

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2415410
Decision Date:	12/19/2024	Hearing Date:	11/04/2024
Hearing Officer:	Marc Tonaszuck		

Appearances for Appellant:



Appearance for MassHealth:

Jonathan Gonzalez (Virtually)



*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:	Long Term Care – Assets
Decision Date:	12/19/2024	Hearing Date:	11/04/2024
MassHealth’s Rep.:	Jonathan Gonzalez	Appellant’s Rep.:	Daughter and Granddaughter
Hearing Location:	Charlestown MassHealth Enrollment Center	Aid Pending:	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 09/18/2024, MassHealth notified appellant that it denied her application for LTC benefits because she has more countable assets than MassHealth benefits allow (130 CMR 520.003, 520.004; Exhibit 1). The appellant filed a timely appeal on 10/08/2024 (130 CMR 610.015(B); Exhibit 2). Denial of benefits is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant’s application for LTC benefits.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003 and 520.004 in denying the appellant’s application for LTC benefits because she is over the asset limit.

Summary of Evidence

The MassHealth representative testified that the appellant is a resident of a skilled nursing facility. An application for long-term-care benefits was submitted to MassHealth on the appellant's behalf on 09/18/2024. The representative testified that this application was denied based on assets that exceed the \$2,000.00 for a single individual. MassHealth verified that the appellant has \$1,642.91 in bank accounts and has "cash" in the amount of \$19,261.53. The total assets are \$20,904.14, which exceeds the guidelines by \$18,904.14.

The "cash" was explained by the MassHealth representative as proceeds the appellant received or was entitled to receive as the result of a sale of real property in which the appellant had a life estate interest. Specifically, the MassHealth representative testified that MassHealth learned that the appellant held a life estate interest in real property located in [REDACTED]. The property was sold in [REDACTED] for \$505,000.00, of which \$427,844.52 was due to the seller. The MassHealth representative testified that he used the appropriate policy¹ and tables to calculate the value of a life estate interest of \$19,261.53, which is the appellant's portion of the proceeds from the sale. This is countable as an asset in an eligibility determination.

The appellant was represented at the fair hearing by her daughter/POA² and her granddaughter. They did not dispute MassHealth's calculation of the value of the life estate; however, they testified that the proceeds from the sale of the home in [REDACTED] were distributed to the appellant's two daughters. They stated that they did not know that some of the proceeds should have been put aside for the appellant. A great deal of the money is now gone and one of the appellant's daughters, to whom the proceeds went, has died. The appellant's representative testified that they did not know the appellant had a life estate in the property and they did not know what it meant for MassHealth eligibility.

Findings of Fact

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

1. The appellant is a resident of a skilled nursing facility.
2. An application for long-term-care benefits was submitted to MassHealth on the appellant's behalf on 09/18/2024.
3. 09/18/2024, MassHealth notified appellant that it denied her application for LTC benefits because she has more countable assets than MassHealth benefits allow.

¹ See MassHealth Eligibility Operations Memo 20-16, August 28, 2020, Calculating the Value of a Life Estate and Remainder Interest for Individuals and Couples.

² See Exhibit 4.

4. In 1999, the appellant transferred ownership of the real estate to her two daughters, while retaining a life estate interest.
5. The quitclaim deed from the 1999 transfer that creates the life estate reads

...Subject to retaining a life estate interest for myself...
6. On [REDACTED] the real estate owned by the appellant and her two daughters was sold for \$505,000.
7. The proceeds from the sale of the real estate in [REDACTED] were \$427,844.00 to the sellers.
8. MassHealth determined that value of the appellant's life estate at the time of the sale of the real estate was \$19,261.53.
9. The appellant has a bank account with a balance of \$1,642.91.
10. The asset limit for a single individual seeking LTC benefits is \$2,000.00.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members (See 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 (See 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 (See 130 CMR 515.002).

MassHealth regulations at 130 CMR 520.003 address asset limits as follows:

(A) 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 the following limits:

- (1) for an individual — \$2,000; and
- (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

Regulations at 130 CMR 520.007 address countable assets as follows:

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 Mass-Health 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.

(A) Cash.

(1) Definition. ***Cash is defined as currency, checks, and bank drafts in the possession of or available to the applicant, member, or spouse.***

(2) Verification. The applicant's or member's declaration on the application or redetermination form stating the amount of cash available to him or her is sufficient verification.

Regulations at 130 CMR 520.007(G)(5) address proceeds from the sale of real estate as follows:

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.

The asset at issue in this appeal involves the proceeds from the sale of a piece of real estate located in [REDACTED]. The property was owned by the appellant and in 1999 was transferred to her two daughters, while the appellant retained a life estate in the property. In [REDACTED] the real estate was sold for \$505,000. The proceed from the sale to the sellers was \$427,844.12. According to the testimony of the appellant's representative, the proceeds were distributed to the appellant's daughters.

MassHealth determined that the appellant, as the holder of a life estate interest in the property, was entitled to receive \$19,261.53, based on calculations made in accordance with MassHealth policy. In addition, the appellant has a bank account balance of \$1,642.91. Her total countable assets are \$20,904.44, which exceed the \$2,000.00 limit by \$18,904.44.

The appellant's representative testified that they did not understand that the appellant was owed any money from the sale of the home. They stated that they would have put the money aside if they had known the appellant had a life estate in the property. They did not understand what a life estate meant for the purposes of MassHealth eligibility.

There was no dispute as to the value of the real estate or the value of the life estate held by the appellant at the time of the sale of property. According to the above regulations,

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.

Whether or not the appellant actually received her share of the proceeds of the sale of the real estate is not at issue. As a life estate holder, the undisputed value of her share of the proceeds from the sale of the property is \$19,261.53. MassHealth correctly determined that this amount, in addition to the bank account balance totals \$20,904.44, which exceeds the \$2,000.00 asset limit by \$18,904.44. MassHealth correctly denied the appellant's application for long term care benefits because she has assets in excess of the program limit. This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

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