

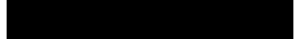
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2413212
<b>Decision Date:</b>	11/26/2025	<b>Hearing Date:</b>	08/05/2025
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	11/24/2025

**Appearance for Appellant:**

 personal representative

**Appearance for MassHealth:**

Douglas Thompson, Charlestown 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>	Denied	<b>Issue:</b>	Long Term Care; Verifications
<b>Decision Date:</b>	11/26/2025	<b>Hearing Date:</b>	08/05/2025
<b>MassHealth's Rep.:</b>	Douglas Thompson	<b>Appellant's Rep.:</b>	Personal Representative
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center (Telephone)	<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 3, 2024, MassHealth denied the Appellant's application for MassHealth Long-Term-Care because MassHealth determined that the Appellant did not provide MassHealth with requested information within the time required.<sup>1</sup> 130 CMR 515.008 and Exhibit 1. The Appellant filed this appeal in a timely manner on August 26, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.<sup>2</sup>

### Action Taken by MassHealth

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<sup>1</sup> The denial notice states that verifications of the following were not provided to MassHealth: Income from private pension, rental income and other information for [REDACTED] medical and pharmacy insurance, bank statements for two [REDACTED] bank accounts, and an [REDACTED] life insurance policy. Exhibit 1.

<sup>2</sup> The Appellant died on [REDACTED] 2024. The appeal was placed on hold and then re-opened upon the appointment of [REDACTED] as the personal representative for the estate. Exhibit 5. The Appellant's death certificate indicated that she was widowed. *Id.*

MassHealth denied the Appellant's application for MassHealth Long-Term-Care services.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008 and 130 CMR 516.003, in determining that the Appellant did not provide MassHealth with requested information within the time required.

## Summary of Evidence

The hearing was held by telephone. The MassHealth representative testified that the Appellant was over the age of 65. The MassHealth representative testified that MassHealth received a long-term-care application on March 13, 2024, which listed the Appellant's home address as [REDACTED]. The MassHealth representative testified that an SC-1 Form received on April 14, 2024, indicated that the Appellant had been admitted to a nursing facility on [REDACTED] 2023, and the facility was seeking a payment start date of December 13, 2023. The MassHealth representative testified that on March 29, 2024, MassHealth sent the Appellant a request for information that was due on June 27, 2024. The MassHealth representative testified that besides the SC-1 Form and screen, no other verifications were received and MassHealth denied the application by notice dated July 3, 2024. The MassHealth representative testified that MassHealth learned that the Appellant died on [REDACTED] 2024, and that the case was put on hold pending the appointment of a representative for the estate. The MassHealth representative explained that MassHealth was seeking information about income from the Appellant's private pension, rental income and information on who was living in [REDACTED] medical and pharmacy insurance, bank statements for two [REDACTED] bank accounts, an [REDACTED] life insurance policy, and a personal-needs account for the Appellant.

On the day of the hearing, the Appellant's representative submitted some verifying information. Exhibit 7. This included a letter from [REDACTED] concerning the life insurance policy and stating that it had researched their "database using the information provided and found no policies" for the Appellant. *Id.* at 2. It also stated, "If you are sure this individual has policies with [REDACTED] Life Insurance Company, please send copies of correspondence sent by [REDACTED] Insurance Company indicating the policy number along with your request. I will be happy to process your request when this requirement is received." *Id.*

The Appellant's representative, who is the appointed personal representative for the estate, verified the Appellant's identity. The Appellant's representative testified that the Appellant's family had not been responsive, and that she has been having challenges accessing the verifications requested by MassHealth. The Appellant's representative requested a record open period, because she was also waiting for additional information from the Internal Revenue

Service. The record was held open until September 4, 2025, for the Appellant's representative to submit the requested information, and until September 18, 2025, for MassHealth's response. Exhibit 8.

