

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2417155
<b>Decision Date:</b>	12/17/2024	<b>Hearing Date:</b>	12/12/2024
<b>Hearing Officer:</b>	Amy B. Kullar, Esq.		

**Appearance for Appellant:**

Authorized Representative

**Appearance for MassHealth:**

Elizabeth Landry, Supervisor, Taunton  
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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long-Term Care; Coverage start date
<b>Decision Date:</b>	12/17/2024	<b>Hearing Date:</b>	12/12/2024
<b>MassHealth's Rep.:</b>	Elizabeth Landry	<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 October 23, 2024, MassHealth approved the appellant's application for Long-Term Care (LTC). Exhibit 1. The appellant filed this appeal in a timely manner on November 7, 2024, because the appellant disagreed with the start date of her benefits. *See* 130 CMR 610.015(B) and Exhibit 2. Challenging agency determinations regarding scope and amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032(5).

### Action Taken by MassHealth

MassHealth approved the appellant's long-term care benefit with a start date of April 1, 2024.

### Issue

The appeal issue is whether MassHealth correctly determined the appellant's benefit start date to be April 1, 2024.

## Summary of Evidence

The appellant is an adult over the age of 65 who currently resides in a skilled nursing facility. The appellant was represented at hearing by a representative from the skilled nursing facility's business office. MassHealth was represented by a supervisor from the Taunton MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony and documentary evidence presented at hearing:

The MassHealth representative testified that the appellant is appealing the October 23, 2024, approval notice, but that the appellant had previously received an LTC MassHealth denial notice that was issued on March 11, 2024. Testimony and Exhibit 6 at 8-11. By way of background information, the MassHealth representative testified to the history of the appellant's LTC applications. Testimony.

The MassHealth representative stated that the appellant was admitted to her current long-term care facility in [REDACTED] of 2023. Her original application was received at MassHealth on November 3, 2023, with a requested benefit start date of November 1, 2023. Testimony. This application was denied on March 11, 2024, due to the appellant's failure to provide requested information to MassHealth. The MassHealth representative was not the original case worker who processed the application, but after reviewing the appellant's file, she was unable to locate in the system any indication that the appellant had appealed that denial notice<sup>1</sup>. Testimony. MassHealth received the second LTC application for the appellant on July 19, 2024. MassHealth approved the appellant for LTC MassHealth on October 23, 2024, with a start date of April 1, 2024, which is the first day of the month three months prior to the application date. Testimony.

The appellant's representative agreed with the testimony of the MassHealth representative and reported that the skilled nursing facility was appealing the approval notice because they would really like to revisit whether it is possible to preserve the original application date of November 3, 2023. She stated that "the judge at the nursing home discharge hearing said the appellant's MassHealth application was pending and that we should complete the application before transfer." Testimony. The appellant's representative stated that the skilled nursing facility had been working with the appellant's family since the original [REDACTED] 2024, denial notice, but that they were very non-responsive to the skilled nursing facility's requests for information. Testimony. The appellant's representative did not offer any evidence that a request for a Fair Hearing was submitted to the Board of Hearings within 60 days of receipt of the original [REDACTED] 2024, denial notice.

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<sup>1</sup> During the hearing, this Hearing Officer was able to locate the record of a previous appeal for the appellant - the appellant had previously appealed a Nursing Home Discharge Order, appeal number 2408348. That hearing was held on June 18, 2024, and the appeal was withdrawn by the skilled nursing facility. However, this was not the eligibility denial to which the caseworker had referred in her testimony.

## Findings of Fact

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

1. On November 3, 2023, MassHealth received an application for Standard long-term care benefits on behalf of the appellant. Testimony, Exhibit 6.
2. On March 11, 2024, MassHealth denied the appellant's application for long-term care. Testimony and Exhibit 6.
3. There is no evidence that the appellant appealed the March 11, 2024 denial notice. Testimony.
4. On July 19, 2024, MassHealth received an application for Standard long-term care benefits on behalf of the appellant. Testimony, Exhibit 6.
5. On October 23, 2024, MassHealth approved the appellant for long-term care benefits with a start date of April 1, 2024. Exhibit 1.
6. The appellant submitted a timely appeal of the October 23, 2024 notice on November 7, 2024. Exhibit 2.

## Analysis and Conclusions of Law

MassHealth administers, and is responsible for, the 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). The start date for such coverage depends on when an individual submits his or her application to MassHealth. *See* 130 CMR 516.006(A). For MassHealth Standard, Family Assistance, and Limited, coverage start date "may be retroactive to the first day of the third calendar month before the month of application..." *Id.* At any fair hearing conducted under 130 CMR 610.000, the appellant bears the burden of proof "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon "evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency's interpretation of its rules, policies and regulations." 130 CMR 610.082(A) and (B).

Here, MassHealth records clearly show that the agency received and processed the appellant's application for LTC benefits on July 19, 2024. Thus, the regulations prevent MassHealth from applying retroactive coverage any earlier than the approved start date of April 1, 2024. The appellant's representative testified that the authorized representative/skilled nursing facility did not appeal the original March 11, 2024 denial notice because they were advised to allow time for the application to be processed during a previous Nursing Home Discharge appeal hearing. This argument is not persuasive based upon the facts presented at hearing and in the record evidence. The date of the Nursing Home Discharge Hearing, June 18, 2024, was well past the deadline to appeal the March 11, 2024 MassHealth notice to the Board of Hearings. It is not credible that the authorized representative/skilled nursing facility was able to file a Discharge Order against the appellant, but was unable to timely file an appeal of the March 11, 2024 denial notice to the Board of Hearings<sup>2</sup>.

As such, the appellant provided no evidence to suggest that the April 1, 2024 start date was incorrect or inappropriate. I find that MassHealth made no error in issuing the October 23, 2024, notice reflecting that start date.

For the foregoing reasons, the appeal is hereby DENIED.

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<sup>2</sup> Board of Hearings records for appeal number 2408348 indicate that the Nursing Home Discharge notice was filed on 5/15/2024.

## 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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Amy B. Kullar, Esq.  
Hearing Officer  
Board of Hearings

[REDACTED]

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