

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Re-hearing Decision:	DENIED	Appeal Number:	2411991
Re-hearing Decision Date:	3/18/2025	Re-hearing Date:	February 18, 2025
Hearing Officer:	Macy Lee, Director		

Appearance for Appellant:

By Telephone:



(daughter and appeals representative)

Appearance for MassHealth:

By Teams:

Jared Krok, Springfield MEC



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

RE-HEARING DECISION

Re-hearing Decision:	DENIED	Issue:	Eligibility – Long Term Care
Re-hearing Decision Date:	3/18/2025	Re-hearing Date:	February 18, 2025
MassHealth's Rep.:	Jared Krok	Appellant's Rep.:	Daughter
Re-hearing Location:	Springfield MEC		

Authority

This re-hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, 130 CMR 610.091, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated July 25, 2024, MassHealth denied the appellant's application for MassHealth Home and Community Based Waiver Services on the grounds that Appellant asked for the benefits to stop. Exhibit A. The appellant filed this appeal in a timely manner on August 5, 2024. *See* 130 CMR 610.015(B); Exhibit A. Denial of assistance constitutes valid grounds for appeal. *See* 130 CMR 610.032). While the hearing was pending, the appellant's representative filed documentation which included copies of three other notices (notice numbers 67258195, 6728199, and 67258203 concerning Patient Paid Amount (hereinafter, "PPA") determinations. Exhibit C. PPA determinations also constitute valid grounds for appeal (see 130 CMR 610.032).

A hearing was held remotely on October 4, 2024. Exhibit L. On December 2, 2024, a Board of Hearings hearing officer issued a decision denying the appellant's appeal. *Id.*

On December 16, 2025, the Board of Hearings received a request for a re-hearing and a complaint against the hearing officer. On January 27, 2025, the Medicaid Director and Assistant Secretary for

MassHealth ordered a re-hearing to determine the appeal on the merits. Specifically, “the Hearing Officer shall make findings and analysis on: 1) whether MassHealth erred in terminating the Frail Elder Waiver (hereinafter, “FEW”); and 2: whether the ASAP [Aging Services Access Points, hereinafter referred to as, “ASAP”] screen determining [the appellant] clinically eligible for long-term nursing facility care was in error.” Exhibit E. A re-hearing was scheduled on Teams on February 18, 2025. Exhibit F.

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Home and Community Based Waiver Services (hereinafter, “HCBW”) and made three PPA determinations.

Issues for Re-hearing

Whether MassHealth erred in (1) terminating the FEW services; and (2) determining that the appellant was clinically eligible for long-term nursing facility care based on an ASAP screening.

Summary of Evidence

Decision Dated December 2, 2024

The following facts from the decision dated December 2, 2024 – Exhibit L – are incorporated herein:

The MassHealth representative testified that the appellant filed an application for MassHealth Long Term Care (hereinafter, “LTC”) benefits on July 18, 2024, seeking a start date of February 4, 2024, the date that her community benefits terminated. Exhibit L at 2.

The MassHealth representative testified that the LTC application was processed on July 25, 2024. As a result of filing the LTC application, MassHealth issued notice number 67172018 informing Appellant that she was not eligible for the FEW services because she had asked for her benefits to stop. *Id.*

In August 2024, the MassHealth representative spoke with the appellant’s daughter and appeals representative regarding this notice informing her that the FEW coverage that the appellant had been receiving in the community needed to end so that she could start the LTC benefits. When FEW services were terminated, MassHealth systems issued notice number 67172018. *Id.*

The appellant was approved for LTC benefits with the requested start date and was assessed a monthly Patient Paid Amount (hereinafter, “PPA”) under notice number 67255820. Because of changes in income and or the application of certain deductions (explained below) that occurred after the start date of February 4, 2024, changes were made to the PPA. These changes were explained in notices 67258195, 6728199, and 67258203. *Id.*

The appellant’s daughter, who is also the appeals representative (hereinafter, “daughter”) wrote to the MassHealth representative seeking clarification and asserting that Appellant shouldn't have any PPA. *Id.* In her letter, the daughter referenced the nursing home screens from Elder Services (ASAP) claiming the screens were “Respite Vouchers” from the ASAP. Exhibit B, page 3, letter from daughter dated August 22, 2024; *id.*