During the record open period, the Appellant's representative submitted [REDACTED] bank statements from January to December 2024.<sup>3</sup> Exhibit 9. On September 2, 2025, the Appellant's representative requested an additional 30 days, writing:

Since our last hearing date, my office has followed up with the [REDACTED] and coordinated with a realtor to investigate the [REDACTED] property.

My office did fax over all of the verifications requested and received from [REDACTED] to MassHealth and the Board of Hearings. I do not see any pension information contained in the bank statements. I see only SSA income.

I have not identified rental income.

The realtor has gone to the home. It appears that one floor may have occupants; this is still to be determined. I am still investigating the real estate and who may be residing in the home.

I have not yet received the requested information from [REDACTED]

Exhibit 10. The record was extended and on October 2, 2025, the Appellant's representative requested an additional extension, writing:

I have only received the missing verification from [REDACTED]

[REDACTED] continues to communicate to me that there is no such policy for [Appellant]. I have provided the SSN/DOB, and the policy number provided by [MassHealth representative]. I was told today that [Appellant] applied for a policy but was denied by underwriting and that no policy was ever obtained.

I received a notice from the IRS; I responded to the notice. I have not received further communication from the IRS.

There is no rental income or pension income identified on the bank statements that have been provided to MH and BOH. **Does Mass Health have any additional information regarding these verification requests?**

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<sup>3</sup> I note that the bank statements reflect a number of purchases made in [REDACTED] and other states, after the date on which the Appellant had been admitted to the nursing facility. Exhibit 9.

I have had a realtor visit the real estate on two occasions. I will be submitting an affidavit today with details regarding the real estate.

The realtor has requested that the occupants of the home meet with us this month. He proposed a response from the occupant, who would not identify herself, by 10/10/25.

I will fax over to both the BOH and Mass Health, the communication from the IRS, the [REDACTED] information, the [REDACTED] letters, and the affidavit detailing the efforts made to determine who is residing in the real estate.

Exhibit 13 at 1.

The record open was extended to October 31, 2025, for the Appellant. Exhibit 18. On October 17, 2025, the MassHealth representative stated that if no deposits or documents indicating a pension were found, MassHealth would waive the private pension verifications. Exhibit 26 at 14. The MassHealth representative also stated that the [REDACTED] and personal-needs account information submitted was acceptable. *Id.* at 15. He stated that the [REDACTED] life insurance policy was known to MassHealth based on a prior application for MassHealth community benefits from the Appellant and included the insurance policy account number. *Id.*

The MassHealth representative wrote that he had received a permission to share information (PSI) form for [REDACTED] but that the request was missing certain information, which the Appellant's representative provided. Exhibits 17, 22. The Appellant's representative submitted additional [REDACTED] bank statements. Exhibits 19, 20, 21. On November 3, 2025, the Appellant's representative stated that the Appellant's estate is currently not receiving any income from [REDACTED] Exhibit 23. The Appellant's representative stated that there are two unrelated tenants living in the property and one is believed to not be paying any rent and the other is paying rent to the Appellant's son. *Id.* The Appellant's representative stated that she was working with a realtor to evict the tenants and list the property and that no one was paying the taxes and mortgage. *Id.* Regarding the [REDACTED] life insurance policy, the Appellant's representative stated that [REDACTED] had said that the Appellant had previously applied for a policy and been denied, and there was no record of the Appellant having a policy. *Id.*

On November 24, 2025, the MassHealth representative stated that MassHealth has not received the verifications needed to process the Appellant's application. Exhibit 26 at 1. The MassHealth representative explained that MassHealth would waive the verification for the private pension. Exhibit 26 at 2. The MassHealth representative explained MassHealth's denial as follows:

1. [REDACTED] life insurance policy [REDACTED]  
The [Appellant's representative] provided a letter from [REDACTED] that no matching policy

could be found by the name given ([Appellant]). However, the letter states that if given the policy number they may be of further assistance. MassHealth requests that the [representative] submit documentation that this additional information has been provided to [REDACTED] and also submit the insurance company's response indicating whether the policy is active, or the date of its surrender and cashout amount.

