

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; Remanded	<b>Appeal Number:</b>	2412144
<b>Decision Date:</b>	11/20/2024	<b>Hearing Date:</b>	09/13/2024
<b>Hearing Officer:</b>	Sharon Dehmand	<b>Record Open to:</b>	11/01/2024

**Appearance for Appellant:**



**Appearance for MassHealth:**

Eileen Smith, Tewksbury MEC



*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>	Approved in part; Remanded	<b>Issue:</b>	Long Term Care; Excess Assets
<b>Decision Date:</b>	11/20/2024	<b>Hearing Date:</b>	09/13/2024
<b>MassHealth's Rep.:</b>	Eileen Smith	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	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

Through a notice dated July 10, 2024, MassHealth denied the appellant's application for MassHealth long-term benefits because MassHealth determined that the appellant was over the asset limit to qualify. See 130 CMR 520.003 and Exhibit 1. The appellant filed this appeal in a timely manner on August 6, 2024. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal before the Board of Hearings. See 130 CMR 610.032(A)(1).

### Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits.

### Issue

Whether MassHealth erred in denying the appellant's application for MassHealth long-term benefits pursuant to 130 CMR 520.003 and 130 CMR 520.004.

### Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Tewksbury MassHealth Enrollment Center. The appellant was represented by a representative from the nursing facility. The following is a summary of the testimonies and evidence provided at the hearing:

The MassHealth representative testified that the appellant is over the age of 65 and resides in a nursing facility. A long-term care application was submitted on the appellant's behalf on April 24, 2024, seeking a coverage start date of April 26, 2024. Through a notice dated July 10, 2024, MassHealth denied the appellant's application for long-term care services because the appellant's assets exceeded the \$2,000.00 limit by \$5,001.00 (\$7,001.00-\$2,000.00). The MassHealth representative noted an error in the asset count, namely: a \$2,000.00 auto was incorrectly listed as countable asset, reducing the excess amount to \$3,000.00. See Exhibit 5, p. 3.

The MassHealth representative explained that the appellant owned a travel trailer which MassHealth valued at \$5,000.00. Although the appellant provided a note indicating its sale for \$4,500.00, the note was neither signed nor dated by the appellant and the location of the deposit of the proceeds was unknown. Exhibit 5, p. 8. She added that she is unclear about the asset reduction and thus she is unable to process the case at this time. She said that in order to process the case, she requires the confirmed sale date and the actual value of the travel trailer as well as documentation of where the proceeds were deposited. Furthermore, the MassHealth representative requested bank statements detailing the source of a \$550.00 payment to the nursing facility, a \$1,620.00 payment to a funeral home, and an explanation regarding a \$2,000.00 withdrawal from the appellant's bank account.

The appellant's representative stated that the appellant sold the travel trailer to her nephew and agreed that the note does not reflect a date of sale. He also testified that he does not know the fair market value for the travel trailer beyond an online search. He added that the appellant's nephew will travel to Massachusetts to provide him with the documents requested by MassHealth. The appellant's representative requested that the record be kept open in order for the appellant's nephew to demonstrate proof of the spenddown.

The record was initially kept open until October 4, 2024, for the appellant to provide the necessary documentation, and until October 18, 2024, for MassHealth to review and respond. Upon request of the appellant an extension to the record open was granted until October 18, 2024, for the appellant and until November 1, 2024 for MassHealth's response. See Exhibit 6.

Through an email on October 18, 2024, the appellant's representative submitted additional documents. See Exhibit 7. Through an email on November 1, 2024, the MassHealth representative stated that after review of the additional submissions, MassHealth adjusted its valuation of the trailer to \$14,500.00, based on the [REDACTED] tax bill. She added that she is still missing the following items: "[D]ate of trailer sale, where proceeds were deposited, and the source of \$550 payment to facility." See Exhibit 8.