The MassHealth representative explained that the screens are not vouchers for respite, but the clinical eligibility notices which inform MassHealth that an applicant is clinically (as opposed to financially) eligible for nursing home services. Exhibit L. The dates on the screens also let MassHealth know if the applicant is approved for a short-term stay or is considered long term. The MassHealth representative further explained that if an applicant is screened “short term” then she is entitled to an allowance to maintain her home in the community for a maximum of six months plus the month of application. This amount is deducted from the monthly PPA. *Id.*

The MassHealth representative testified that the appellant was screened for a short-term stay from November 9, 2023, to May 9, 2024. *Id.* at 3. Another short-term stay period was determined for May 8, 2024, to August 9, 2024. *Id.* The appellant received the corresponding home maintenance deductions which were subtracted from her PPA as reflected in notices 67258195, 6728199, and 67258203. *Id.*

The MassHealth representative summarized that the appellant has had monthly PPAs due since February 2024. *Id.* The Home Maintenance Deduction was applied through May 2024 (when the last short-term stay period ended). *Id.* There has never been a respite voucher and Appellant has been responsible for paying each of her monthly PPAs since February 2024. *Id.*

The daughter who spent all her time asking the MassHealth representative to re-explain what the representative had already explained with her testimony. *Id.* at 3. Eventually, the hearing officer asked the appellant what it was that she was actually appealing. *Id.* The appellant’s daughter became very defensive and asked that she not be pressured or badgered. The hearing officer then explained that the daughter had been speaking for 35 minutes and had yet to claim that

MassHealth had made an error in fact or of law and had yet to state what it was she was appealing. *Id.* The daughter became more agitated and argumentative accusing the hearing officer of being dismissive and “badgering” her. *Id.* The daughter repeatedly refused to answer the hearing officer’s question as to the basis of the appeal and/or what, if any, MassHealth action of with she disagreed. Instead, the daughter abruptly hung up the phone at which point the hearing ended. *Id.*

The hearing officer denied the appeal on the grounds that “there is no basis in fact or law to disturb the reviewed MassHealth actions.” *Id.* at 6.

Re-Hearing on February 18, 2025

A virtual re-hearing was held from the Springfield MassHealth Enrollment Center. The appellant was not present but represented by her daughter. MassHealth was represented by Jared Krok. The daughter was able to appear on Teams but was unable to turn on her camera and microphone. Due to the daughter’s technical difficulties, the fair hearing was delayed by 30 minutes. As such, she appeared telephonically.

The MassHealth representative presented the following case: MassHealth issued six notices pertaining to the appellant. The member was initially approved for MassHealth Standard in the community on October 25, 2021. This had a start date of August 1, 2021. She was deemed clinically eligible for FEW services but not financially eligible; her income has always been over the limit to qualify for FEW benefits. Due to the federal Covid protections, the appellant remained active on MassHealth Standard, notwithstanding the deductible period from August 1, 2021, to February 8, 2024, only.

As to the determination of the appellant’s clinical eligibility for short-term and long-term care benefits, the MassHealth representative testified as follows: the appellant was then admitted to Springside Rehabilitation after an ASAP screening on November 14, 2023. Exhibit H at 37. The assessment dated November 9, 2023, was coded into the system by SC-1 and MMIS for billing purposes. Exhibit H at 6. When Covid protections ended, on January 3, 2024, the appellant’s coverage was downgraded and her MassHealth Standard ended on February 8, 2024. Exhibit K at 6. Another MassHealth notice was generated on January 25, 2024, which downgraded the appellant’s MassHealth Standard coverage on February 8, 2024. Both notices pertain to the appellant’s community benefit and notified her that she was over the income limit. When the appellant’s MassHealth Standard was downgraded, she began receiving Senior Buy-In program benefits.

The MassHealth representative testified that, on July 15, 2024, MassHealth received the appellant's application for LTC benefits, which was assigned and handled by the Springfield MassHealth Enrollment Center (hereinafter, "MEC"). Exhibit H at 4. This application was processed as a request for LTC benefits in a nursing facility and not for FEW benefits. MassHealth did not receive an application for FEW benefits in 2024. Testimony. Notice numbered 67172018¹ was issued as a result from a glitch in the system that showed that the appellant requested that the benefit ended. Exhibit B at 4; Exhibit H at 38. MassHealth withdrew that notice and the appellant's Senior Buy-In program benefits remained active and intact. The appellant was a participant in the FEW program for a six month period but with a deductible because her income exceeded the allowable limit. She had FEW benefits from August 1, 2021, to February 8, 2024, due to the Covid protection in place. Exhibit H at 8; Exhibit K at 6. If there was no protection in place, the FEW benefits would have ended on January 31, 2022.