2. Bank Statements for [REDACTED] account [REDACTED]—small deposits unverified

The range of statements requested were received. There are numerous small deposits made throughout 2024 that are unverified. These "SMoney Transfers" range from \$10 to \$500. What was the source of these deposits? MassHealth is not concerned about the numerous card purchase refunds, just the SMoney deposits, an example of which is attached. Note that a co-owner on this account is listed as [REDACTED]

3. Real Estate at [REDACTED]

- A. Countability: In order to exempt the property for eligibility purposes, an agreement to sell the property should be filed with MassHealth. See regulation 520.007(G).
- B. Rental Income: The applicant did not fill out the Rental Income portion of the application. The [Appellant's representative] has stated in an affidavit that the estate receives no income for the units rented. The email from [REDACTED] on 10/29/25 states that "There are currently two unrelated tenants living in the property. One is believed to not be paying any rent, and that other is paying rent to the son of [Appellant]. [Appellant's representative] is working with a realtor to assist with evicting the tenants and listing the property. At this time, we do not know who is currently paying the taxes/mortgage." It is clear that rental income has been paid on portions of the property since the applicant applied for MassHealth coverage. If they have not been paid to the estate, then that is a transfer of resources. MassHealth needs a written statement from the tenant, a copy of the lease, or other reliable evidence of the amount of rental income generated from the real estate in 2024, per regulation 520.009(D).

Exhibit 26 at 1.

## Findings of Fact

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

1. The Appellant was an adult over the age of 65. Testimony, Exhibit 4.
2. The Appellant was admitted to a nursing facility on [REDACTED] 2023. Testimony, Exhibits 6 and 4.
3. The Appellant applied for MassHealth Long-Term-Care on March 13, 2024. Her application listed her home address as [REDACTED] MA. Testimony, Exhibit 6.

4. The Appellant sought a coverage start date of December 13, 2023. Testimony, Exhibit 6.
5. On July 3, 2024, MassHealth denied the Appellant's application for MassHealth Long-Term-Care because MassHealth determined that the Appellant did not provide MassHealth with requested information within the time required. Specifically, MassHealth stated the Appellant failed to provide verifying information about private pension income, rental income and other information for [REDACTED] MA, medical and pharmacy insurance, bank statements for two [REDACTED] bank accounts, and an [REDACTED] life insurance policy. Exhibit 1.
6. The Appellant filed this appeal in a timely manner on August 26, 2024. Exhibit 2.
7. The Appellant died on [REDACTED] 2024. Testimony, Exhibit 5.
8. The appeal was placed on hold pending appointment of a personal representative for the Appellant's estate. Exhibit 5.
9. After the hearing on August 5, 2025, the record was held open for the submission of the requested information. Exhibit 8.
10. The record open period was extended until October 31, 2025 for the Appellant. Exhibits 10, 12, and 18.
11. The Appellant's representative submitted the requested [REDACTED] bank statements. Exhibits 9, 19, 20, and 21.
12. MassHealth deemed the [REDACTED] and personal-needs account information submitted acceptable and agreed to waive the verification of private pension income. Exhibit 26.
13. On November 3, 2025, the Appellant's representative stated that the Appellant's estate is currently not receiving any income from [REDACTED] MA. The Appellant's representative stated that there are two unrelated tenants living in the property and one is believed to not be paying any rent and the other is paying rent to the Appellant's son. The Appellant's representative stated that she was working with a realtor to evict the tenants and list the property and that no one was paying the taxes and mortgage. Regarding the [REDACTED] life insurance policy, the Appellant's representative stated that [REDACTED] had said that the Appellant had previously applied for a policy and been denied and there was no record of the Appellant having a policy. Exhibit 23.
14. On November 24, 2025, the MassHealth representative stated that MassHealth has not received the verifications needed to process the Appellant's application because:

