

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2417975
Decision Date:	2/5/2025	Hearing Date:	December 17, 2024
Hearing Officer:	Brook Padgett	Record Open to:	January 17, 2025

Appellant Representatives:



MassHealth Representative:

Ka Lam Lau, Charlestown



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	130 CMR 520.004 Long Term Care Coverage Start Date
Decision Date:	2/5/2025	Hearing Date:	December 17, 2024
MassHealth Rep.:	K. Lau	Appellant Rep.:	
Hearing Location:	Charlestown		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The appellant received a notice dated November 06, 2024, stating: MassHealth has decided you are eligible for MassHealth Standard benefits to cover your care in a nursing facility. Your eligibility begins on July 31, 2024.” (Exhibit 1). The appellant filed this appeal timely on November 22, 2024. (130 CMR 610.015(B); Exhibit 2). Start date of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

The appellant was found eligible for MassHealth Long Term Care benefits beginning July 31, 2024.

Issue

Was the appellant's date of eligibility correctly determined?

Summary of Evidence

MassHealth representative testified the appellant was admitted to a long term care facility on [REDACTED] 2024 and applied for MassHealth long term care services benefits on July 29, 2024. The appellant requested a coverage start date of June 25, 2024. MassHealth reviewed the appellant's assets as of the requested start date and determined that she owned the following assets on June 25, 2024: [REDACTED] account [REDACTED] with a balance of \$24,949.03; and [REDACTED] money market account [REDACTED] with a balance of \$8,232.39, for a total of \$33,181.42. MassHealth subtracted all allowable deductions from this total (the \$2,000.00 asset allowance, checks paid to the nursing facility including \$700.00 July 29, 2024 and \$2,192.28 September 10, 2024, and \$9,500.00 paid to a funeral home on August 01, 2024) and determined that on June 25, 2024, the appellant had \$18,789.14 that could have been used to pay for her nursing facility care. MassHealth divided \$18,789.14 by the nursing facility's private pay day rate of \$512.00 and determined that these excess assets would have paid for the appellant's nursing facility stay for 36 days. MassHealth determined that the appellant was otherwise eligible for MassHealth coverage on July 31, 2024 (Exhibit 1). MassHealth submitted into evidence a Request for Information, approval notice, [REDACTED] balances, appellant's application, and canceled checks. (Exhibit 4, pgs. 1-14).

The appellant's representative responded that account [REDACTED] (CD account) was jointly owned by the appellant and her sister. When the appellant's power of attorney went to close the account to spend down funds as required for MassHealth eligibility, the bank required the resolution of a loan obtained by the appellant's sister who had used the CD account as collateral. The bank indicated the appellant's sister could pay off the loan and all the funds would be released or the CD funds could be used to pay the loan and the remainder could be withdrawn. The appellant required MassHealth coverage and her sister, who is living on her Social Security and in subsidized housing, did not have available assets to pay off the loan so there was no other option than to break the CD, payoff the loan (\$12,756.61), and use the remaining funds to privately pay the nursing facility. The representative argued that the power of attorney had no other choice than to pay the loan to access the funds. The appellant submitted into evidence a narrative, a letter from the bank and relevant rules and regulations. (Exhibit 5, pgs. 1-4).

At the hearing officer's request, the record remained open until January 17, 2025, to allow the appellant's representative time to obtain evidence to determine the amount each co-owner deposited into the jointly held account. (Exhibit 6). The appellant's representative responded within the required time period indicating she has been unable to prove, or disprove, that all the CD funds were owned or belonged to the appellant. The account was opened on January 30, 2003 and the bank only keep records for 7 years so they are unable to provide documentation to determine what each sister contributed to the jointly held account. (Exhibit 7).

Findings of Fact

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

1. The appellant was admitted to a long-term care facility on [REDACTED] 2024 and applied for MassHealth long term care services benefits on July 29, 2024.
2. The appellant requested a coverage start date of June 25, 2024.
3. MassHealth reviewed the appellant's assets as of the requested start date and determined that she owned the following assets: [REDACTED] CD account [REDACTED] with a balance of \$24,949.03; and [REDACTED] money market account [REDACTED] with a balance of \$8,232.39, for a total of \$33,181.42.
4. MassHealth subtracted all allowable deductions from this total (the \$2,000.00 asset allowance, checks paid to the nursing facility including \$700.00 July 29, 2024 and \$2,192.28 September 10, 2024, and \$9,500.00 paid to a funeral home on August 01, 2024) and determined that on June 25, 2024, the appellant had \$18,789.14 that could have been used to pay for her nursing facility care.
5. MassHealth divided \$18,789.14 by the nursing facility's private pay day rate of \$512.00 and determined that these excess assets would have paid for the appellant's nursing facility stay for 36 days.
6. MassHealth determined that the appellant was otherwise eligible for MassHealth coverage on July 31, 2024 (Exhibit 1).
7. The appellant opened a jointly owned CD account with her sister on January 30, 2003. (Testimony).
8. The appellant's sister used the CD account as collateral for a loan. (Exhibit 7, Testimony).
9. The bank required that the loan be repaid before it would release the funds in the CD account. (Exhibit 7, Testimony).
10. On July 03, 2024, the appellant's power of attorney closed the CD account and used the funds to pay off the loan in the amount of \$12,756.61. (Testimony).
11. The appellant was unable to establish her percentage of ownership in the establishment of CD account [REDACTED] (Exhibit 7).

12. The appellant was approved for MassHealth long term care coverage beginning July 31, 2024. (Exhibit 1).

Analysis and Conclusions of Law

The issue on appeal is the appellant's coverage start date. MassHealth calculated a start date of July 31, 2024, and the appellant argues that the start date should be June 25, 2024. The calculation of the appellant's start date is subject to the provisions of 130 CMR 520.004, which provides as follows:

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.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

(1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: *Date of Application*; and

(2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(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.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

The appellant argues that in order to spend down the funds in the joint CD account, she had no choice but to pay off her sister's pre-existing loan of \$12,756.61 on July 03, 2024. Because this was the only way she could access and reduce her assets, the appellant argues that her start date should not be affected and her coverage should begin on June 25, 2024. The appellant's argument is not persuasive. It is undisputed that these funds were held in a joint account, and the appellant did not present evidence to demonstrate partial ownership of the funds in the CD account per 130 CMR 520.005(C)(3). The appellant used funds fully available to her to pay her sister's debt.¹ This payment cannot be used to establish an earlier start date per 130 CMR 520.004(A)(1)(b). MassHealth appropriately excluded it when evaluating the appellant's asset reduction through the application of 130 CMR 520.004(A)(1)(b)). The appellant has not demonstrated that she is entitled to an earlier start date.

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Charlestown MEC

[REDACTED]

¹ MassHealth did not consider this transaction a disqualifying transfer per 130 CMR 520.019.