

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2417852
Decision Date:	02/27/2025	Hearing Date:	01/10/2025
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Alexsandra DeJesus (Taunton MEC) via
telephone



*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/Disqualifying Transfer
Decision Date:	02/27/2025	Hearing Date:	01/10/2025
MassHealth's Rep.:		Appellant's Rep.:	Anniry Lugo Estrella
Hearing Location:	Taunton MassHealth Enrollment Center	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 23, 2024, MassHealth denied the appellant's application for MassHealth Standard for persons in need of Long Term Care (LTC) services because the appellant recently gave away or sold assets for less than fair market value to become eligible for MassHealth long-term-care services; MassHealth imposed a penalty period from June 19, 2024 through February 11, 2025. (See 130 CMR 520.018; 520.019; and Exhibit (Ex.) 1, pp. 2-3). The appellant, through her authorized appeal representative, filed this appeal in a timely manner on November 20, 2024. (See 130 CMR 610.015(B); and Ex. 1, p. 4). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Standard for persons in need of LTC services because the appellant recently gave away or sold assets for less than fair market value to become eligible for MassHealth long-term-care services; MassHealth imposed a penalty period from June 19, 2024 through February 11, 2025

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.018 and 520.019, in determining that the appellant recently gave away or sold assets for less than fair market value to become eligible for MassHealth long-term-care services.

Summary of Evidence

At the hearing, MassHealth was represented by a benefits and eligibility specialist from the Taunton MassHealth Enrollment Center (MEC) and the appellant was represented by her granddaughter, who is her authorized appeal representative. Both parties attended the hearing by telephone.

The MassHealth representative testified first to the following. The appellant was admitted to the nursing facility in [REDACTED] (Testimony). On August 15, 2024, the appellant submitted an application for MassHealth for persons in need of LTC services requesting a MassHealth coverage start date of June 19, 2024. (Testimony; Ex. 7, p. 3). On October 23, 2024, MassHealth denied the appellant's application because she recently gave away or sold assets for less than fair market value to become eligible for MassHealth long-term-care services. (Testimony; Ex. 1; Ex. 7, pp. 5-6).

The MassHealth representative stated that MassHealth determined this based on the following evidence. On [REDACTED], the appellant sold her home, netting \$102,938, which she deposited into her bank account on [REDACTED]. (Testimony; Ex. 7, pp. 11-13, 14, 18). The MassHealth representative submitted bank statements showing that between January 20, 2021, and August 30, 2022, the appellant made 37 transactions totaling \$107,261.33, broken down as follows: 6 checks totaling \$20,500.00, 29 withdrawals totaling \$78,100.00, 1 Wire Transfer of \$6,000, and 1 debit card transaction of \$2,661.33. (Ex. 7, pp. 18-13). The MassHealth representative testified that neither the appellant nor her representatives could explain how the funds were used, and, as a result, MassHealth determined the appellant gave away the amount she netted for the sale of her house in order to become eligible for MassHealth. (Testimony). MassHealth calculated the period of ineligibility by dividing \$102,938.41¹ by the average daily cost of nursing facility services, which was \$433 at the time of the calculation. (Testimony). MassHealth calculated an ineligibility period of 238 days (102,938/433) beginning June 19, 2024. (Testimony; Ex. 1, pp. 2-3; Ex. 7, pp. 5-6).

The MassHealth representative also submitted two letters from the appellant's family. In the first letter, the appellant's representative wrote that in 2021 the appellant lived independently and managed her own finances, and she did not know how the appellant spent the proceeds from the sale of her property. (Ex. 7, p. 15). In the second letter, the appellant's son (the appellant's

¹ It is not clear why MassHealth determined only the home sale proceeds of \$102,938 as a disqualifying transfer, rather than the total amount of \$107,261.33.

representative's father) wrote that the appellant gave him a bank check for \$12,000 on January 21, 2021 in order to repay a debt she owed him. (Ex. 7, p. 17). The appellant's representative submitted a copy of the canceled check, which was made out to the appellant's son, and was one of the otherwise unexplained transactions. (Ex. 7, pp. 16, 18). The MassHealth representative stated that there was no way MassHealth could determine if the appellant owed her son this money and therefore whether the payment was made exclusively for a purpose other than to qualify for MassHealth. (Testimony). The MassHealth representative acknowledged the difficulty in tracking these transactions from a few years ago, but reiterated that the absence of supporting documentation made it impossible to verify whether the appellant received fair market value for the funds. (Testimony).

