

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|------------------|-------------------|-----------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2411732 |
| Decision Date: | 09/26/2024 | Hearing Date: | 08/21/2024 |
| Hearing Officer: | Susan Burgess-Cox | Record Open to: | 09/20/2024 |

Appearance for Appellant:



Appearance for MassHealth:

Jacqueline Kaminsky (POA)



*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

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|---------------------------|--------------------------------------|--------------------------|---------------|
| Appeal Decision: | Denied | Issue: | Excess Assets |
| Decision Date: | 09/26/2024 | Hearing Date: | 08/21/2024 |
| MassHealth's Rep.: | Elizabeth Landry | Appellant's Rep.: | |
| Hearing Location: | All Parties Appeared by Telephone | | |

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 22, 2024, MassHealth denied the appellant's application for long-term care services because the appellant has more countable assets than MassHealth benefits allow. (130 CMR 520.003; 130 CMR 520.004; Exhibit 1). The appellant's attorney-in-fact filed a timely appeal on July 29, 2024. (130 CMR 610.015). The Board of Hearings scheduled a hearing for August 21, 2024. (Exhibit 4).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

At the hearing, the Board of Hearings granted a request from the appellant's representative to keep the record open for the submission of additional evidence. This action resulted in an extension of the decision due date to November 27, 2024.

Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care services because the appellant has more countable assets than MassHealth benefits allow. (130 CMR 520.003; 130 CMR 520.004).

Issue

Whether MassHealth was correct in determining that the appellant has more countable assets than MassHealth benefits allow.

Summary of Evidence

The MassHealth representative presented documents that were incorporated into the hearing record as Exhibit 5. On March 18, 2024, MassHealth received an application for long-term care seeking coverage as of November 3, 2023. The appellant was eligible for MassHealth Standard while residing in the community.

On March 22, 2024, MassHealth issued a notice requesting information necessary to complete the application. MassHealth received some information in June 2024 and July 2024. On July 22, 2024, MassHealth issued a notice denying the application for long-term care coverage as the appellant had more countable assets than MassHealth benefits allow. (Testimony; Exhibit 1).

The countable assets include the cash surrender value of two life insurance policies along with funds in three bank accounts. In looking at the value of the life insurance policies MassHealth found one with a value of \$2,494.24 and the second with a value of \$2,454.92 for a total of \$4,949.16. (Testimony; Exhibit 1). The first bank account had a balance of \$1,248.72, the second bank account had a balance of \$9,206.30 and the third bank account had a value of \$9,505.88. These account balances total \$19,960.90. The notice on appeal states that the appellant has bank accounts with balances totaling \$18,959.90. (Exhibit 1). The MassHealth representative testified that the amounts listed on the notice on appeal result in the appellant having excess assets totaling \$21,909.26 as the appellant is able to have assets up to \$2,000. (Testimony; Exhibit 1).

The appellant's representative testified that the information that MassHealth has about the life insurance policy is duplicative. The appellant's representative testified that the bank account with a balance of \$9,206 is one with the appellant's name on it but it is the account of the appeal representative. The appellant's representative did not dispute the balance of the other accounts at the time of the eligibility decision. The appellant's representative testified that the appellant was discharged from the long-term care facility prior to the hearing date and was residing in an assisted living facility as of the date of the hearing. The appellant's representative testified that the appellant is utilizing the assets listed on the notice to pay for her stay at the assisted living facility. The appellant's representative testified that due to having to make payments to the assisted living facility, the appellant has spent down some of the assets listed on the notice. The appellant's representative testified that the appellant was also in the process of selling her home during the application process. The appellant's representative asked for time to present additional evidence regarding an asset spenddown. The record was held open to provide the appellant's representative with the opportunity to present additional evidence. (Exhibit 6).

Documents sent by the appellant's representative were incorporated into the hearing record as Exhibit 7. A response from MassHealth was incorporated into the hearing record as Exhibit 8. The appellant's representative presented documents including information about the bank accounts at issue along with documentation for the sale of the appellant's home which occurred in [REDACTED] (Exhibit 7). The appellant's representative stated that proceeds from the sale of the home are in the appellant's bank account. (Exhibit 7). The records indicate that the appellant received over \$340,000 for the sale of the home. (Exhibit 7; Exhibit 8). The MassHealth representative reviewed the records presented and determined that the appellant was still not eligible due to having more countable assets than MassHealth benefits allow as the proceeds from the sale of the home place the appellant over the asset limit by more than what was in the original determination.

Findings of Fact

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

1. The appellant applied for MassHealth long-term care.
2. MassHealth denied the application due to the appellant having excess assets.
3. MassHealth considered countable assets at the time of the eligibility decision as:
 - a. Bank accounts with balances totaling \$18,959.90;
 - b. Life insurance policies with a cash surrender value totaling \$4,949.16.
4. During the course of the appeal, the appellant presented evidence of an additional \$340,000 in cash available from the sale of a home.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Countable assets are all assets that must be included in the determination of eligibility. (130 CMR 520.007). The total value of countable assets owned by or available to individuals

applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed \$2,000 for an individual. (130 CMR 520.003(A)(1)). At the time of the eligibility decision, the appellant's assets exceeded this limit. During the appeal, the appellant failed to demonstrate that the asset amount presented by MassHealth was not correct or that the assets were spent down. Instead, the appellant's representative demonstrated that the appellant's available assets increased prior to the hearing date. The decision made by MassHealth was correct.

This 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

Appellant Representative:

[REDACTED]

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