 CMR 610.004 defines an appellant as: an applicant, member, or nursing facility resident requesting a fair hearing, including individuals who are appealing a PASRR determination...

Additionally, 130 CMR 610.004 defines an appeal representative as: a person who (1) is sufficiently aware of the appellant's circumstances to assume responsibility for the accuracy of the statements made during the appeal process, and who has provided the Office of Medicaid Board of Hearings with written authorization from the appellant to act on the appellant's behalf during the appeal process; (2) **has, under applicable law, authority to act on behalf of an appellant** in making decisions related to health care or payment for health care. An appeal representative may include, but is not limited to, a guardian, conservator, executor, administrator, holder of power of attorney, or health-care proxy; or (3) is an eligibility representative meeting the requirements of (1) or (2) above. (See, 130 CMR 610.004). (emphasis added). In the present case, the appeal representative lost her authority to represent the appellant's interests upon his passing.

² It is noted that even with the appropriate authority, there is no evidence that the appellant's assets have been reduced to within program limits.