The appellant's representative testified that she and her father had reconnected with the appellant in the summer of 2023 after a period of estrangement. (Testimony). She explained that upon their recent reconnection, they discovered that the appellant had been dealing with mental health issues, including dementia, which had impaired her ability to manage her finances. (Testimony). The appellant's representative indicated that she did not know how the appellant had spent the funds from the sale of her home. (Testimony). She noted, however, that after selling the house, the appellant had asked her son (the appellant's representative's father) for money to pay rent, but beyond that, the appellant's representative had no further information. (Testimony). She emphasized that the appellant, due to her dementia, was no longer able to remember or manage her finances, and it was therefore impossible to ask her about the transactions or explain how the funds had been used. (Testimony).

The appellant's representative was asked if she could provide more information about the \$12,000 repayment claimed by her father (the appellant's son). (Testimony). She responded that she was unaware of the details of the debt or the nature of the transaction. (Testimony). While she confirmed that the appellant had given her father \$12,000, she had no further information about the debt. (Testimony). She reiterated that, due to her grandmother's dementia, it was not possible to ask her for clarification, and therefore, they could not explain where or how the funds had been spent. (Testimony).

When questioned about her grandmother's health in 2021, the appellant's representative stated that she could not provide specific details. (Testimony). She explained that she and her father had been estranged from the appellant at that time and had only learned about her health issues more recently. (Testimony). The granddaughter mentioned that after selling her house, the appellant had started asking her father for money and had been renting a place, but she was uncertain about how the proceeds from the sale were spent. (Testimony).

Findings of Fact

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

1. The appellant was admitted to the nursing facility in [REDACTED] (Testimony).

2. On August 15, 2024, the appellant submitted an application for MassHealth for persons in need of LTC services, requesting a MassHealth coverage start date of June 19, 2024. (Testimony; Ex. 7, p. 3).
3. On October 23, 2024, MassHealth denied the appellant's application asserting that she recently gave away or sold assets for less than fair market value to become eligible for MassHealth long-term-care services. (Testimony; Ex. 1; Ex. 7, pp. 5-6).
4. On [REDACTED], the appellant sold her home, netting \$102,938.41, which was deposited into her bank account on [REDACTED]. (Testimony; Ex. 7, pp. 11-13, 14, 18).
5. Between January 20, 2021 and August 30, 2022 the appellant made 37 transactions totaling \$107,261.33, broken down as follows: 6 checks totaling \$20,500.00, 29 withdrawals totaling \$78,100.00, 1 Wire Transfer of \$6,000, and 1 debit card transaction of \$2,661.3337; other than a \$12,000.00 check to her son, the appellant could provide no documentation to clarify how the funds were used. (Testimony; Ex. 7, pp. 18-30).
6. MassHealth determined that the appellant had a 238-day period of ineligibility, calculated by dividing the \$102,938.41 netted from the sale of the appellant's house in 2021 by the average daily nursing home rate of \$433. (Testimony; Ex. 1, pp. 2-3; Ex. 7, pp. 5-6).
7. The appellant's family submitted a letter from the appellant's son claiming repayment of a \$12,000 debt; MassHealth rejected this as evidence due to the absence of supporting documentation confirming the loan. (Testimony; Ex. 7, pp. 16-18).
8. Following a period of estrangement, the appellant's son and granddaughter reconnected with the appellant in the summer of 2023, and discovered the appellant's mental health issues, which they indicated included dementia. (Testimony).

Analysis and Conclusions of Law

To qualify for MassHealth nursing-facility services, an institutionalized single individual must have countable resources valued at no more than \$2,000. (130 CMR 520.016(A)). Countable resources include all resources considered in the eligibility determination, encompassing those the applicant is entitled to receive—even if not currently in their possession—when the failure to receive them results from actions or inactions by the applicant or their representative. (130 CMR 520.007). MassHealth evaluates whether such failures are reasonably attributable to these actions or inactions based on the specific circumstances involved. (Id.).

