

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2415668
Decision Date:	11/20/2024	Hearing Date:	11/05/2024
Hearing Officer:	Emily Sabo		

Appearance for Appellant:



Appearance for MassHealth:

Mandy Ka Lam Lau, 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

Appeal Decision:	Denied	Issue:	Long-Term Care; Excess Assets
Decision Date:	11/20/2024	Hearing Date:	11/05/2024
MassHealth's Rep.:	Mandy Ka Lam Lau	Appellant's Rep.:	[REDACTED]
Hearing Location:	Tewksbury MassHealth Enrollment Center (Telephone)	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 September 11, 2024, MassHealth denied the Appellant's application for MassHealth Long-Term Care benefits because MassHealth determined that the Appellant had excess countable assets. 130 CMR 520.003, 130 CMR 520.004, and Exhibit 1. The Appellant's representative filed this appeal in a timely manner on October 10, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the Appellant's application for long-term care services in a nursing facility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003 and 130 CMR 520.004, in denying the Appellant's application on the grounds that she had excess countable assets.

Summary of Evidence

The hearing was held by telephone. The MassHealth representative testified that the Appellant was over the age of 65 and had a household size of one. The MassHealth representative testified that the Appellant was admitted to a long-term care facility on [REDACTED] 2023. The MassHealth representative testified that MassHealth received an application for MassHealth Long-Term Care on March 18, 2024, seeking a coverage start date of January 1, 2024. The MassHealth representative testified that based on the Appellant's funds in two bank accounts, she had countable assets in excess of the \$2,000 limit. Specifically, the Appellant's countable assets were in excess of \$51,614.98. The MassHealth representative testified that MassHealth denied the application for excess assets on September 11, 2024.

The Appellant's representative verified the Appellant's identity. The Appellant's representative explained that the Appellant had a disabled adult child who lived with her prior to her admission to the facility, and that the person who initially filed the MassHealth application on the Appellant's behalf did not know about the disabled adult child. The Appellant's representative testified that the Appellant had died on [REDACTED] 2024, after the application was submitted and before MassHealth issued its decision. The Appellant's representative testified that the Appellant's excess assets were not spent down because the Appellant died and no one had access to the Appellant's accounts until after it became the property of the Appellant's estate.

The MassHealth representative testified that the nursing facility did not notify MassHealth that the Appellant had died.

Findings of Fact

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

1. The Appellant submitted a MassHealth application for long-term care on March 18, 2024, seeking a coverage start date of January 1, 2024 (Testimony, Exhibit 5).
2. The Appellant was over the age of 65 and had a household size of one (Testimony, Exhibit 4).
3. The Appellant passed away on [REDACTED] 2024 (Testimony).
4. On September 11, 2024, MassHealth denied the Appellant's application on the grounds that she had excess countable assets of \$51,614.98 (Testimony, Exhibit 1).
5. The Appellant was admitted to the nursing facility on [REDACTED] 2023 (Testimony, Exhibit 5).

6. The Appellant's representative filed a timely appeal on October 10, 2024 (Exhibit 2).

Analysis and Conclusions of Law

In evaluating financial eligibility for MassHealth, 130 CMR 520.016(A) provides that "[t]he total value of assets owned by an institutionalized single individual or by a member of an institutionalized couple must not exceed \$2,000." See also, 130 CMR 520.003(A)(1). The MassHealth regulations outline how an individual can reduce assets to qualify for MassHealth:

(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.

MassHealth denied the Appellant's application for long-term care benefits because it determined that the Appellant's countable assets exceeded the \$2,000 limit. 130 CMR 520.016(A), 130 CMR 520.003(A)(1). The Appellant's representative did not dispute that the Appellant had excess assets of \$51,614.98. While I am sympathetic to the challenges faced by the Appellant's disabled adult child, the Appellant's countable assets exceed the MassHealth limit of \$2,000 and the Appellant is not financially eligible for MassHealth. The Appellant has not demonstrated that MassHealth erred in denying the Appellant's application for MassHealth long-term care services.

Accordingly, the appeal is denied insofar as the Appellant's assets still exceed the MassHealth limit.

The Appellant's representative shall have 30 days from the date of this decision to submit proof of spend down of the excess assets to MassHealth. If the excess assets are spent down within 30 days of this decision, MassHealth shall reopen the Appellant's March 18, 2024 application and determine if the Appellant made any disqualifying transfers.

Order for MassHealth

The Appellant's representative shall have 30 days from the date of this decision to spend down \$51,614.98 and submit proof of such to MassHealth. If the Appellant submits proof of spend down of assets to MassHealth within 30 days, MassHealth shall reopen the March 18, 2024 application and process it.

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.

Implementation of this Decision

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.

Emily Sabo
Hearing Officer
Board of Hearings

[REDACTED]

[REDACTED]

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