

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2418751

Decision Date: 01/31/2025

Hearing Date: January 9, 2025

Hearing Officer: Stanley M. Kallianidis

Appellant Representative:



MassHealth Representative:

Stacy Kirby, Taunton



*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:	Disqualifying Transfer
Decision Date:	01/31/2025	Hearing Date:	January 9, 2025
MassHealth Rep.:	Stacy Kirby, Taunton	Appellant Representative:	

Authority

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

Jurisdiction

Through notice dated October 11, 2024, MassHealth denied the appellant's application for MassHealth benefits for the period February 15, 2024-March 23, 2024 due to disqualifying transfers (see Exhibit 1). The appellant filed this appeal in a timely manner on October 21, 2024 (see 130 CMR 610.015) and Exhibit 2). The denial of assistance is valid grounds for appeal (see 130 CMR 610.032). On December 12, 2024, a hearing notice was sent to the parties (Exhibit 3).

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits for the period February 15, 2024-March 23, 2024.

Issue

Was MassHealth correct, pursuant to 130 CMR 520.019, in determining that the appellant made net disqualifying transfers of \$16,400.00?

Summary of Evidence

The MassHealth representative testified that the appellant, [REDACTED] applied for MassHealth on May 1, 2024. While eligibility began on March 24, 2024, the application was denied for the period February 15, 2024-March 23, 2024 due to disqualifying transfers (Exhibit 1).

The MassHealth representative submitted a packet into the record which consisted of a worksheet of the transfers in question as well as the appellant's income and asset printouts (Exhibit 4). The transfers totaled \$30,700.00 and consisted of six checks written between January 2023 and February 2024 from the appellant's bank account payable to her grandson. Of that amount, \$14,300.00 was deducted from the transferred amount because it represented the appellant's share of the rent for 13 months that she owed her grandson with whom she shared an apartment (Exhibit 4).

The ineligibility period was 38 days. This was determined by taking the net transferred amount, \$16,400.00 and dividing it by the average daily private nursing home rate, \$431.00, beginning February 15, 2024, the date that she was otherwise eligible for MassHealth (Exhibit 4).

The appellant's attorney agreed that \$14,300.00 of the \$30,700.00 in transfers to the grandson were valid reimbursements for her portion of the rent. He disagreed that there were net disqualifying transfers of \$16,400.00. He argued that the net transfers of \$16,400.00 represented the appellant's share of monthly living expenses for the 13 months in question that were paid by her grandson.

The appellant's attorney submitted into evidence a letter from the appellant's grandson. The grandson wrote that he and the appellant lived together, and while they shared living expenses, the bulk of the expenses were paid by him and she only paid for some of her small expenses. He stated that there was no written agreement, and that the appellant would reimburse him for her expenses every "couple of months." The grandson further contended that the appellant has monthly income of \$2,400.00 and she should be entitled to use what remains from her income for living expenses after she pays her \$1,100.00 rent. Finally, the grandson indicated that there was no intent to qualify for MassHealth because he always expected that the appellant would live with him in the community (Exhibit 5).

The appellant's attorney also submitted the appellant's bank statements from November 2023 to August 2024. The statements from November 2023 to January 2024 prior to her admission showed that the appellant paid for some utility and food expenses each of these months (Exhibit 5).

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant, [REDACTED], applied for MassHealth on May 1, 2024, and was determined eligible for benefits beginning on March 24, 2024 (Exhibits 1 & 4).
2. The application was denied for the period February 15, 2024-March 23, 2024 due to disqualifying transfers (Exhibit 1).
3. The ineligibility period was 38 days. This was determined by taking the net transferred amount, \$16,400.00 and dividing it by the average daily private nursing home rate, \$431.00, beginning February 15, 2024, the date that she was otherwise eligible for MassHealth (Exhibit 4).
4. The transfers totaled \$30,700.00 and consisted of six checks written between January 2023 and February 2024 from the appellant's bank account payable to her grandson (Exhibit 4).
5. From the transfers of \$30,700.00, \$14,300.00 was deducted because it represented the appellant's share of the rent for 13 months that she owed her grandson, leaving a net transferred amount of \$16,400.00 (Exhibit 4).
6. The appellant failed to submit any documentation such as bills, receipts, or cancelled checks to indicate that the \$16,400.00 that was transferred to her grandson represented reimbursement for her share of household expenses that he paid on her behalf.
7. The appellant's bank statements from November 2023 to January 2024 prior to her admission showed that she paid for some utility and food expenses from her own funds each of these months (Exhibit 5).