MassHealth denies payment for nursing-facility services to otherwise eligible applicants who transfer countable resources for less than fair-market value during the 60-month look-back period, which begins when the individual becomes a nursing-facility resident and applies for or receives MassHealth Standard. (130 CMR 520.018(B); 520.019(B)(2)). Any actions taken to avoid receiving a

resource to which the resident is entitled—such as waiving rights, not accepting, diverting, or failing to pursue legal claims—may be deemed disqualifying transfers. (130 CMR 520.019(C)). Additionally, any action that renders a previously available resource unavailable is similarly regarded as a disqualifying transfer. (130 CMR 520.019(C)). All other transfers of resources or interests in resources during the look back period are considered disqualifying unless they fall under the permissible categories outlined in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019(K) (130 CMR 520.019(C)).

The permissible resource transfers outlined in 130 CMR 520.019(D) include transfers to the nursing-facility resident's spouse or for their sole benefit within 90 days of approval, transfers from the spouse for their benefit, and transfers to a permanently disabled or blind child or a trust for their benefit. (130 CMR 520.019(D)). Additionally, transfers to a trust for a disabled person under 65 and to specific family members under certain conditions, as well as transfers to a burial account for the resident or spouse, are allowed. (*Id.*).

Under 130 CMR 520.019(F), MassHealth will not impose a period of ineligibility for transferring resources below fair-market value if the nursing-facility resident can convincingly demonstrate that: (1) the resources were transferred solely for a purpose other than qualifying for MassHealth, or (2) the resident intended to dispose of the resource for either fair-market value or another form of valuable consideration. Valuable consideration refers to a tangible benefit that is at least equal to the fair-market value of the transferred resource. (130 CMR 520.019(F)).

Finally, with regard to 130 CMR 520.019(K), a nursing-facility resident can avoid the period of ineligibility after MassHealth issues a notice of ineligibility by returning the full or partial value of transferred resources. In this case, MassHealth will rescind or adjust the ineligibility period, applying the countable-resources and countable-income rules during the eligibility assessment (130 CMR 520.019(K)(2)). If the resident provides proof within 60 days that the transfer has been resolved, MassHealth will use the original application date. (*Id.*). For partial resolutions, the agency will recalculate the ineligibility period based on the remaining transferred amount, starting from the transfer date or the later eligibility date. (*Id.*).

The record shows that the appellant was admitted to the nursing facility in early 2024 and applied for MassHealth on August 15, 2024. During the 60-month period prior to this date, MassHealth determined that the appellant sold her home on January 14, 2021 for \$102,938.41, which she deposited into her bank account the next day. Between January 20, 2021 and August 30, 2022, the appellant made 37 transactions from that account including 6 checks totaling \$20,500.00, 29 withdrawals totaling \$78,100.00, 1 Wire Transfer of \$6,000, and 1 debit card transaction of \$2,661.3337 for a total withdrawal of \$107,261.33. Other than a \$12,000.00 check to her son, the appellant could provide no documentation to clarify how the funds were use. Neither the appellant nor her representatives could explain how the funds were spent, and for that reason MassHealth determined that these were disqualifying transfers resulting in a period of ineligibility.

The appellant's representative provided testimony that the appellant was experiencing significant

cognitive impairments, including dementia, which severely limited her ability to manage her finances or recall the specifics of these transactions. There was no clinical documentation to support the appellant's condition in 2021 and 2022. Regardless, despite any challenges the appellant may have faced, the absence of documentation to support the appellant's claim that the funds were used appropriately — such as for repayment of debts or necessary living expenses— leaves the record insufficient to overturn MassHealth's decision. The appellant paid her son \$12,000.00, however the son did not provide documentation showing the son paid the appellant's rent/bills to support that the appellant owed him such money. There is no conclusive documentary evidence to demonstrate that the appellant received fair market value for the transfers of her funds, nor is there evidence that the transfers were made for a legitimate purpose other than qualifying for MassHealth.

For the foregoing reasons, MassHealth's denial of the appellant's application for MassHealth Standard for persons in need of LTC services and the imposition of the penalty period from June 19, 2024, through February 11, 2025, was correct based on the information available. The appeal is DENIED.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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