

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2416366
<b>Decision Date:</b>	01/17/2025	<b>Hearing Date:</b>	11/21/2024
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Victoria Ragbir



*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>	Dismissed in part; Denied in part	<b>Issue:</b>	LTC Application and Spenddown
<b>Decision Date:</b>	01/17/2025	<b>Hearing Date:</b>	11/21/2024
<b>MassHealth's Rep.:</b>	Victoria Ragbir	<b>Appellant's Rep.:</b>	■
<b>Hearing Location:</b>	Taunton MEC		

### 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 25, 2024, MassHealth approved Appellant for Masshealth Standard effective January 1, 2024 (Exhibit A). Appellant filed for this appeal in a timely manner on October 24, 2024 asserting that MassHealth had processed an application for MassHealth Long Term Care benefits incorrectly as a community case (see 130 CMR 610.015(B) and Exhibit A). Eligibility determinations constitute valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved Appellant for Masshealth Standard community benefits effective January 1, 2024.

### Issue

The appeal issue is whether MassHealth properly applied the controlling regulations to accurate facts when it approved Appellant for Masshealth Standard community benefits effective January 1, 2024.

## Summary of Evidence

The MassHealth representative testified that Appellant filed an application for MassHealth Long Term Care benefits on January 4, 2024. MassHealth issued a written request for financial verifications on January 22, 2024. On April 18, 2024, MassHealth issued a written notice denying the application due to excess assets. The notice informed Appellant that she had 30 days to verify with MassHealth that the excess assets had been spent down. The MassHealth representative testified that Appellant did not verify the assets spend down and did not file an appeal on the April 18, 2024 excess asset denial notice.

On October 31 2024 Appellant filed a second Long Term Care application which was approved as of July 1, 2024 which is the day that Appellant verified the asset spend down. This is also the earliest possible start date for an application filed in the month of October 2024.

Appellant was represented by her power of attorney (POA) and an employee from the skilled nursing facility where she resides. The facility representative testified that they never received a copy of the denial notice of April 18, 2024. According to the facility, after the 30-day spend down deadline had expired, they continued to correspond with MassHealth and file information that MassHealth accepted and processed, so they were unaware that an active application was no longer in effect.

In response the MassHealth representative stated that there must have been an assumption that an appeal had been filed, and the agency simply continued to take and process information after the 30 day deadline had expired.

Upon questioning by the hearing officer, the MassHealth representative testified that the agency issued three copies of the April 18, 2024 excess asset denial. One notice was sent to Appellant at her address at the nursing facility. A second copy was sent to the facility itself, and a third copy was sent to Appellant's POA. The addresses were confirmed with Appellant's representatives. MassHealth filed copies of the three notices (Exhibit C).

Appellant's POA acknowledged receiving the excess asset denial of April 18, 2024 and acknowledged that she did not spend down the asset within 30 days. She testified that she made her best effort to do everything timely, but she was not aware of the need to file a new application.

The facility representative testified that the facility has been paid for the period on and between December 17, 2023 and February 15, 2024. The facility is seeking to obtain coverage for the period on and between February 16, 2024 and June 30, 2024.

At hearing, Appellant filed a packet of documentation concerning the original LTC application

and communications and filings with MassHealth after the 30-day spend down deadline had expired (Exhibit B). Among the documentation is a copy of a letter from the facility representative dated May 8, 2024 sent to the MassHealth representative which begins with: "See your letter dated April 18, 2024 requested information attached" (Id). There is also a copy of an email from the MassHealth representative dated October 9, 2024 sent to the facility representative stating that a recent MassHealth approval for community benefits was a mistake as the information should have been processed as a Long Term Care case and that she would work to correct the matter (Id).

## Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant filed an application for MassHealth Long Term Care benefits on January 4, 2024.
2. MassHealth issued a written request for financial verifications on January 22, 2024.
3. On April 18, 2024, MassHealth issued a written notice denying the application due to excess assets and informing Appellant that she had 30 days to verify with MassHealth that the excess assets had been spent down.
4. MassHealth issued three copies of the April 18, 2024 excess asset denial.
5. One notice was sent to Appellant at her address at the nursing facility (Exhibit C).
6. A second copy was sent to the facility itself, and a third copy was sent to Appellants POA (Exhibit C).
7. Appellant did not verify the assets spend down by the 30-day deadline and did not file an appeal of the April 18, 2024 excess asset denial notice.
8. After the 30-day spend down deadline had expired, the facility continued to correspond with MassHealth (specifically with the MassHealth worker assigned to the LTC application) and file information that MassHealth accepted and processed.
9. The MassHealth worker assigned to the LTC application assumed that an appeal had been filed and continued to take and process information after the 30-day deadline had expired.
10. Appellant's POA acknowledged receiving the excess asset denial of April 18, 2024 and

acknowledged that she did not spend down the asset within 30 days.

11. The facility is seeking to obtain coverage for the period on and between February 16, 2024 and June 30, 2024.
12. A copy of a letter from the facility representative dated May 8, 2024 sent to the MassHealth representative begins with: "See your letter dated April 18, 2024 requested information attached" (Exhibit B).
13. On September 25, 2024, MassHealth approved Appellant for Masshealth Standard effective January 1, 2024 (Exhibit A).
14. A copy of an email from the MassHealth representative dated October 9, 2024 sent to the facility representative stating that a recent MassHealth approval for community benefits (Exhibit A) was a mistake as the information should have been processed as a Long Term Care case and that she would work to correct the matter (Exhibit B).
15. Appellant filed for this appeal on October 24, 2024.
16. On October 31 2024 Appellant filed a second Long Term Care application which was approved as of July 1, 2024 which is the day that Appellant verified the asset spend down.

## **Analysis and Conclusions of Law**

### The original application and excess asset denial of April 18, 2024:

MassHealth sent three copies of the excess asset denial date April 18, 2024 (Exhibit C). At hearing, the facility representative testified that the facility never received a copy. This is clearly untrue and inaccurate. The same facility representative sent the MassHealth representative documentation under cover letter dated May 5, 2024 referencing the April 18, 2024 denial notice so clearly, she had it. At hearing, Appellant's POA also acknowledged receiving the April 18, 2024 notice. Appellant had 60 days from the date of the written notice to file an appeal which would have protected the original application date of January 1, 2024. Having failed to file for any appeal until October 24, 2024, Appellant lost the ability to preserve the original application date (130 CMR 610.015(B)). Additionally, this Board has no authority to review the matter of the April 18, 2024 notice as it was not timely appealed; therefore, these elements of Appellant's appeal are DISMISSED for lack of timeliness (Id).

MassHealth's community Standard determination dated September 25, 2024 and Appellant's Fair Hearing Request dated October 24, 2024:

Appellant's Fair Hearing Request of October 24, 2024 is timely to address the community approval of September 25, 2024 (Exhibit A) (130 CMR 610.015(B)).

Contrary to the statement by the MassHealth representative made in her email to the facility representative on October 9, 2024 (Exhibit B) the community Standard approval was not a mistake as there was no active long-term care application in effect on the date of that notice. The original LTC application of January 4, 2024 was dead after it was denied on April 18, 2024 and it was not appealed. Information received thereafter was processed as a request for community benefits as there was no active LTC application.

Appellant's second LTC application dated October 31, 2024 and MassHealth's approval thereof:

The earliest possible start date for an application for Masshealth Long Term Care benefits is the first day of the third month prior to the month of application (130 CMR 516.006(A)(2) and 520.004(C)(2). Accordingly, the earliest possible eligibility start date Appellant could have secured on a LTC application filed in October 2024, is July 1, 2024, which is the date granted by MassHealth. Any issue as to the September 25, 2024 determination is DENIED.

Fore the foregoing reasons, the appeal is DISMISSED in part and DENIED in part.

## **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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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616