1. [REDACTED] life insurance policy [REDACTED]  
The [Appellant's representative] provided a letter from [REDACTED] that no matching policy could be found by the name given ([Appellant]). However, the letter states that if given the policy number they may be of further assistance. MassHealth requests that the [representative] submit documentation that this additional information has been provided to [REDACTED] and also submit the insurance company's response indicating whether the policy is active, or the date of its surrender and cashout amount.
2. Bank Statements for [REDACTED] account [REDACTED]—small deposits unverified  
The range of statements requested were received. There are numerous small deposits made throughout 2024 that are unverified. These "SMoney Transfers" range from \$10 to \$500. What was the source of these deposits? MassHealth is not concerned about the numerous card purchase refunds, just the SMoney deposits, an example of which is attached. Note that a co-owner on this account is listed as [REDACTED]  
[REDACTED]
3. Real Estate at [REDACTED] MA
  - C. Countability: In order to exempt the property for eligibility purposes, an agreement to sell the property should be filed with MassHealth. See regulation 520.007(G).
  - D. Rental Income: The applicant did not fill out the Rental Income portion of the application. The [Appellant's representative] has stated in an affidavit that the estate receives no income for the units rented. The email from [REDACTED] on 10/29/25 states that "There are currently two unrelated tenants living in the property. One is believed to not be paying any rent, and that other is paying rent to the son of [Appellant]. [Appellant's representative] is working with a realtor to assist with evicting the tenants and listing the property. At this time, we do not know who is currently paying the taxes/mortgage." It is clear that rental income has been paid on portions of the property since the applicant applied for MassHealth coverage. If they have not been paid to the estate, then that is a transfer of resources. MassHealth needs a written statement from the tenant, a copy of the lease, or other reliable evidence of the amount of rental income generated from the real estate in 2024, per regulation 520.009(D).

Exhibit 26.

## Analysis and Conclusions of Law

MassHealth regulations provide that:

### 130 CMR 515.008: Responsibilities of Applicants and Members

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining



other health insurance.

(B) Responsibility to Report Changes. The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability.

(C) Cooperation with Quality Control. The Quality Control Division periodically conducts an independent review of eligibility factors in a sampling of case files. When a case file is selected for review, the member must cooperate with the representative of Quality Control. Cooperation includes, but is not limited to, a personal interview and the furnishing of requested information. If the member does not cooperate, MassHealth benefits may be terminated.

### 130 CMR 516.001: Application for Benefits

#### (A) Filing an Application.

##### (1) Application. To apply for MassHealth

- (a) for an individual living in the community, an individual or his or her authorized representative must file a complete paper Senior Application and all required Supplements or apply in person at a MassHealth Enrollment Center (MEC); or
- (b) for an individual in need of long-term-care services in a nursing facility, a person or his or her authorized representative must file a complete paper Senior Application and Supplements or apply in person at a MassHealth Enrollment Center (MEC).

##### (2) Date of Application.

- (a) The date of application is the date the application is received by the MassHealth agency.
- (b) An application is considered complete as provided in 130 CMR 516.001(C).
- (c) If an applicant described in 130 CMR 519.002(A)(1) has been denied SSI in the 30-day period before the date of application for MassHealth, the date of application for MassHealth is the date the person applied for SSI.

##### (3) Paper Applications or In-person Applications at the MassHealth Enrollment Center (MEC) — Missing or Inconsistent Information.

- (a) If an application is received at a MassHealth Enrollment Center or MassHealth outreach site and the applicant did not answer all required questions on the Senior Application or if the Senior Application is unsigned, the MassHealth agency is unable to determine the applicant's eligibility for MassHealth.
- (b) The MassHealth agency requests responses to all of the unanswered questions necessary to determine eligibility. The MassHealth agency must receive such information within 15 days of the date of the request for the information.
- (c) If responses to all unanswered questions necessary to determine eligibility are received within 15 days of the date of the notice, referenced in 130 CMR

516.001(A)(3)(b), the MassHealth agency will request any corroborative information necessary to determine eligibility, as provided in 130 CMR 516.001(B) and (C).