Analysis and Conclusions of Law

MassHealth considers any transfer during the appropriate look-back period by the nursing-facility resident or spouse of a resource, or interest in a resource, owned by or available to the nursing-facility resident or the spouse (including the home or former home of the nursing-facility resident or the spouse) for less than fair-market value a disqualifying transfer unless listed as permissible in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019(J). MassHealth may consider as a disqualifying transfer any action taken to avoid receiving a resource to which the nursing-facility resident or spouse is or would be entitled if such action had not been taken. Action taken to avoid receiving a resource may include, but is not limited to, waiving the right to receive a resource, not accepting a

resource, agreeing to the diversion of a resource, or failure to take legal action to obtain a resource. In determining whether or not failure to take legal action to receive a resource is reasonably considered a transfer by the individual, MassHealth will consider the specific circumstances involved. A disqualifying transfer may include any action taken which would result in making a formerly available asset no longer available (130 CMR 520.019(C)).

130 CMR 520.019(F) provides with regard to intent of transferring assets:

Determination of Intent: In addition to the permissible transfers described in 130 CMR 520.019(D), MassHealth will not impose a period of ineligibility for transferring resources at less than fair-market value if the nursing-facility resident or the spouse demonstrates to MassHealth's satisfaction that:

- (1) the resources were transferred exclusively for a purpose other than to qualify for MassHealth; or
- (2) the nursing-facility resident or spouse intended to dispose of the resource at either fair-market value or for other valuable consideration. Valuable consideration is a tangible benefit equal to at least the fair-market value of the transferred resource.

In the instant appeal, I have found that the appellant, [REDACTED] applied for MassHealth on May 1, 2024, and was determined eligible for benefits beginning on March 24, 2024. The application was denied for the period February 15, 2024-March 23, 2024 due to disqualifying transfers of \$16,400.00.

The ineligibility period was 38 days. This was determined by taking the net transferred amount, \$16,400.00 and dividing it by the average daily private nursing home rate, \$431.00, beginning February 15, 2024, the date that she was otherwise eligible for MassHealth.

The transfers totaled \$30,700.00 and consisted of six checks written between January 2023 and February 2024 from the appellant's bank account payable to her grandson. From the transfers of \$30,700.00, \$14,300.00 was deducted because it represented the appellant's share of the rent for 13 months that she owed her grandson, leaving the net transferred amount of \$16,400.00.

The appellant's attorney disagreed that there were net disqualifying transfers of \$16,400.00. He argued that the net transfers of \$16,400.00 represented the appellant's share of monthly living expenses for the 13 months in question that were paid by her grandson. However, the appellant failed to submit any documentation such as bills, receipts, or cancelled checks to indicate that the \$16,400.00 that was transferred to her grandson represented reimbursement for her share of household expenses that he paid on her behalf. Moreover, the appellant's bank statements from November 2023 to January 2024 prior to her admission showed that she paid for some utility and food expenses from her own funds each of these months.

I therefore conclude that the appellant's \$16,400.00 in net transfers were made within the five-year look back period without any fair market value compensation received in return. The remaining question is whether or not these were allowable transfers because they were allegedly made "exclusively for a purpose other than to qualify for MassHealth."

Where I have found that the appellant was over 90 years of age at the time of the transfers and that they had been made in the months just prior to her nursing home admission, I find it impossible to further conclude that the transfers were made "*exclusively* (emphasis added) for a purpose other than to qualify for MassHealth."

Accordingly, the appellant transferred \$16,400.00 for less than fair market value, and not "exclusively for a purpose other than to qualify for MassHealth," making them disqualifying transfers.

The appeal is therefore denied.

Order for the 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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings

cc:

Taunton MEC

[REDACTED]

[REDACTED]