## Findings of Fact

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

1. The appellant is over the age of 65 and lives in a nursing facility. (Testimony).
2. A MassHealth long-term care application was submitted on the appellant's behalf on April 24, 2024. (Testimony and Exhibit 5).
3. The appellant requested the coverage start date of April 26, 2024. (Testimony and Exhibit 5).
4. On July 10, 2024, the appellant was denied long-term care coverage because MassHealth determined she had more countable assets than MassHealth allows. (Testimony, Exhibit 1).
5. MassHealth initially valued a travel trailer registered to the appellant as \$5,000.00. (Testimony and Exhibit 5).
6. The total value of countable assets may not exceed \$2000.00. (Testimony).
7. After deducting \$2,000.00 for the allowable asset limit, the appellant had \$3,000.00 in excess assets on the requested coverage start date of April 24, 2024. (Exhibit 5).
8. The note which reflected the sale of the trailer was neither signed nor dated by the appellant. (Testimony and Exhibit 5).
9. The appellant filed a timely request for a fair hearing on August 6, 2024. (Exhibit 2).
10. The record was kept open until October 4, 2024, for the appellant to provide the necessary documentation, and until October 18, 2024, for MassHealth to review and respond. Upon request of the appellant an extension to the record open was granted until October 18, 2024, for the appellant and until November 1, 2024 for MassHealth's response. (Exhibit 6).
11. On October 18, 2024, the appellant's representative provided additional submissions. (Exhibit 7).
12. The appellant provided proof that the date of sale for the trailer was April 17, 2024. (Exhibit 7).
13. On November 1, 2024, in response to the submissions, the MassHealth representative stated that MassHealth adjusted its valuation of the trailer to \$14,500.00, based on the [REDACTED] tax bill. She added that she is still missing the following items: "[D]ate of trailer sale,

where proceeds were deposited, and the source of \$550 payment to facility.” (Exhibit 8).

## **Analysis and Conclusions of Law**

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant’s age. Regulations 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. See 130 CMR 515.002(B).

In this case, the appellant is over the age of 65 and resides at a nursing facility. As such she is an institutionalized person and subject to the requirements of the provisions of Volume II. See 130 CMR 515.002.

Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements:

- (1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;
- (4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, 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
- (5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

See 130 CMR 519.006(A).

An applicant whose countable assets exceeds the asset limit for MassHealth Standard may show a reduction of assets to the allowable limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F)(MassHealth agency will impose a period of ineligibility for transferring resources at less than fair-market value). See 130 CMR 520.004(A)(1). This reduction of assets is colloquially known as a “spenddown” and requires the applicant to verify that the excess assets were reduced to the allowable asset limit within required timeframes. See 120 CMR 520.004(D).

The only issue in this appeal is the denial of long-term care coverage because MassHealth determined that the appellant had more countable assets than allowed, namely: a travel trailer. MassHealth determined that the appellant was \$3,000.00 over allowed asset limit on the requested coverage start date of April 24, 2024, because the appellant owned a travel trailer which MassHealth valued at \$5,000.00 in its notice dated July 10, 2024. See Exhibit 1 and Exhibit 5.

The MassHealth representative stated that although it appeared that the appellant sold the trailer, the note was neither signed nor dated by the appellant. As such, the date of sale as of the coverage start date was unknown. The appellant's representative testified that the appellant's nephew bought the trailer and that he will be providing him with additional documents for submission to MassHealth. During the record open, the appellant's representative made a fifteen-page submission to MassHealth. See Exhibit 7.

Based on the review of the appellant's submissions, it appears that the appellant's nephew applied for a certificate of title for the travel trailer on June 7, 2024. See Exhibit 7, p.6. In the same application, the date of purchase of the travel trailer is noted as April 17, 2024. Id. While it is true that the submitted note regarding the sale of the trailer was neither signed nor dated by the appellant, see Exhibit 7, p.5, the submissions during the record open prove by a preponderance of the evidence that the date of purchase of the travel trailer was April 17, 2024. 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"); Exhibit 7, pp.6-8. Accordingly, based upon this record, I find that the appellant did not own the travel trailer at issue as of April 17, 2024. Thus, this appeal is APPROVED in part.

Furthermore, this matter is REMANDED to MassHealth to make a new eligibility determination in accordance with this decision. MassHealth may request additional information as needed to redetermine eligibility (e.g., the fair market value of the trailer, the location where the sale proceeds were deposited, and the source of the \$550 payment to the facility).<sup>1</sup>

For the foregoing reasons, this appeal is APPROVED in part and REMANDED.

## **Order for MassHealth**

Rescind MassHealth's notice dated July 10, 2024. Review the appellant's submissions and determine the appellant's eligibility in accordance with this decision.

## **Implementation of this Decision**

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<sup>1</sup> Any subsequent notices issued by MassHealth as results of its new eligibility determination will have their own appeal rights.

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.

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Sharon Dehmand, Esq.  
Hearing Officer  
Board of Hearings



MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290