(d) If responses to all unanswered questions necessary for determining eligibility are not received within the 15-day period referenced in 130 CMR 516.001(A)(4)(b), the MassHealth agency notifies the applicant that it is unable to determine eligibility. The date that the incomplete application was received will not be used in any subsequent eligibility determinations. If the required response is received after the 15-day period, the eligibility process commences and the application is considered submitted on the date the response is received, provided that if the required response is submitted more than one year after the initial incomplete application, a new application must be completed.

(e) Inconsistent answers are treated as unanswered.

(B) Corroborative Information. 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 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.

(C) Receipt of Corroborative Information. If the requested information, with the exception of verification of citizenship, identity, and immigration status, is received within 30 days of the date of the request, the application is considered complete. The MassHealth agency will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible. If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied.

#### 130 CMR 516.003: Verification of Eligibility Factors

The MassHealth agency requires verification of eligibility factors including income, assets, residency, citizenship, immigration status, and identity as described in 130 CMR 517.000: *MassHealth: Universal Eligibility Requirements*, 130 CMR 518.000: *MassHealth: Citizenship and Immigration*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

(A) Information Matches. The MassHealth agency initiates information matches with federal and state agencies and other informational services, as described at 130 CMR 516.004, when an application is received in order to verify eligibility.

(B) Electronic Data Sources. If electronic data sources are unable to verify or are not reasonably compatible with the attested information, additional documentation will be required from the individual.

(C) Request for Information Notice. 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.

(D) Time Standards. The following time standards apply to the verification of eligibility factors.

- (1) The applicant or member has 30 days from the receipt of the Request for Information Notice to provide all requested verifications.
- (2) If the applicant or member fails to provide verification of information within 30 days of receipt of the MassHealth agency's request, MassHealth coverage is denied or terminated.
- (3) A new application is required if a reapplication is not received within 30 days of the date of denial.

(E) Reasonable Opportunity to Verify Citizenship and Identity or Immigration Status. The MassHealth agency provides applicants and members a reasonable opportunity period to provide satisfactory documentary evidence of citizenship and identity or immigration status if MassHealth's electronic data matches are unable to verify the applicant's citizenship or immigration status.

(1) Time Standards. The reasonable opportunity period begins on, and extends 90 days from, the date on which an applicant or member receives a reasonable opportunity notice.

(2) Coverage Start Date.

(a) Coverage for individuals who receive a reasonable opportunity period begins on the date the Request for Information Notice is sent.

(b) If satisfactory documentary evidence of citizenship and identity or immigration status is received before the end of the reasonable opportunity period, retroactive coverage is provided for the verified coverage type in accordance with 130 CMR 516.006.

(F) Reasonable Opportunity Extension. Applicants or members who have made a good faith effort to resolve inconsistencies or obtain verification of immigration status may receive a 90-day extension. Requests for a reasonable opportunity extension must be made before the expiration of the verification time period.

(G) Verification Exceptions for Special Circumstances. Except with respect to the verifications of citizenships and immigration status, the MassHealth agency will permit, on a case-by-case basis, self-attestation of individuals for all eligibility criteria when documentation does not exist at the time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster.

#### 130 CMR 520.007: Countable Assets

Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from

the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such assets is reasonably considered to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. The applicant or member and the spouse must verify the total value of countable assets. However, if he or she is applying solely for MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: *MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB)* or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) both as described in 130 CMR 519.011: *MassHealth Buy-In*, verification is required only upon request by the MassHealth agency. 130 CMR 520.007 also contains the verification requirements for certain assets. The assets that the MassHealth agency considers include, but are not limited to, the following.

....

(G) Real Estate.

(1) Real Estate As a Countable Asset. All real estate owned by the individual and the spouse, with the exception of the principal place of residence as described in 130 CMR 520.008(A), is a countable asset. The principal place of residence is subject to allowable limits as described in 130 CMR 520.007(G)(3). Business or nonbusiness property as described in 130 CMR 520.008(D) is a noncountable asset.

