

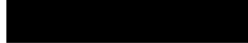
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2410548
Decision Date:	09/13/2024	Hearing Date:	8/8/2024
Hearing Officer:	David Jacobs		

Appearances for Appellant:



Appearances for MassHealth:

Alyssa Smalley, Tewksbury MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Waiver; Over Assets
Decision Date:	09/13/2024	Hearing Date:	8/8/2024
MassHealth Rep.:	Alyssa Smalley	Appellant Rep.:	
Hearing Location:	Board of Hearings (Remote)		

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 July 1, 2024, MassHealth denied the appellant's application for a home- and community-based waiver due to excess assets (Exhibit 1). The appellant filed an appeal in a timely manner on July 8, 2024 (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 a home- and community-based waiver.

Issue

The appeal issue is whether MassHealth was correct in denying the appellant's application for a home- and community-based waiver.

Summary of Evidence

On July 1, 2024, MassHealth denied the appellant's application for a home- and community-based waiver due to excess assets of \$6,653.74 (Exhibit 1). At the hearing the MassHealth representative identified that the excess funds were primarily located in a life insurance policy that the appellant is the beneficiary of. The appellant's attorney appeared on her behalf at the hearing and conceded to the facts as laid out by MassHealth. He testified that the appellant intended to transfer ownership of the life insurance to another party and asked for a record open period to do so. The hearing officer agreed, and the record was held open until August 22, 2024, then later extended to September 4, 2024 for the appellant to submit documents, and to September 11, 2024 for MassHealth to review them (Exhibit 5). On September 12, 2024, the MassHealth representative stated via email that no documents had been submitted by the appellant representative (Exhibit 5, pg. 2). The appellant's attorney confirmed this fact via email and stated that he has been unable to get in touch with his client to accomplish the life insurance policy transfer by the record open deadline (Exhibit 5, pg. 1).

Findings of Fact

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

1. On July 1, 2023, MassHealth denied the appellant's application for a home- and community-based waiver s due to excess assets of \$6,653.74.
2. The majority of the assets are in a life insurance policy that the appellant is the beneficiary of.
3. The record was held open until September 4, 2024 for the appellant representative to submit proof that ownership of the life insurance policy had been transferred away from the appellant's ownership.
4. The appellant representative was unable to contact the appellant during the record open period to accomplish the transfer of ownership.

Analysis and Conclusions of Law

To receive the benefit of a home- and community-based waiver, the total value of countable assets owned by or available to an individual receiving may not exceed \$2,000 (130 CMR 519.007(B)(2)(c)). Here, the evidence shows that the appellant owns countable assets that exceed \$2,000.00 (Exhibit 1 and Exhibit 5, pg. 1). The appellant representative stated that he was unable to contact his client during the record open period to transfer ownership of the life insurance

property (Exhibit 5, pg. 1). Therefore, the appellant is still in possession of the life insurance policy that places her assets \$6,653.74 in excess of the regulatory limit (130 CMR 519.007(B)(2)(c)).

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

David Jacobs
Hearing Officer
Board of Hearings

cc:

Tewksbury MEC

