

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2418440
Decision Date:	4/3/2025	Hearing Date:	04/01/2025
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Yous Khieu, Charlestown 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

Appeal Decision:	Denied	Issue:	Long-Term Care; Disqualifying Transfer
Decision Date:	4/3/2025	Hearing Date:	04/01/2025
MassHealth's Rep.:	Yous Khieu	Appellant's Rep.:	
Hearing Location:	Charlestown MassHealth Enrollment Center Room 2 (Telephone)	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 November 26, 2024, MassHealth approved the appellant's application for Long Term Care (LTC). Exhibit 1. The appellant filed this appeal in a timely manner on March 4, 2025, 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 May 30, 2024.

Issue

The appeal issue is whether MassHealth correctly determined the appellant's benefit start-date to be May 30, 2024.

Summary of Evidence

At the time of her application for MassHealth LTC benefits, the appellant was an adult over the age of [REDACTED] residing in a skilled nursing facility¹. The appellant passed away on [REDACTED]. The appellant's estate was represented at hearing by a Medicaid consultant. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. All parties appeared by telephone. The following is a summary of the testimony and documentary evidence presented at hearing:

MassHealth testified that the appellant was admitted to the nursing facility on [REDACTED]. The appellant applied for MassHealth on April 24, 2024, requesting a benefit start date of April 26, 2024. On November 26, 2024, MassHealth approved the application with a 34-day period of ineligibility, resulting in a coverage start date of May 30, 2024.

The MassHealth representative explained that the reason the appellant has a period of ineligibility is because in 2024 she sold her "travel trailer" for less than fair market value to her nephew. The documentation that MassHealth received regarding the transfer of the trailer is not sufficient. MassHealth received a receipt for the transaction that is not dated or signed by the appellant and stated that the sale price was \$4,500.00². MassHealth's fair market value of the trailer is \$14,500.00, and MassHealth does not agree that \$4,500.00 is a legitimate estimate of the trailer's value. Furthermore, according to the bank statements that MassHealth received, the proceeds from the sale of the trailer were not deposited into the appellant's bank account at the time of sale. Testimony and Exhibit 5. MassHealth found that the transfer of the trailer was not for fair market value and therefore the entire value of the transfer, \$14,500.00, constitutes a disqualifying transfer. The penalty period was calculated by dividing the amount of the disqualifying transfer by the average daily cost to a person paying privately for nursing facility services in the Commonwealth of \$433.00 ($\$14,500/433 = 33.487$, or 34, days.) The appellant was otherwise eligible for MassHealth benefits on April 26, 2024, and her penalty period ended on May 29, 2024. Testimony.³

The appellant's representative did not dispute MassHealth's testimony regarding the status of the trailer; she did not dispute MassHealth's fair market value of the trailer or the calculation of the

¹ The appellant died on [REDACTED] on December 3, 2024, the nursing facility that the appellant resided in at the time of her death notified the Board of Hearings that they had initiated probate proceedings for the appellant's estate, and the appeal was placed on Probate Hold by the Board of Hearings. [REDACTED] was appointed as Personal Representative of the estate on February 11, 2025, she timely filed the Request for a Fair Hearing on behalf of the appellant's estate on March 3, 2025, and the Probate Hold was removed from this appeal by the Board of Hearings. [REDACTED] and Exhibit 2.

² MassHealth's pre-hearing submission contains the documentation that MassHealth received from the appellant regarding the travel trailer, including a copy of the property tax statement for the trailer that shows its 2024 tax-assessed value is \$14,500.00. The "receipt" for the transfer to the appellant's nephew is handwritten and undated except for the year "2024," and is signed only by the Buyer. See Exhibit 5 at 10-11.

³ See also, MassHealth Eligibility Operations Memo 24-07, "Average Cost of Nursing Facility Services" (November, 2024).

penalty period. The information that she has concerning the trailer is that the appellant's nephew did take the trailer and since the day the Personal Representative was appointed, he has been non-responsive to all requests for more information. There is no plan in place to cure this disqualifying transfer, and she accepts MassHealth's position; they have no further verifications to submit. Testimony. The appellant's representative stated that she only began working on this case since the appeal process began; her colleague is the named personal representative, and they did not have all the facts of the trailer sales transaction when they agreed to represent this appellant. She stated she was "here today" because she needs a decision on this appeal to close this matter for the nursing home.