(2) Nine-month Exemption. The value of such real estate is exempt for nine calendar months after the date of notice by the MassHealth agency, provided that the individual signs an agreement with the MassHealth agency within 30 days after the date of notice to dispose of the property at fair-market value. The MassHealth agency will extend the nine-month period as long as the individual or the spouse continues to make a good-faith effort to sell, as verified in accordance with 130 CMR 520.007(G)(4).

(3) Fair-market Value and Equity Value. The fair-market value and equity value of all countable real estate owned by the individual and the spouse must be verified at the time of application and when it affects or may affect eligibility. For applications received on or after January 1, 2006, equity interest in the principal place of residence exceeding \$750,000 renders an individual ineligible for payment of nursing facility and other long-term-care services, unless the spouse of such individual or the individual's child who is younger than 21 years old or who is blind or permanently and totally disabled resides in the individual's home. The allowable equity interest amount will be adjusted annually, beginning in January 2011. The adjustment will be based year-to-year on the percentage increase in the Consumer Price Index.

(a) The applicant or member must verify the fair-market value by a copy of the most recent tax bill or the property tax assessment that was most recently issued by the taxing jurisdiction, provided that this assessment is not one of the following:

1. a special purpose assessment;
2. based on a fixed-rate-per-acre method; or
3. based on an assessment ratio or providing only a range.

(b) In the event that a current property-tax assessment is not available or the applicant or member wishes to rebut the fair-market value determined by the MassHealth agency, a comparable market analysis or a written appraisal of the value of the property from a

knowledgeable source will establish the fair-market value. A knowledgeable source is a licensed real-estate agent or broker, a real-estate appraiser, an official of a bank, a savings-and-loan association, or a similar lending organization, or an official of the local real-estate tax jurisdiction.

(c) A copy of the loan instruments or other binding documents that show evidence of the payment schedule and the outstanding balance of the loan will verify the equity value of the property.

(d) The MassHealth agency may waive the period of ineligibility due to excess equity value in real estate if the individual meets the conditions described at 130 CMR 520.007(G)(13).

(4) Good-faith Effort to Sell Real Estate. The individual or the spouse must verify his or her good-faith effort to dispose of countable real estate by evidence such as advertisements or documentation of the listing of the real estate with licensed real-estate agents or brokers, including a report of any offer from prospective buyers. The MassHealth agency will terminate eligibility if, at any time, the individual rejects a reasonable offer to buy the real estate. An offer to buy real estate is considered reasonable if it is at least two-thirds of the fair-market value, unless the individual proves otherwise to the MassHealth agency's satisfaction.

(5) Proceeds from the Sale of Real Estate. The proceeds from the sale of the real estate, after the payment of loans, liens, or other encumbrances, and expenses of sale such as taxes, fees, and advertising costs, are a countable asset in the month received and in subsequent months.

(6) Right to Recovery. If a member fails to report the acquisition of real estate within 10 days after taking title to the real estate and the equity value of the real estate, when added to all other countable assets, exceeds the MassHealth asset standard, the MassHealth agency has the right to recover overpayment in accordance with 130 CMR 515.010: *Recovery of Overpayment of Medical Benefits* and to initiate any and all other legal remedies available.

(7) Former Home of a Community-based Individual. If an applicant or member (or spouse, if any) moves out of his or her home for reasons other than institutionalization without the intent to return, the home, whether or not held in trust, becomes a countable asset because it is no longer used as the individual's principal place of residence. The former home is subject to the requirements described in 130 CMR 520.007(G)(2).

(8) Former Home of an Institutionalized Individual. If an applicant or member moves out of his or her home to enter a medical institution, the MassHealth agency considers the former home a countable asset that is subject to 130 CMR 520.007(G)(2), provided all of the following conditions are met. If the former home of a nursing-facility resident as defined in 130 CMR 515.001: *Definition of Terms* is placed in a trust, the MassHealth agency will apply the trust rules in accordance with 130 CMR 520.021 through 520.024.

(a) The individual is institutionalized as defined in 130 CMR 515.001: *Definition of Terms*.