MassHealth notice numbered 67255820 was issued on August 19, 2024, approved the appellant's nursing facility coverage dated back to February 9, 2024. Exhibit B at 8; Exhibit H at 13. This notice was erroneously issued without giving the appellant the short-term benefits, so a second notice numbered 67258195 and dated August 19, 2024, was issued by MassHealth which gave the appellant a short-term allowance after an ASAP screening for short-term stay. Exhibit B at 12-13; Exhibit H at 17-18. Per 130 CMR 520.026(d), the appellant's monthly PPA was \$1,849.79 to the nursing facility. Exhibit H at 22-27.

Notice numbered 67258199, which was dated August 19, 2024, reduced the appellant's PPA to \$1,809.79 due to the increase of the federal poverty level. Exhibit B at 16-17; Exhibit H at 28-29. The appellant's new PPA was backdated to March 1, 2024. *Id.*

The next notice that MassHealth issued was numbered 67258203 and dated August 19, 2024. Exhibit B at 20; Exhibit H at 33. This was another PPA adjustment notice as of June 1, 2024, due to the appellant's admission on [REDACTED] 2023, to a short-term stay at a nursing facility. *Id.* This notice is backdated to June 1, 2024, as the short-term stay period of six months was from December 1, 2023, and June 1, 2024. The PPA increased to \$3,064.79 starting on June 1, 2024. *Id.*

MassHealth issued another notice numbered 67371464 and dated September 19, 2024. Exhibit

¹ The MassHealth representative incorrectly testified to the wrong notice number. The notice number is 67172018 and not 67372018. Exhibit B at 4; Exhibit H at 8.

H at 38. This notice was generated because MassHealth was notified that the appellant was discharged from the nursing facility. *Id.* The appellant was no longer eligible for LTC services in a nursing facility because she was discharged. *Id.* The notice also indicated a community benefit because the appellant did not qualify for MassHealth Standard. *Id.* at 39. The appellant, however qualified for Health Safety Net with a family deductible of \$3,100.80 with a benefit effective date of September 1, 2024, which was also the date the appellant was discharged from the nursing facility. *Id.*

The MassHealth representative testified that a member can apply for a FEW when on short-term care at a nursing facility but cannot have both benefits simultaneously unless they are on MassHealth Standard. The appellant was not on MassHealth Standard while she was in the nursing facility. In addition, the appellant was never a long-term resident at a nursing facility. The appellant was never clinically eligible for long-term care, only short-term stay; the application is the same for both stays.

The appellant also had two ASAP screenings. The first ASAP screen was on November 9, 2023, and the appellant was found eligible for short-term nursing-facility services through May 9, 2024. Exhibit H at 6. The second ASAP screen occurred on May 8, 2024, where the appellant was found clinically eligible for nursing facility services on a short-term basis through August 9, 2024. Exhibit B at 26. On November 9, 2023, and the appellant was found eligible for short-term nursing-facility services through May 9, 2024. Exhibit H at 6.

On behalf of the appellant, the daughter did not offer any testimony. Instead, she asked numerous questions, all which were thoroughly, patiently, and clearly answered by the MassHealth representative. Her questions involved MassHealth Standard benefits, the ASAP forms, and “respite vouchers.” She was also very confused about the difference between “short-term” and “long-term.” The daughter did not offer any evidence that was not already contained in Exhibits A, B, and C that were submitted in the initial fair hearing on October 4, 2024. The daughter submitted the most recent MassHealth notice numbered 67998815² dated February 4, 2025, informing the appellant that she is eligible for MassHealth Standard Benefits. Exhibit J. This notice, however, is not a part of this re-hearing.

Exhibits A, B, and C are incorporated herein.

² The appellant filed a fair hearing request pertaining to this notice. The Board of Hearings appeal number for this matter is 2502409 and is scheduled to be heard on March 19, 2025.

