

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2410810
Decision Date:	8/15/2024	Hearing Date:	08/09/2024
Hearing Officer:	Radha Tilva		

Appearance for Appellant:



Appearances for MassHealth:

Karen Ryan, Tewksbury MEC rep.
Rhiannon Wojick, Tewksbury MEC rep.



*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:	Approved	Issue:	Eligibility – LTC – eligibility start date
Decision Date:	8/15/2024	Hearing Date:	08/09/2024
MassHealth's Reps.:	Rhiannon Wojick, Karen Ryan	Appellant's Rep.:	
Hearing Location:	Tewksbury MassHealth Enrollment Center	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 May 16, 2024, MassHealth determined that appellant is eligible for MassHealth long-term care benefits with an eligibility start date of March 20, 2024 (Exhibit 1). The appellant community spouse filed this appeal in a timely manner on July 11, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Challenging an eligibility start date is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that appellant is eligible for MassHealth long-term care benefits with an eligibility start date of March 20, 2024.

Issue

The appeal issue is whether MassHealth was correct in determining the eligibility start date of March 20, 2024 for the appellant's MassHealth long-term care benefits.

Summary of Evidence

MassHealth was represented by a caseworker and supervisor from the Tewksbury MassHealth Enrollment Center. The appellant was represented by an attorney. MassHealth testified to the following: the applicant is a married female who has lived in a nursing facility since [REDACTED]. An application for long-term care benefits was received on April 23, 2024 seeking an eligibility start date of March 4, 2024.¹ By notice dated May 16, 2024, MassHealth approved the application with a start date of March 20, 2024 as that was the date the applicant became asset eligible (Exhibit 1 and MassHealth testimony).

Appellant had approximately \$375,342.57 in assets on March 4, 2024. The spousal maintenance needs allowance allows assets in total of \$154,140.00. On March 6, 2024, appellant funded an annuity with a check from a CD account totaling \$80,542.00. On March 20, 2024 appellant transferred her IRA funds of \$159,218.74 to the annuity and MassHealth determined that this is when the applicant became asset eligible. MassHealth argued that the IRA assets are countable in an eligibility determination and do not meet the criteria for inaccessibility under 130 CMR 520.006. The MassHealth representative explained that the funds are accessible to the applicant as supported by the distribution of the IRA funds to the annuity on March 20, 2024, which is the dates the assets were reduced. The MassHealth representative testified that if the IRA were excluded from appellant's assets on March 6, 2024, then the appellant would be under the asset limit.

Appellant's counsel argued that the IRA should be deemed an inaccessible, noncountable asset as of the date that the rollover was requested, which was on February 23, 2024, and not the date that the rollover occurred. Appellant seeks eligibility as of March 6, 2024, the day which the excess assets were spent down when the appellant funded the annuity in the amount of \$80,542.00 with a check from the CD account. Appellant's counsel provided proof of the request for the rollover and the immediate annuity application signed by the spouse and dated February 23, 2024 (Exhibit 7). Counsel also provided a statement showing that the funds were rolled over on March 20, 2024 (Exhibit 7).

Findings of Fact

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

1. The appellant is a married female who lives in a nursing facility since [REDACTED]

¹ At hearing, appellant's counsel stated that the actual date they are seeking coverage for the appellant is March 6, 2024.

2. An application for long-term care benefits was received on April 23, 2024.
3. The appellant is seeking an eligibility start date of March 6, 2024.
4. On May 16, 2024 MassHealth approved the appellant's application with a start date of March 20, 2024.
 - a. Appellant's husband, who lives in the community, timely requested a fair hearing on July 11, 2024.
5. Appellant had approximately \$375,342.57 in assets on March 4, 2024.
6. The spousal maintenance needs allowance allows assets in total of \$154,140.00.
7. On February 23, 2024, the applicant requested that IRA funds in the amount of \$159,218.74 be rolled over into an annuity.
8. On March 6, 2024 appellant funded an annuity with a check from a CD account totaling \$80,542.00.
9. The IRA funds of \$159,218.74 were transferred to the annuity on March 20, 2024.

Analysis and Conclusions of Law

The issue under appeal is whether the initiation of the rollover of the IRA made the assets in the IRA inaccessible and therefore not a countable asset. Appellant's counsel provided proof that the request for rollover and the immediate annuity application was signed by the applicant on February 23, 2024. The controlling regulation for inaccessible assets is set forth below and states the following:

520.006: Inaccessible Assets

- (A) Definition. An inaccessible asset is an asset to which the applicant or member has no legal access. The MassHealth agency does not count an inaccessible asset when determining eligibility for MassHealth for the period that it is inaccessible or is deemed to be inaccessible under 130 CMR 520.006.
- (B) Examples of Inaccessible Assets. Inaccessible assets include, but are not limited to
 - (1) property, the ownership of which is the subject of legal proceedings (for example, probate and divorce suits); and
 - (2) the cash-surrender value of life-insurance policies when the policy has been assigned to the issuing company for adjustment.
- (C) Date of Accessibility. The MassHealth agency considers accessible to the applicant or

member all assets to which the applicant or member is legally entitled

(1) from the date of application or acquisition, whichever is later, if the applicant or member does not meet the conditions of 130 CMR 520.006(C)(2)(a) or (b);

While the regulation does not specifically refer to IRAs, the rollover of an IRA can be likened to when the cash surrender value of a life-insurance policy is being assigned to the issuing company for adjustment, which is exempt and considered an inaccessible asset under 130 CMR 520.006(B)(2). The attorney's testimony that the appellant had no legal access to the money after he initiated the rollover on February 23, 2024 is persuasive. Thus, the IRA funds should not be considered countable in an eligibility determination from February 23, 2024 onwards.

As the MassHealth representative agreed that if the IRA was not considered countable on March 6, 2024, then the appellant was otherwise below the asset limit as of that date. The correct eligibility start date should be March 6, 2024, the date that the appellant transferred \$80,542.00 from the CD to the annuity.

For these reasons this appeal is APPROVED.

Order for MassHealth

Approve appellant for MassHealth long-term care benefits effective March 6, 2024.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Radha Tilva
Hearing Officer
Board of Hearings

CC: [REDACTED]
[REDACTED]

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957