(b) None of the following relatives of the individual is living in the property:

1. a spouse;
2. a child who is younger than 21 years old or who is blind or permanently and totally disabled;
3. a sibling who has a legal interest in the home and who was living there for a

period of at least one year immediately before the applicant's or member's admission to the medical institution;

4. a son or daughter who was living in the applicant's or member's home for a period of at least two years immediately before the date of the applicant's or member's admission to the medical institution, and who establishes to the satisfaction of the MassHealth agency that he or she provided care to the applicant or member that permitted him or her to live in the home rather than in a medical institution; or

5. a dependent relative. A dependent relative is any of the following who has any kind of medical, financial, or other dependency: a child, stepchild, or grandchild; a parent, stepparent, or grandparent; an aunt, uncle, niece, or nephew; a brother, sister, stepbrother, or stepsister; a half brother or half sister; a cousin; or an in-law.

(c) The applicant or member (and spouse, if any) moves out of his or her home without the intent to return.

(d) The applicant or member does not own long-term-care insurance with coverage that meets the requirements of 130 CMR 515.014: *Long-term-care Insurance Minimum Coverage Requirements for MassHealth Exemptions* and the Division of Insurance regulations at 211 CMR 65.09(1)(e)(2).

(9) Verification of Dependency and Residence of Relative Living in the Former Home.

(a) Relationship. The institutionalized individual must verify his or her relationship to the relative living in the former home by birth certificates, marriage licenses, or any other documents necessary to establish the relationship.

(b) Dependency. The institutionalized individual must verify the relative's dependency on the institutionalized individual by a signed statement from the relative attesting to the existence and duration of the dependency. The MassHealth agency may require additional evidence if the relative's claim of dependency is questionable or self-contradictory.

(c) Residence. The institutionalized individual must verify the relative's residence in his or her former home only if there is conflicting or contradictory evidence regarding the relative's residence.

(10) Option to Liquidate to Pay for Medical Care. Instead of selling the countable former home, the individual may liquidate its equity value to pay for his or her medical care. If the individual chooses this option, the home will be noncountable until the equity value is liquidated, but not longer than nine calendar months after the date of the MassHealth agency's notice.

(11) Undue Hardship: Jointly Owned Assets.

(a) The MassHealth agency will continue to exclude otherwise countable property, including a former home, when it is jointly owned and the sale of the property by an individual would cause the other owners to lose housing.

(b) Loss of housing would result when the property serves as the principal place of residence for one (or more) of the other owners, and sale of the property would result in loss of that residence, and no other housing would be readily available for the displaced

other owner. If undue hardship as defined in 130 CMR 520.007(G)(11) ceases to exist, the property becomes a countable asset.

(12) Lien. The MassHealth agency will place a lien before the death of a member against any real estate in which the member has a legal interest. This lien will be placed only if all of the conditions of 130 CMR 515.012: *Real Estate Liens* are met.

(13) Waiver of the Period of Ineligibility Due to Excess Equity Value in the Principal Place of Residence Causing Undue Hardship.

(a) The MassHealth agency may waive the denial of payment of long-term-care services for excess equity value in the principal place of residence if ineligibility would cause the individual undue hardship when the following conditions exist:

1. the denial of long-term-care services would deprive the nursing-facility resident of medical care such that his or her health or life would be endangered, or the nursing-facility resident would be deprived of food, shelter, clothing, or other necessities such that he or she would be at risk of serious deprivation; and
2. the institution has notified the nursing-facility resident of its intent to initiate discharge the resident because the resident has not paid for his or her institutionalization; and
3. there is no less costly noninstitutional alternative available to meet the nursing-facility resident's needs.

(b) Undue hardship does not exist when imposition of the period of ineligibility would merely inconvenience or restrict the nursing-facility resident without putting the nursing-facility resident at risk of serious deprivation.

(c) Where the MassHealth agency has issued a denial notice based on the equity value in the principal place of residence, the individual may request a hardship waiver.