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. MassHealth issued six notices pertaining to the appellant. Testimony.
2. The member was initially approved for MassHealth Standard in the community on October 25, 2021. This had a start date of August 1, 2021. She was deemed clinically eligible for FEW services but not financially eligible; her income has always been over the limit to qualify for FEW benefits. Due to the federal Covid protections, the appellant remained active on MassHealth Standard from August 1, 2021, to February 8, 2024. Exhibit H at 8; Exhibit K at 6; Testimony.
3. The first ASAP screen was on November 9, 2023, and the appellant was found eligible for short-term nursing-facility services through May 9, 2024. Exhibit D at 5; Exhibit H at 6; Testimony.
4. The appellant was then admitted to [REDACTED] on [REDACTED] 2023. Exhibit H at 37. The ASAP screen dated November 9, 2023, was coded into the system by SC-1 and MMIS for billing purposes. Exhibit H at 6. When Covid protection ended, on January 3, 2024, the appellant's coverage was downgraded and her MassHealth Standard ended on February 8, 2024. Exhibit K at 6; Testimony. Another MassHealth notice was generated on January 25, 2024, which downgraded the appellant's MassHealth Standard coverage effective February 8, 2024. Exhibit K at 6; Testimony. Both notices pertain to the appellant's community benefit and notified her that she was over the income limit. Testimony. When the appellant's MassHealth Standard was downgraded, she began receiving Senior Buy-In program benefits. Exhibit K at 6; Testimony.
5. Because of changes in the appellant's income and/or the application of certain deductions that occurred after the start date of February 4, 2024, changes were made to the PPA. Testimony.
6. PPA changes effective after February 4, 2024, were explained in notices 67258195, 6728199, and 67258203. Exhibit B at 12; Exhibit H at 17; Exhibit B at 16; Exhibit H at 28; Exhibit B at 20; Exhibit H at 33; Testimony. All three notices are dated August 19, 2024. *Id.*

7. On May 8, 2024, the appellant had her second ASAP screen. Exhibit B at 25; Exhibit D at 7; Testimony. The appellant was found to be clinically eligible for MassHealth payment of nursing facility services on a short-term basis through August 9, 2024. *Id.*
8. The Home Maintenance Deduction was applied through May 2024 (when the last short-term period ended). Testimony.
9. The appellant filed an application for MassHealth LTC benefits on July 15, 2024. Exhibit H at 4; Testimony.
10. The LTC application was processed on July 25, 2024. Testimony.
11. As a result of filing the LTC application, MassHealth issued notice number 67172018 dated July 25, 2024, informing the appellant that she was not eligible for the FEW services because she asked for her benefits to stop. Exhibit B at 4; Exhibit H at 8; Testimony.
12. In August 2024, the MassHealth representative spoke with the appellant's daughter regarding notice 67172018 informing her that the appellant's FEW benefits that the appellant had been receiving in the community needed to end to start the LTC benefits. When FEW terminated, MassHealth systems issued notice number 67172018. Exhibit B at 4; Exhibit H at 8; Testimony.
13. The appellant was approved for LTC benefits with the requested start date and was assessed a monthly PPA under notice numbered 67255820 dated August 19, 2024. Exhibit B at 8; Exhibit H at 13; Testimony.
14. The appellant's daughter wrote to the MassHealth representative seeking clarification and asserting that Appellant should not have any PPA. Testimony.
15. In her letter, the daughter referenced the ASAP screens and claimed that the screens were "Respite Vouchers" from the ASAP. Exhibit B, page 3, letter from daughter dated August 22, 2024; Exhibit L at 2.
16. MassHealth notice numbered 67255820 was issued on August 19, 2024, approved the appellant's nursing facility coverage dated back to February 9, 2024. Exhibit B at 8; Exhibit H at 13. This notice was erroneously issued without giving the appellant the short-term benefits, so a second notice numbered 67258195 and dated August 19,

2024, was issued by MassHealth which gave the appellant a short-term allowance after an ASAP screening for short-term stay. Exhibit B at 12-13; Exhibit H at 17-18. Per 130 CMR 520.026(d), the appellant's monthly PPA was \$1,849.79 to the nursing facility. Exhibit H at 22-27.

