

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2416222
<b>Decision Date:</b>	2/12/2025	<b>Hearing Date:</b>	02/10/2025
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Stacy Kirby, Taunton 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>	Eligibility
<b>Decision Date:</b>	2/12/2025	<b>Hearing Date:</b>	02/10/2025
<b>MassHealth's Rep.:</b>	Stacy Kirby	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote	<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 September 20, 2024, MassHealth notified Appellant that MassHealth coverage was ending on September 1, 2024, because Appellant was no longer a resident of a nursing facility (130 CMR 519.006 and Exhibit 1).<sup>1</sup> Appellant filed this appeal in a timely manner on October 22, 2024 (130 CMR 610.015(B) and Exhibit 2). Termination of MassHealth coverage because eligibility conditions for payment of nursing facility services are not met is a valid ground for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth terminated long-term care coverage effective September 1, 2024, because it determined that Appellant is no longer a resident of a nursing facility because eligibility conditions for payment of nursing facility services were not met.

### Issue

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<sup>1</sup> The September 20, 2024, notice also determined that Appellant is eligible for Senior Buy In. The notice was not challenged by Appellant's representative beyond the determination that Appellant is no longer a resident of a nursing facility.

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519.006, in terminating long-term care coverage effective September 1, 2024, because MassHealth determined Appellant was no longer a resident of a nursing facility because eligibility conditions for payment of nursing facility services were not met.

## Summary of Evidence

The MassHealth representative testified that MassHealth issued a notice on September 20, 2024, notifying Appellant that long-term care coverage was terminated effective September 1, 2024, because Appellant was no longer a resident of a nursing facility. The MassHealth representative added that the determination was made based on a clinical screening dated August 14, 2024, which determined that Appellant was not eligible for MassHealth payment of nursing-facility services because nursing facility services were not medically necessary (Exhibit 4, pp. 3-4). Pursuant to 130 CMR 519.006, eligibility for payment of nursing facility services requires that an applicant is determined to be medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment. Because the screening of clinical eligibility was denied on August 14, 2024, payment of long-term care coverage was terminated by notice dated September 20, 2024. The MassHealth representative also explained that the determination that Appellant is no longer a nursing facility resident is based on clinical eligibility for payment of services.

Appellant's representative testified and submitted a narrative stating that Appellant was admitted to the facility on [REDACTED] 2023, and was MassHealth eligible on December 7, 2023. Coverage was interrupted in March 2024. On March 4, 2024, MassHealth reinstated coverage through August 14, 2024, when he was determined ineligible for payment of nursing facility services. The nursing facility stopped billing MassHealth on August 15, 2024. See Exhibit 2, p. 5. On September 20, 2024, MassHealth determined that Appellant was no longer eligible for long-term care payment of nursing facility services. Appellant's representative testified that he filed an appeal of the August 14, 2024 clinical screening determination on or about August 15, 2024, and he was told by the Board of Hearings that faxes were being processed slowly that week.<sup>2</sup> Appellant's representative testified that he did not receive a dismissal from the Board of Hearings based on a request for an appeal of the August 14, 2024 notice. Appellant's representative testified that the issue on appeal should be the August 14, 2024, clinical eligibility screening, and that a previous hearing held on November 26, 2024 was rescheduled to address the August 14, 2024 clinical screening determination.<sup>3</sup> Appellant's representative

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<sup>2</sup> In the written narrative dated January 29, 2025, Appellant's representative states that, "on October 22, 2024 we filed an appeal to try to get his eligibility back and we used a wrong appeal form, that may confused (sic) the Board, but the reason for the appeal was clearly stated on that form" (Exhibit 2, p. 5).

<sup>3</sup> The November 26, 2024 hearing was rescheduled by another hearing officer to address the August 14, 2024 notice; however, the request for a hearing on the August 14, 2024 notice submitted to the Board of Hearings on October 22, 2024 had already been dismissed by the Board of Hearings on October 28, 2024 (Exhibit 4, p.1).

also stated that Appellant was recently discharged from the facility.