Findings of Fact

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

1. An application for LTC MassHealth coverage was submitted on the appellant's behalf on April 24, 2024. At the time of her application, the appellant was over the age of [REDACTED] and was a resident of a long-term care facility. Testimony.
2. The appellant requested a coverage start date of April 26, 2024. Testimony and Exhibit 5.
3. Through a notice dated November 26, 2024, MassHealth notified the appellant that she was approved for long-term care services with an effective start date of May 30, 2024, but also made a determination that she made a disqualifying transfer of resources in the amount of \$14,500.00. Testimony and Exhibit 1.
4. In 2024, the appellant's travel trailer was transferred to the appellant's nephew. The 2024 tax-assessed value of the trailer is \$14,500.00. The proceeds from the sale of the trailer were never verified in the appellant's bank statements. Testimony and Exhibit 5.
5. As a result of the disqualifying transfer, MassHealth calculated a period of ineligibility beginning on the "otherwise eligible" start date of April 26, 2024, through May 30, 2024.

Analysis and Conclusions of Law

To qualify for MassHealth long-term care coverage, the assets of the institutionalized applicant cannot exceed \$2,000.00. See 130 CMR 520.016(A). In determining whether an applicant qualifies for benefits, MassHealth will assess whether he or she has transferred any resources for less than fair market value (FMV). If the individual or their spouse has made a transfer for less than FMV, the applicant, even if "otherwise eligible," may be subject to a period of disqualification in accordance with its transfer rules at 130 CMR 520.018 and 520.019. MassHealth's "strict limitations on asset transfers," which were adopted pursuant to federal law, are intended to "prevent individuals from

giving away their assets to their family and friends and forcing the government to pay for the cost of nursing home care.” See, Gauthier v. Dir. of the Office of Medicaid, 80 Mass. App. Ct. 777, 779 (2011) (*citing* Andrews v. Division of Med. Assistance, 68 Mass. App. Ct. 228, 229 (2007)).

With respect to transfers of resources, regardless of the date of transfer, MassHealth provides the following, in relevant part:

The MassHealth agency will deny payment for nursing facility services to an otherwise eligible nursing-facility resident ... who transfers or whose spouse transfers **countable resources for less than fair-market value** during or after the period of time referred to as the look-back period.

See, 130 CMR 520.018(B)

The “look back period,” referred to in § 520.018(B), above, is sixty months, or 5 years, before the first date the individual is both a nursing facility resident *and* has applied for, or is receiving, MassHealth Standard.⁴ See, 130 CMR 520.019(B). MassHealth will deem the individual to have made a “disqualifying transfer” if it finds that during the look-back period, the individual (or their spouse) transferred resources for less than FMV, or, if they have taken any action “to avoid receiving a resource to which the resident or spouse would be entitled if such action had not been taken.” 130 CMR 520.019(C). If it is determined that a resident or spouse made a disqualifying transfer of resources, MassHealth will calculate a period of ineligibility in accordance with the methodology described in 130 CMR 520.019(G).

The transfer provisions also have several exceptions to the general rule governing disposition of assets, which are detailed at 130 CMR 520.019(D) (permissible transfers), 130 CMR 520.019(J) (exempted transfers), and 130 CMR 520.019(F) (exemptions based on intent). See, 130 CMR 520.019(C). In the instant case, there are no applicable exceptions, and no regulatory exceptions were raised by appellant at hearing.

Fair hearings exist to give an appellant the opportunity to present evidence regarding why they believe MassHealth’s decision was in error. See, 130 CMR 610.061. A hearing officer must facilitate the orderly presentation of evidence at the hearing, can consider evidence’s effect on a member’s eligibility as of the date it existed, and afford the parties the opportunity to respond to evidence first presented at a hearing. See, 130 CMR 610.065; 130 CMR 610.071. An applicant for MassHealth benefits has the burden to prove his or her eligibility. See, 130 CMR 515.001, 520.004; and G.L. ch. 118E, § 20.

The record evidence and testimony presented at hearing were quite clear. In 2024, the

⁴ Effective February 8, 2006, the look-back period for transfer of assets was extended from 36 months to 60 months and the beginning date for a period of ineligibility will be the date the applicant would otherwise be eligible or the date of the transfer, whichever is later. See MassHealth Eligibility Letter 147 (July 1, 2006).

appellant's travel trailer, valued at \$14,500.00, was transferred to the appellant's nephew; there is no evidence that the appellant received anything of value in return for the transfer, let alone fair market value for the transfer of the trailer. The proceeds from the sale of the trailer were never verified in the appellant's bank statements. MassHealth correctly determined that the appellant transferred a countable resource for less than fair market value during the look back period, and MassHealth correctly assessed a 34-day period of ineligibility to the appellant as a result of the transfer.

Furthermore, the appellant did not dispute MassHealth's determination that the appellant was ineligible for LTC MassHealth benefits for a 34-day period. The appellant did not, and will not, attempt to cure the disqualifying transfer. The appellant has not shown how MassHealth made an error in determining the appellant's eligibility for MassHealth.

MassHealth did not err when it calculated the appellant's long-term care benefit start date of May 30, 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.

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

cc:

cc: MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104