17. Notice numbered 67258199 and dated August 19, 2024, reduced the appellant's PPA to \$1,809.79 due to the increase of the federal poverty level. Exhibit B at 16-17; Exhibit H at 28-29. The appellant's new PPA was backdated to March 1, 2024. *Id.*
18. The next notice that MassHealth issued was numbered 67258203 and dated August 19, 2024. Exhibit B at 20; Exhibit H at 33; Testimony. This was another PPA adjustment notice as of June 1, 2024, due to the appellant's admission on [REDACTED] 2023, to a short-term stay at a nursing facility. *Id.* This notice is backdated to June 1, 2024, as the short-term stay period of six months was from December 1, 2023, and June 1, 2024. The PPA increased to \$3,064.79 starting on June 1, 2024. *Id.*
19. The appellant received the corresponding home maintenance deductions which were subtracted from her PPA as reflected in notices 67258195, 6728199, and 67258203. Exhibit B at 12; Exhibit H at 17; Exhibit B at 16; Exhibit H at 28; Exhibit B at 20; Exhibit H at 33; Testimony.
20. MassHealth issued another notice numbered 67371464 and dated September 19, 2024. Exhibit H at 38; Testimony. This notice was generated because MassHealth was notified that the appellant was discharged from the nursing facility. *Id.* The appellant was no longer eligible for LTC services in a nursing facility because she was discharged. *Id.* The notice also indicated a community benefit because the appellant did not qualify for MassHealth Standard. *Id.* at 39. The appellant, however qualified for Health Safety Net with a family deductible of \$3,100.80 with a benefit effective date of September 1, 2024, which was also the date the appellant was discharged from the nursing facility. *Id.*
21. A member can apply for a FEW when on short-term care at a nursing facility but cannot have both benefits simultaneously unless they are on MassHealth Standard. Testimony. The appellant was not on MassHealth Standard while she was in the nursing facility. Testimony. In addition, the appellant was never a long-term resident at a nursing facility. Testimony. The appellant was never clinically eligible for long-term care, only short-term stay; the application is the same for both. Testimony.

22. Screens are not vouchers for respite, but clinical eligibility notices which inform MassHealth that an applicant is clinically (as opposed to financially) eligible for nursing home services. Testimony.
23. There has never been a respite voucher, and the appellant has been responsible for paying each of her monthly PPAs since February 2024. Exhibit B at 2; Testimony.
24. Dates on the screens notified MassHealth that the applicant is approved for a short-term stay or is considered a long-term resident. Testimony.
25. If an applicant is screened as a “short-term” stay member, then she is entitled to an allowance to maintain her home in the community for a maximum of six months plus the month of application; this amount is deducted from the monthly PPA. Testimony.
26. A member can apply for a FEW when on short-term care at a nursing facility but cannot have both benefits simultaneously unless they are on MassHealth Standard. Testimony.
27. The appellant was not on MassHealth Standard while she was in the nursing facility. Testimony. In addition, the appellant was never a long-term resident at a nursing facility. Testimony. The appellant was never clinically eligible for long-term care, only short-term stay; the application is the same for both stays. Testimony.

Analysis and Conclusions of Law

In all appeals stemming from MassHealth action, the appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2007); *Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989); *Fisch v. Board of Registration in Medicine*, 437 Mass. 128, 131 (2002). The appellant must demonstrate, by a preponderance of evidence, that MassHealth’s termination of the FEW and clinical eligibility determinations were incorrect pursuant to 130 CMR 519.007(H)(2). *See Craven v. State Ethics Comm’n*, 390 Mass. 191, 200 (1983)(“[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings”). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” 130 CMR 610.085(A). In reaching a decision, the “hearing officer must give due consideration to Policy Memoranda and any other MassHealth agency representations

and materials containing legal rules, standards, policies, procedures, or interpretations as a source of guidance in applying a law or regulation.” 130 CMR 610.085(C)(3). Furthermore, the MassHealth Fair Hearing Rules provide that a hearing officer must render a decision in accordance with the law, including specifically:

. . . [T]he hearing officer must not render a decision regarding the legality of federal or state law including, but not limited to, the MassHealth regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency. Such decision must include a statement that the hearing officer cannot rule on the legality of such law or regulation and must be subject to judicial review in accordance with 130 CMR 610.092.