## Findings of Fact

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

1. Appellant was admitted to the nursing facility on [REDACTED] 2023, and was determined to be MassHealth eligible on December 7, 2023. Coverage was interrupted in March 2024.
2. On September 4, 2024, MassHealth issued notice reinstating long-term care coverage effective March 1, 2024.
3. On August 14, 2024, Appellant was determined clinically ineligible for payment of nursing facility services by Minuteman Senior Services on behalf of MassHealth because nursing facility services were determined to be not medically necessary.
4. The nursing facility stopped billing MassHealth on August 15, 2024.
5. MassHealth issued a notice on September 20, 2024, notifying Appellant that long-term care coverage was terminated effective September 1, 2024, because Appellant is no longer a resident of a nursing facility.
6. Appellant's representative filed an appeal of the August 14, 2024, clinical screening for nursing facility services on October 22, 2024, which was dismissed on timeliness by the Board of Hearings on October 28, 2024. The dismissal was sent to Appellant and his representative at the nursing facility. Neither Appellant nor his representative responded to the dismissal.
7. Appellant was recently discharged from the nursing facility.

# Analysis and Conclusions of Law

## 130 CMR 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** (emphasis added);
  - (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*.

MassHealth issued a notice on September 20, 2024, informing Appellant that long-term care coverage was terminated effective September 1, 2024, because Appellant is no longer a resident of a nursing facility. Eligibility for payment of nursing facility services was determined based on a clinical screening dated August 14, 2024, which determined that Appellant was not eligible for MassHealth payment of nursing-facility services because nursing facility services were not medically necessary. Appellant's representative filed an appeal of the August 14, 2024, clinical screening for nursing facility services on October 22, 2024, which was dismissed by the Board of Hearings on October 28, 2024 due to the timeliness of the appeal request.<sup>4</sup> Neither Appellant nor his representative responded to the October 28, 2024 dismissal issued by the Board of Hearings. The parties agree that there is no issue involving the September 20, 2024, notice on appeal.<sup>5</sup> Appellant's representative testified that, and the hearing record shows, all issues

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<sup>4</sup> See 130 CMR 610.015(B)(1) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits: (1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing.

<sup>5</sup> Appellant's representative asserts the September 20, 2024, notice is factually incorrect as Appellant still resided at the nursing facility; however, the MassHealth determination of residency is based on eligibility factors outlined at 130 CMR 519.006 which were not met.

raised by Appellant's representative are related to the August 14, 2024, clinical screening notice and determination of medical necessity for nursing facility services, which cannot be addressed in this hearing decision. By notice dated September 20, 2024, MassHealth correctly determined that Appellant no longer met 130 CMR 519.006(A)(2) as he had been determined medically ineligible for nursing facility services by the MassHealth agency or its agent as a condition for payment, and correctly terminated coverage effective September 1, 2024. Therefore, the appeal of the September 20, 2024, notice is DENIED.<sup>6</sup>

## **Order for MassHealth**

None.

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<sup>6</sup> The hearing officer cannot review the dismissal notice issued by the Board of Hearings on October 28, 2024 under a separate appeal No. 2416518, which was based on the timeliness of the appeal request for the August 14, 2024 notice submitted to the Board of Hearings on October 22, 2024 (Exhibit 4). There is no other appeal request in the hearing record. A separate hearing was held on September 4, 2024 on a July 26, 2024 notice unrelated to Appellant's nursing facility placement or clinical eligibility for nursing facility placement. The appeal request on the July 26, 2024 notice was submitted to the Board of Hearings on August 15, 2024 and does not identify the August 14, 2024 clinical denial as a reason for the appeal request, nor was the issue raised at that hearing. The appropriate remedy to address the October 28, 2024 dismissal issued by the Board of Hearings is outlined in the dismissal notice sent to Appellant and Appellant's representative, which states "[y]ou may request that this dismissal be revoked by stating your reasons in writing to the Board of hearings at the above address...your written request must be received by the Board of Hearings within 10 days of the date of this letter" (Exhibit 4, p. 1). A response to the dismissal was not received at the Board of Hearings. The August 14, 2024, notice denying clinical eligibility for nursing facility services cannot be addressed here.

## 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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Thomas J. Goode  
Hearing Officer  
Board of Hearings

[REDACTED]

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