

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2415623
<b>Decision Date:</b>	2/5/2025	<b>Hearing Date:</b>	11/06/2024
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	12/20/2024

**Appearance for Appellant:**



**Appearance for MassHealth:**

Patricia Lemke, 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*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long-Term Care; Excess Assets
<b>Decision Date:</b>	2/5/2025	<b>Hearing Date:</b>	11/06/2024
<b>MassHealth's Rep.:</b>	Patricia Lemke	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Taunton 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 August 13, 2024, MassHealth denied the Appellant's application for long-term care services in a nursing facility on the grounds that the Appellant had more countable assets than MassHealth benefits allow. 130 CMR 520.003, 130 CMR 520.004, and Exhibit 5. The Appellant filed this appeal in a timely manner on October 10, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth found that that the Appellant had excess assets of \$4,623.00 and so was not eligible for MassHealth Long-Term Care.

### Issue

Was MassHealth correct in determining that the Appellant is not eligible for MassHealth Long-Term Care based on her excess assets?

### Summary of Evidence

The hearing was held telephonically. The MassHealth representative testified that the Appellant is over the age of 65 and has a household size of one. The MassHealth representative testified that the Appellant was admitted to a nursing facility on [REDACTED] 2024 and submitted an application for long-term-care services on April 22, 2024. The MassHealth representative testified that the Appellant's application was denied for excess assets, which primarily were held in stocks. The MassHealth representative testified that the asset limit is \$2,000.00, and that the Appellant's countable assets totaled \$6,623.00.

The Appellant was represented by an individual who works for the nursing facility. The Appellant's representative verified the Appellant's identity. The Appellant's representative testified that the Appellant was discharged from the facility on [REDACTED] 2024.

The record was held open to allow the Appellant's representative to provide evidence that the Appellant's assets had been spent down. The Appellant had until November 20, 2024 to submit evidence of the spenddown, and MassHealth until November 27, 2024 to review and respond. Exhibit 6. The Appellant's representative requested an extension, which was granted until December 9, 2024, and MassHealth until December 20, 2024. Exhibit 7. The MassHealth representative stated that she had not received any information from the Appellant's representative by the deadline, and the Appellant's representative responded she had been told that the family spent down the stocks, but "after multiple calls [the Appellant's family] still did not provide the verification." 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. Testimony and Exhibit 4.
2. The Appellant has a household size of one. Testimony.
3. The Appellant has countable assets totaling \$6,623.00. Testimony and Exhibit 5.
4. MassHealth denied the Appellant's Long-Term Care application on the grounds that she had excess assets of \$4,623.00 on August 13, 2024. Testimony and Exhibit 5.
5. The Appellant filed a timely appeal with the Board of Hearings on October 10, 2024. Exhibit 2.

## **Analysis and Conclusions of Law**

The MassHealth regulations provide as follows:

519.006: Long-term-care Residents

- (A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must
- (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*.

130 CMR 519.006(A).

520.003: Asset Limit

(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.

(B) The total value of countable assets owned by or available to individuals applying for or receiving 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*, may not exceed the amount equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

(C) The treatment of a married couple's assets when one spouse is institutionalized is described in 130 CMR 520.016(B).

130 CMR 520.003.

520.004: Asset Reduction

(A) Criteria.

- (1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth
  - (a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or
  - (b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.
- (2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

- (1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: *Date of Application*; and
- (2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

- (1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.
- (2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

130 CMR 520.004.

520.016: Long-term Care: Treatment of Assets

(A) Institutionalized Individuals. The total value of assets owned by an institutionalized single individual or by a member of an institutionalized couple must not exceed \$2,000.

130 CMR 520.016(A).

Here, MassHealth denied the Appellant's application on the grounds that her countable assets exceed \$2,000.00. 130 CMR 520.003(A)(1); *see also* 130 CMR 520.016(A). Specifically, MassHealth determined that the Appellant had excess assets of \$4,623.00. Exhibit 5. The Appellant has not provided any evidence to establish that her countable assets have been reduced to \$2,000 or less, such that she would qualify for MassHealth. Accordingly, MassHealth did not err in its August 13, 2024 notice. 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

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780