

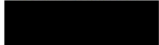
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in Part; Denied in Part	Appeal Number:	2416128
Decision Date:	12/20/2024	Hearing Date:	11/18/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:



Appearance for MassHealth:

Victoria Ragbir, Charlestown MassHealth
Enrollment Center



*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:	Approved in Part; Denied in Part	Issue:	Over 65, Long-Term Care, Eligibility; Assets; Start Date
Decision Date:	12/20/2024	Hearing Date:	11/18/2024
MassHealth's Rep.:	Victoria Ragbir	Appellant's Rep.:	
Hearing Location:	Remote	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 October 4, 2024, MassHealth approved the appellant's application for MassHealth long-term care benefits and imposed a start date of March 11, 2024. *See* 130 CMR and Exhibit 1. The appellant filed this appeal in a timely manner on October 21, 2024. *See* 130 CMR 610.015(B) and Exhibit 2). Agency action regarding scope and amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth calculated a March 11, 2024, start date for the appellant's long-term care benefits.

Issue

The appeal issue is whether MassHealth correctly determined the appellant's benefit start date.

Summary of Evidence

The appellant is an adult over the age of 65 who is currently residing in a skilled nursing facility.

She was represented at the hearing by a worker from the facility. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. The following is a summary of the testimony given and the evidence provided at the hearing.

On March 15, 2024, the appellant filed an application for MassHealth long-term care benefits and requested a start date of March 7, 2024. On October 4, 2024, MassHealth approved the appellant's application and imposed a benefit start date of March 11, 2024. The MassHealth representative reported that this is because the appellant was not asset eligible on her requested start date, and MassHealth conducted what is colloquially known as a Haley calculation to give the appellant the earliest possible start date.

In creating this calculation, the MassHealth representative reported that, as of the March 7 requested start date, the appellant possessed the following assets:

- Personal Needs Account (PNA) balance: \$66.00
- Life Insurance Policy value \$1923.44
- Bank Account 1 balance: \$9982.00
- Bank Account 2 balance: \$100.00

This adds up to a total of \$12071.44 in countable assets. The appellant does not dispute these figures. The MassHealth representative reported that the life insurance policy was surrendered on May 30, 2024, and that on April 1, 2024, the appellant purchased a burial insurance policy valued at \$8500.00, which MassHealth agreed to use toward the Haley calculation and reduced the appellant's total assets to \$3571.44. After subtracting the \$2000.00 allowed asset limit, MassHealth found that the appellant was \$1571.44 over assets on March 7, 2024. MassHealth then divided the total excess assets by the private pay rate of \$439, which equals 3.57 days in determining that the appellant's earliest possible start date should be March 11, 2024.

The appellant does not dispute any of the figures or calculations outright. Instead, she argues that her March 2024 patient paid amount (PPA) payment and a credit card bill from [REDACTED] that she accrued should be countable towards the asset spend down for purposes of the Haley calculation. The MassHealth representative argued that they should not because the PPA was not actually paid in March 2024, and the funds were therefore still accessible to the appellant, and because the [REDACTED] bill is not itemized and there is nothing that indicates that they were used for the appellant's medical expenses. However, the MassHealth representative did allow for a backdated Medicare payment of \$524.10 to count towards the Haley calculation, which would mean that the appellant was actually only \$1047.34 over the asset limit on March 7.

Findings of Fact

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

1. The appellant is an adult over the age of 65 who is currently resides in a skilled nursing facility. Testimony, Exhibit 1, Exhibit 4.
2. On March 15, 2024, the appellant filed an application for MassHealth long-term care benefits and requested a start date of March 7, 2024. Testimony, Exhibit 5 at 8.
3. On October 4, 2024, MassHealth approved the appellant's application and imposed a benefit start date of March 11, 2024. Exhibit 1.
4. In determining a benefit start date, MassHealth conducted what is colloquially known as a Haley calculation to give the appellant the earliest possible start date. Testimony.
5. On October 21, 2024, the appellant submitted a timely request for fair hearing challenging that approved start date. Exhibit 2.
6. As of the March 7 requested start date, the appellant possessed the following assets:
 - Personal Needs Account (PNA) balance: \$66.00
 - Life Insurance Policy value \$1923.44
 - Bank Account 1 balance: \$9982.00
 - Bank Account 2 balance: \$100.00

Testimony, Exhibit 5.

7. The appellant's life insurance policy was surrendered on May 30, 2024. Testimony, Exhibit 5. On April 1, 2024, the appellant purchased a burial insurance policy valued at \$8500.00, which MassHealth agreed to use toward the Haley calculation and reduced the appellant's total assets to \$3571.44. *Id.*
8. At the hearing, the MassHealth representative agreed to consider a \$524.10 Medicare payment made by the appellant toward the Haley calculation, leaving her total assets to be \$3041.34. Testimony.
9. The relevant private pay rate for the facility is \$439.00 per day. Exhibit 5 at 8.
10. The appellant submitted a statement from [REDACTED] Bank from June 2024 reflecting a balance of \$657.51, but not showing what charges were made on the card, nor when it was paid off. Exhibit 6.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth

members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

Long-term care residents are eligible for MassHealth Standard coverage if they meet the following requirements:

- (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). An applicant whose countable assets exceed the asset limit may become eligible in accordance with the following regulation regarding 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.

...

(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.

130 CMR 520.004 (emphasis added).

Under 130 CMR 520.004(A)(1)(b), MassHealth may consider an earlier start date if an applicant incurs medical bills that exceed their excess assets. In calculating this alternative date, MassHealth found that the appellant had total assets of \$12,071.44 on her benefit request date of March 7, 2024. This determination included the full value of her personal needs account, a life insurance policy not cashed out until May 30, and her two bank accounts. After deducting \$8,500 spent on a burial account, the asset amount was reduced to \$3571.44. MassHealth also agreed to consider a Medicare payment of \$524.10 made by the appellant, reducing the appellant's total assets to \$3047.34. This left an excess asset amount of \$1047.34 when subtracting the allowed asset amount of \$2000.00. Dividing this excess asset amount by the private nursing home daily rate of \$439 amounts to a 3-day period of ineligibility ($\$1047.34 / 439 = 2.3$ – the figure is rounded up¹). Applying a 3-day penalty from the requested benefit start date of March 7, 2024, gives the appellant a benefit start date of March 10, 2024. As this date is earlier than the asset-spend down date of May 30, 2024, MassHealth may use March 10, 2024, as the eligibility start date.

The appellant argues that MassHealth should consider both the patient paid amount for March 2024 and a [REDACTED] credit card bill from June 2024 as incurred medical bills. However, funds used to satisfy a patient paid amount are paid through income, and thus cannot be used to spend down assets. Further, there is no evidence as to the expenses paid with the credit card. For those reasons, there is insufficient evidence to take those two expenses into consideration when determining the appellant's benefit start date.

Because MassHealth agreed to consider the appellant's reported Medicare payment, which affected the benefit start date by one day, the appeal is hereby approved in part. It is denied to the extent that the appellant has not demonstrated that she was eligible on the requested benefit start date.

Order for MassHealth

Implement a benefit start date of March 10, 2024, as discussed at hearing.

¹ MassHealth may, in its discretion, round this figure down to two days and impose a start date of March 9, 2024. However, I make this calculation based on the regulations and the representations made by the parties at the hearing.

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.

Mariah Burns
Hearing Officer
Board of Hearings

cc: Appellant Representative: [REDACTED]

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