1. The individual must submit a written request for consideration of undue hardship and supporting documentation to the MassHealth Enrollment Center listed on the notice of denial within 15 days after the date on the notice.
2. Within 30 days after the date of the request, the MassHealth agency informs the individual in writing of the decision and of the right to a fair hearing. The MassHealth agency extends this 30-day period if the MassHealth agency requests additional documentation or if extenuating circumstances, as determined by the MassHealth agency, require additional time.

(d) The nursing-facility resident may appeal the MassHealth agency undue-hardship decision and denial of payment of long-term-care services by submitting a request for a fair hearing to the Office of Medicaid Board of Hearings within 30 days after the receipt of the MassHealth agency written undue-hardship notice, in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*. If the denial occurs pursuant to 130 CMR 520.007(G)(13)(c)1., the nursing-facility resident may instead appeal the denial of eligibility for long-term-care services by submitting a request for a fair hearing to the Office of Medicaid Board of Hearings, in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*, while the resident also submits a written request for consideration of undue hardship. If the request for the hardship waiver is later denied, the nursing-facility

resident may appeal the MassHealth agency's undue hardship decision by submitting a request for a fair hearing to the Office of Medicaid Board of Hearings within 30 days after the receipt of the MassHealth agency written undue hardship decision notice, in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*.

#### 130 CMR 520.009: Countable-income Amount

##### (A) Overview.

- (1) An individual's and the spouse's gross earned and unearned income less certain business expenses and standard income deductions is referred to as the countable-income amount. In determining gross monthly income, the MassHealth agency multiplies the average weekly income by 4.333 unless the income is monthly.
- (2) For community residents, the countable-income amount is compared to the applicable income standard to determine the individual's financial eligibility.
- (3) For institutionalized individuals, specific deductions described in 130 CMR 520.026 are applied against the individual's countable-income amount to determine the patient-paid amount.
- (4) The types of income that are considered in the determination of eligibility are described in 130 CMR 520.009, 520.018, 520.019, and 520.021 through 520.024. These include income to which the applicant, member, or spouse would be entitled whether or not actually received when failure to receive such income results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such income is reasonably considered to result from such action or inaction, the MassHealth agency will consider the specific circumstances involved.

....

(D) Unearned Income. Income that does not directly result from an individual's own labor or services is unearned. Unearned income includes, but is not limited to, social security benefits, railroad retirement benefits, pensions, annuities, federal veterans' benefits, rental income, interest, and dividend income. Gross rental income is the countable rental-income amount received less business expenses as described at 130 CMR 520.010(C). The applicant or member must verify gross unearned income. However, if he or she is applying solely for MassHealth Senior Buy-In for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: *MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB))* or MassHealth Buy-In for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-In for Qualifying Individuals (QI) or both as described in 130 CMR 519.011: *MassHealth Buy-In*, verification is required only upon MassHealth agency request. Verifications include

- (1) a recent check stub showing gross income;
- (2) a statement from the income source when matching is not available;
- (3) for rental income: a written statement from the tenant or a copy of the lease; or
- (4) other reliable evidence.

MassHealth denied the Appellant's application for MassHealth long-term-care benefits because the



Appellant failed to submit the necessary information to determine whether she was eligible. 130 CMR 515.008(A). While the Appellant's representative submitted some of the requested information, including the bank account and insurance information, she did not submit all of the requested information, specifically, regarding the Appellant's real estate and life insurance policy, that would allow MassHealth to determine the Appellant's eligibility for MassHealth Long-Term-Care.<sup>4</sup> 130 CMR 515.008(A); *see also* 130 CMR 516.001(A)(3)(b), (e), (B). Thus, the Appellant has not demonstrated that MassHealth erred in denying the Appellant's application.

Accordingly, 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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Emily Sabo  
Hearing Officer  
Board of Hearings

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<sup>4</sup> Specifically, MassHealth was unable to determine whether she was financially eligible due to her assets being \$2,000 or less. 130 CMR 520.016(A).

[REDACTED]

[REDACTED]

[REDACTED]

cc: MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529  
Main Street, Suite 1M, Charlestown, MA 02129