

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2413559
Decision Date:	11/18/2024	Hearing Date:	10/09/2024
Hearing Officer:	Susan Burgess-Cox	Record Open to:	11/08/2024

Appearance for Appellant:



Appearance for MassHealth:

Raybryana Dasher



*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

Appeal Decision:	Denied	Issue:	Excess Assets
Decision Date:	11/18/2024	Hearing Date:	10/09/2024
MassHealth's Rep.:	Raybryana Dasher	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 3, 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 Board of Hearings received a request for hearing on September 3, 2024. (Exhibit 2). This request for hearing was dismissed as the party filing the appeal was not the member, applicant or nursing home resident, a personal representative, executor, administrator of the court or a party with written authorization to represent the appellant. (130 CMR 610.004; 130 CMR 610.035; Exhibit 3). On September 11, 2024, the appellant's representative provided a copy of a durable power of attorney naming the individual who filed the request for hearing as the appellant's attorney-in-fact. (Exhibit 4). The Board of Hearings vacated the dismissal and scheduled a hearing for October 9, 2024. (130 CMR 610.048(C); Exhibit 5).

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. (Exhibit 8). This action resulted in an extension of the decision due date to January 9, 2025.

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 6. The appellant's representative presented documents that were incorporated into the hearing record as Exhibit 7.

On March 20, 2024, MassHealth received a long-term care renewal application. On July 3, 2024, MassHealth issued a notice terminating coverage as the appellant was over the asset limit. (Testimony; Exhibit 1; Exhibit 6). The agency provided the appellant 30 days to spend-down the assets. (Testimony; Exhibit 1; Exhibit 6). At the time of the July 2024 denial, the appellant had a life insurance policy with a cash surrender value of \$2,000, and a checking account with a balance of \$36,626.98. As of the date of the hearing in October 2024, the appellant had not demonstrated to the agency that the assets were spent down.

The appellant's representative testified that the funds in the bank account have been spent but they did not have information about the life insurance policy. The appellant's representative presented bank statements from July 2024, August 2024 and September 2024. The statement from September 2024 shows a beginning balance of \$20,206.42 and ending balance of \$1,569.13. (Exhibit 7). The MassHealth representative noted that the bank balance along with the cash surrender value of the life insurance policy still put the appellant over the asset limit. The record was held open to provide the appellant's representative with the opportunity to submit additional evidence. (Exhibit 8). Documents received by the Board of Hearings from the appellant during the record open period were duplicative of those submitted prior to the date of the hearing.

The MassHealth representative did not submit a response during the record open period. The Board of Hearings sent a message to the MassHealth representative to inquire into their receipt of any documentation from the appellant and a response from the agency. (Exhibit 9). Prior to receiving a response from the MassHealth representative, the appellant's representative submitted additional documentation asking the Board of Hearings and the agency to consider in making a decision. (Exhibit 10). The documentation included a statement of goods and services from a funeral home; a beneficiary change request sent to the life insurance company on October

21, 2024; and a March 11, 2024 report from the life insurance company showing a cash surrender value of \$2,000.34. (Exhibit 10).

The MassHealth representative reviewed the documents and determined that the appellant still had excess assets. The MassHealth representative noted that the request for a change in ownership of the life insurance policy did not confirm that the process is complete. The MassHealth representative determined that the list of goods and services from a funeral home did not demonstrate to the agency that the appellant has an irrevocable burial contract which would be considered a non-countable asset. Finally, the MassHealth representative stated that the documents from the funeral home state that the appellant utilized \$15,000 from “CFF Irrevocable Trust” to pay for services with the funeral home. The MassHealth representative made an inquiry into the source of the \$15,000.

Findings of Fact

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

1. The appellant submitted a renewal 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. A bank account with a balance of \$36,626.98; and
 - b. A life insurance policy with a cash surrender value of \$2,000.34.
4. A September 2024 bank statement shows a closing balance of \$1,569.13.
5. As the close of the hearing record, the appellant was still the beneficiary of the life insurance policy.

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. 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:

[REDACTED]

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