

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2411518
<b>Decision Date:</b>	11/13/2024	<b>Hearing Date:</b>	8/23/2024
<b>Hearing Officer:</b>	Cynthia Kopka	<b>Record Open to:</b>	9/20/2024

**Appearances for Appellant:**



**Appearance for MassHealth:**

Patricia Lemke, for Kathleen Towle, Springfield



*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>	Dismissed in part; Denied in part	<b>Issue:</b>	Long-term care eligibility, assets
<b>Decision Date:</b>	11/13/2024	<b>Hearing Date:</b>	8/23/2024
<b>MassHealth's Rep.:</b>	Patricia Lemke for Kathleen Towle	<b>Appellant's Reps.:</b>	Daughter/power of attorney
<b>Hearing Location:</b>	Springfield (remote)	<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

By notice dated June 24, 2024, MassHealth denied Appellant's long-term care application because Appellant had more countable assets than MassHealth benefits allow. Exhibit 1. Appellant filed this appeal in a timely manner on July 25, 2024. Exhibit 2. 130 CMR 610.015(B). Challenging the denial of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open through September 20, 2024 at the request of Appellant. Exhibit 5.

### Action Taken by MassHealth

MassHealth denied Appellant's long-term care application because Appellant had more countable assets than MassHealth benefits allow.

### Issue

The appeal issue is whether MassHealth was correct in counting Appellant's assets and in not honoring an earlier application date.

### Summary of Evidence

The MassHealth representative appeared by phone and submitted documents in support, Exhibit 4. Appellant appeared by phone with her daughter/power of attorney. A summary of testimony and documentary evidence follows. Appellant was admitted to the nursing facility on [REDACTED] 2023, and seeks long-term care coverage beginning July 21, 2023. MassHealth relogged Appellant's application on March 6, 2024, and therefore could only approve coverage as early as December 1, 2023.

On June 24, 2024, MassHealth denied Appellant's application for excess assets totaling \$4,970.87. Exhibit 1. MassHealth counted four life insurance policies owned by Appellant valued at \$5,594.00, and one bank account with \$1,376.87. Appellant requested an extension of time to provide the evidence that the life insurance policies have been assigned as part of a funeral contract.

Appellant's representative testified that she initially applied for MassHealth in May of 2023. The case was managed by a different eligibility worker who kept asking for the same information over and over again. Appellant's representative testified that she submitted the information by fax and even brought the documents into the Springfield MassHealth office. Appellant's representative was baffled by the original denial that issued on the earlier application date, as she submitted everything that was requested. Appellant's representative did not appeal the earlier denial.

The hearing record was held open through September 4, 2024 for Appellant's representative to submit proof that the assets have been spent permissibly, as well as any evidence of the earlier application date. MassHealth had through September 20, 2024 to review and respond. Exhibit 5.

On September 4, 2024, Appellant's representative submitted evidence showing that the life insurance policies were assigned as part of a funeral contract. Exhibit 6. Appellant did not provide evidence of the earlier application. On September 5, 2024, MassHealth approved Appellant's application effective December 1, 2023. Exhibit 7.

## **Findings of Fact**

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

1. On March 6, 2024, MassHealth relogged Appellant's long-term care application.
2. On June 24, 2024, MassHealth denied Appellant's application for excess assets totaling \$4,970.87. Exhibit 1.
3. MassHealth counted four life insurance policies owned by Appellant valued at \$5,594.00 and one bank account with \$1,376.87.

4. The hearing record was held open through September 4, 2024 for Appellant's representative to submit proof that the assets have been spent permissibly, as well as any evidence of the earlier application date. MassHealth had through September 20, 2024 to review and respond. Exhibit 5.
5. On September 4, 2024, Appellant's representative submitted evidence showing that the life insurance policies were assigned as part of a funeral contract. Appellant did not provide evidence of the earlier application. Exhibit 6.
6. On September 5, 2024, MassHealth approved Appellant's application effective December 1, 2023. Exhibit 7.

## **Analysis and Conclusions of Law**

An individual applying for MassHealth long term care benefits (or the individual's authorized representative) must submit a complete application and all required supplements. 130 CMR 516.001(A)(1). The date of application is the date it is received by MassHealth, and the application is considered complete upon MassHealth's receiving all corroborative information. 130 CMR 516.001(A)(2)(a) and (b), 130 CMR 516.001(C). If an application contains missing or inconsistent information, MassHealth cannot determine eligibility. 130 CMR 516.001(A)(3).

MassHealth requires verification of eligibility factors, including but not limited to assets as described 130 CMR 520.000. 130 CMR 516.003. "If additional documentation is required, including corroborative information as described at 130 CMR 516.001(B), a Request for Information Notice will be sent to the applicant listing all requested verifications and the deadline for submission of the requested verifications." 130 CMR 516.003(C).

After receiving an application for MassHealth benefits, MassHealth proceeds as follows:

The MassHealth agency requests all corroborative information necessary to determine eligibility.

(1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of the receipt of the [application].

(2) The notice advises the applicant that the requested information must be received within 30 days of the date of the request, and of the consequences of failure to provide the information.

130 CMR 516.001(B). "If the requested information...is received [by MassHealth] within 30 days of the date of the request, the [application] is considered complete...If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied" 130 CMR

516.001(C). Pursuant to 130 CMR 515.008(A), an “applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility.”

If an applicant submits requested information within 30 days of a denial of eligibility for failure to provide requested verifications, MassHealth will consider the date this information is received as the date of reapplication. 130 CMR 516.002(A). The reapplication date replaces the date of the denied application, and the earliest date of MassHealth eligibility is based on the reapplication date. 130 CMR 516.002(B). The first day of MassHealth eligibility may be as early as the first day of the third month before the date of the application as long as the individual was otherwise eligible for coverage as of that date. 130 CMR 520.004(A)(1) and (C)(2).

The Board of Hearings must receive a request for a fair hearing within 60 days after an applicant receives written notice from MassHealth of the intended action. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing. 130 CMR 610.015(B)(1).

In this matter, MassHealth has rescinded its June 24, 2024 denial notice and approved Appellant for long-term care benefits beginning December 1, 2024. To the extent Appellant is approved based on the March 6, 2024 relog date, this appeal is dismissed in part.

Appellant sought an earlier start date of coverage based on the earlier application. Appellant’s representative testified that the earlier denial was not appealed. Pursuant to 130 CMR 520.004(A)(1) and (C)(2), the earlier application date has not been preserved by appeal and therefore the March 6, 2024 reapplication date controls. To the extent Appellant seeks coverage beginning earlier than December 1, 2023, 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.

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Cynthia Kopka  
Hearing Officer  
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104