Id. at 610.085(C)(2). Based on the testimonies and this record, I find that the appellant has failed to meet her burden in demonstrating that MassHealth erred in terminating her FEW services. Moreover, the appellant failed to show that the ASAP screen incorrectly determined her to be clinically eligible for long-term nursing facility care.

Here, the Medicaid Director ordered two issues for re-hearing: whether MassHealth erred in (1) terminating the FEW services; and (2) determining that the appellant was clinically eligible for longer-term nursing facility care based on an ASAP screening. As to the first issue, I credit the testimony of the MassHealth representative, which was amply supported by the documentary evidence submitted, that the appellant did not qualify for FEW benefits when she was no longer eligible for MassHealth Standard. 130 CMR 519.007(B) provides as follows:

(B) Home- and Community-based Services Waiver-Frail Elder.

(1) Clinical and Age Requirements. The Home- and Community-Based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing-facility services to receive certain waiver services at home if they

(a) is 60 years of age or older and, if younger than 65 years old, is permanently and totally disabled in accordance with Title XVI standards; and

(b) would be institutionalized in a nursing facility, unless he or she receives one or more of the services administered by the Executive Office of Elder Affairs under the Home- and Community-Based Services Waiver-Frail Elder authorized under section 1915(c) of the Social Security Act.

(2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of their marital status. The applicant or member must

- (a) meet the requirements of 130 CMR 519.007(B)(1)(a) and (b);
- (b) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual; and
- (c) have countable assets of \$2,000 for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
- (d) have no transferred resources for less than fair market value, as described at 130 CMR 520.018: *Transfer of Resources Regardless of the Transfer Date* and 520.019: *Transfer of Resources Occurring on After August 11, 1993*.

(3) Financial Standards Not Met: Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(B)(2) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or by both.

As the MassHealth representative testified, the appellant was deemed clinically eligible for FEW services but not financially eligible; her income had always been over the limit to qualify for FEW benefits. Testimony. Due to the federal Covid protections, the appellant remained active on MassHealth Standard from August 1, 2021, to February 8, 2024. Exhibit H at 8; Exhibit K at 6; Testimony. The appellant was a participant in the FEW program for a six month period but with a deductible because her income exceeded the allowable limit. Testimony. She had FEW benefits from August 1, 2021, to February 8, 2024, due to the Covid protection in place. If there was no protection in place, the FEW benefits would have ended on January 31, 2022. The MassHealth representative testified that, on July 15, 2024, MassHealth received the appellant's application for LTC benefits, which was assigned and handled by the Springfield MassHealth Enrollment Center (hereinafter, "MEC"). Exhibit H at 4. This application was processed as a request for LTC benefits in a nursing facility and not for FEW benefits. Testimony; Exhibit K at 6. Therefore, MassHealth did not err in terminating the appellant's FEW benefits.

I also find that there was no error as to the second issue for re-hearing: whether determining that the appellant was clinically eligible for long-term nursing facility care based on an ASAP screening.

There was nothing to re-hear on this issue. The appellant was only clinically eligible twice for short-term stay. The documentary evidence unequivocally shows that the appellant was assessed twice for a short-term (six months or less) stay for nursing facility services. Exhibit B at 26; Exhibit H at 5, 6, 37; Testimony. The screens occurred on November 9, 2023, and May 8, 2024. *Id.* The MassHealth representative testified that the appellant was not on MassHealth Standard while she was in the nursing facility. Testimony. In addition, the appellant was never a long-term resident at a nursing facility. Testimony. As such, the appellant was never clinically eligible for long-term care, only short-term stay, and the application is the same for both stays. Testimony.

At the re-hearing, the appellant's daughter and appeals representative asked many questions seeking clarification from the MassHealth representative, particularly about the processing of the appellant's LTC application and the PPA determinations. This also occurred at the initial hearing that occurred on October 4, 2024. Exhibit L. As in the first hearing, the daughter never disputed any MassHealth action and did not offer any evidence to support her appeal.

Therefore, I find that MassHealth correctly terminated FEW services after federal Covid protection ended. In addition, I find that the ASAP screen never determined the appellant to be clinically eligible for long-term nursing facility care and only for short-term nursing facility services. Accordingly, after a re-hearing, 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.

Macy Lee
Director
Board of Hearings

CC:

[REDACTED]

MassHealth Representative: Jared Krok, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186