

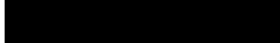
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2418622
Decision Date:	3/13/2025	Hearing Date:	01/13/2025
Hearing Officer:	Marc Tonaszuck	Record Open to:	01/24/2025

Appearance for Appellant:



Appearance for MassHealth:

Jonathan Gonzalez



*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 – Assets
Decision Date:	3/13/2025	Hearing Date:	01/13/2025
MassHealth's Rep.:	Jonathan Gonzalez	Appellant's Rep.:	[REDACTED]
Hearing Location:	Charlestown 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 10/11/2024, MassHealth informed the appellant that it decided he was not eligible for MassHealth benefits because he has more countable assets than MassHealth benefits allow. MassHealth terminated the appellant's LTC benefits on 10/11/2024 (see 130 CMR 520.001, 520.003, 520.004 and Exhibit 1). The appellant filed this appeal in a timely manner on 12/06/2024 (see 130 CMR 610.015(B) and Exhibit 2). MassHealth agency actions to suspend, reduce, terminate, or restrict a member's assistance are valid grounds for appeal (see 130 CMR 610.032).

A fair hearing was held on 01/13/2025. The appellant was represented by counsel, who appeared telephonically, as did the MassHealth representative. During the fair hearing, counsel requested additional time to show verification that the appellant's assets have been reduced. His request was granted, and the record remained open until 01/17/2025 for his submission and until 01/24/2025 for MassHealth's response. Neither party made a submission during the record open period.

Action Taken by MassHealth

MassHealth denied the appellant's application for Long Term Care (LTC) benefits because his assets

exceed the program limits.

Issue

The issue is whether or not the appellant's assets are below the program limits for MassHealth Long Term Care benefits.

Summary of Evidence

All parties appeared telephonically for this hearing. Exhibits 1-4 were marked as evidence. The MassHealth representative testified that the appellant, a nursing home resident, was previously approved for MassHealth Long Term Care (LTC) benefits on 07/12/2024. The approval notice informed the appellant that, according to the information received from him, the appellant has assets over the \$2,000.00 limit. Specifically, the appellant is listed as an owner on a joint bank account [REDACTED] that contains \$44,816.00. Because the appellant has access to the entire balance of the joint bank account, the full amount is countable in an asset calculation. The asset limit for the appellant to be eligible for MassHealth LTC benefits is \$2,000.00. The approval notice gave the appellant 90 days to reduce the assets. Because verification of the assets was not received, MassHealth terminated the appellant's LTC benefits on 10/11/2024 (Exhibit 1).

The appellant's attorney testified that the assets have been reduced, and the appellant is again eligible for MassHealth LTC benefits. Counsel requested additional time to provide verification that the appellant's assets are below the \$2,000.00 limit. His request was granted, and the record remained open until 01/17/2025 for his submission and until 01/24/2025 for MassHealth's response (Exhibit 5). Neither party made a submission during the record open period.

Findings of Fact

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

1. The appellant, a nursing home resident was previously approved for MassHealth LTC benefits on 07/12/2024.
2. In establishing eligibility for MassHealth benefits, an asset assessment was made by MassHealth.
3. The asset limit for MassHealth LTC benefits is \$2,000.00.
4. In the asset assessment, MassHealth received information that the appellant is co-owner of a joint savings account from [REDACTED]

5. The joint savings account contains \$44,816.00.
6. Because the appellant is a co-owner of the joint bank account, he is able to access the entire balance.
7. MassHealth did not receive verification that the appellant's assets were reduced to less than \$2,000.00 within the 90 days.
8. On 10/11/2024, MassHealth informed the appellant that it decided he was not eligible for MassHealth benefits because he has more countable assets than MassHealth benefits allow. MassHealth terminated the appellant's LTC benefits on 10/11/2024.
9. The appellant submitted a request for a fair hearing on 12/06/2024.
10. A fair hearing took place before the Board of Hearings on 01/13/2025.
11. As of the date of the fair hearing, there was no verification that the assets have been reduced.
12. At the fair hearing, the appellant's attorney requested additional time to provide verification that the assets were reduced. Their request was granted, and the record remained open in this matter until 01/17/2025 for the appellant's submission and until 01/24/2025 for MassHealth's response.
13. During the record open period, the appellant did not verify that his assets were below the \$2,000.00 limit for MassHealth LTC benefits.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members (See 130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged ■ or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries (See 130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case (See 130 CMR 515.002).

MassHealth regulations at 130 CMR 520.003 address asset limits as follows:

(A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits:

(1) for an individual — \$2,000; and

(2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

Regulations at 130 CMR 520.007 address countable assets as follows:

Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such assets is reasonably considered to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. The applicant or member and the spouse must verify the total value of countable assets. However, if he or she is applying solely for MassHealth Senior Buy-in for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-in for Qualifying Individuals (QI) both as described in 130 CMR 519.011: MassHealth Buy-in, verification is required only upon request by the MassHealth agency. 130 CMR 520.007 also contains the verification requirements for certain assets. The assets that the MassHealth agency considers include, but are not limited to, the following...

The appellant was previously approved for and received MassHealth LTC benefits since 07/12/2024. His approval notice required that he show his assets, which were over the program limits, were reduced within 90 days of the date of the approval.

At issue is a joint bank account, co-owned by the appellant. The account has a balance of \$44,816.41. The entire balance is countable as an asset because the appellant has access to the full balance as a co-owner. The appellant failed to show his assets were below \$2,000.00 within the 90 days and on 10/11/2024, his LTC benefits were terminated.

At the fair hearing, appellant was represented by counsel who testified that the assets had been reduced and that he would provide verification. Counsel requested time to provide the verification to the hearing record and to MassHealth. His request was granted, and the record was held open until 01/17/2025 for his submission. He made no submission during the record open period.

There was no dispute as to what information was requested by MassHealth and what the appellant's countable assets were at the time of the fair hearing. The appellant's counsel requested time to provide verifications that the appellant was eligible for LTC benefits; however, he failed to do so within the record open period. Accordingly, MassHealth's denial is supported by the regulations and relevant facts in the hearing record. This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: [REDACTED]

MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129