

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2500061
Decision Date:	3/24/2025	Hearing Date:	01/30/2025
Hearing Officer:	Casey Groff		

Appearance for Appellant:



Appearance for MassHealth:

Janine Monico, Tewksbury MEC



*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; Excess Assets
Decision Date:	3/24/2025	Hearing Date:	01/30/2025
MassHealth's Rep.:	Janine Monico	Appellant's Rep.:	Spouse; Son
Hearing Location:	Tewksbury MEC (Remote)	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 12/3/24, MassHealth denied Appellant's application for MassHealth long-term care benefits based on its determination that Appellant had countable assets over the program limit. *See* Exh. 1 and 130 CMR §§ 520.003, 004. Appellant, through her husband/power of attorney, filed this appeal in a timely manner on 1/2/25. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's application for long-term care benefits because it determined that she had assets above that exceeded the program limit.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant was ineligible for MassHealth long-term care benefits on the basis that her countable assets exceeded the regulatory limit.

Summary of Evidence

A MassHealth representative appeared at hearing and testified as follows: Appellant is over the age of [REDACTED] and was previously approved for MassHealth Standard through the PACE program. The representative explained that MassHealth has different eligibility criteria for enrollment in PACE than it has for traditional MassHealth benefits. Typically, to qualify for MassHealth Standard, individuals over the age of [REDACTED] and/or those seeking long-term-care coverage must have assets at or less than \$2,000. If an applicant is married, MassHealth includes the total combined assets owned by *both* the applicant and their spouse. Although PACE also carries a \$2,000 asset limit, MassHealth *only* considers the individual applicant's assets and does not include assets independently owned by the spouse.

The MassHealth representative testified that Appellant was initially receiving services through PACE while she was residing in the community. On [REDACTED] Appellant moved into a PACE-contracted nursing facility. On 9/12/24, MassHealth received an SC-1 application on behalf of Appellant. Because Appellant was in a PACE-contracted nursing facility, all eligibility factors remained the same. Not including her spouse's assets in its calculation, MassHealth determined that Appellant was below the \$2,000 asset limit and reapproved her for services under PACE.

The MassHealth representative testified that on 12/2/24, MassHealth received notice that Appellant had been disenrolled from PACE and was now enrolled in a Senior Care Options (SCO) plan through [REDACTED] effective 12/1/24. This prompted MassHealth to review Appellant's 9/12/24 SC-1 application to determine eligibility for traditional MassHealth LTC benefits. In doing so, MassHealth counted all spousal assets in addition to Appellant's individual assets. Verifications showed that Appellant's husband owned an IRA valued at \$422,461.00. With the addition of other funds held in a bank account, MassHealth determined that Appellant had a total countable asset amount of \$424,796.00. See Exh. 1. The MassHealth representative testified that because Appellant's spouse was living in the community, MassHealth deducted the maximum community spouse resource allowance (CSRA) of \$154,140 which reduced the countable asset amount to \$268,656.00. As this exceeded the \$2,000 limit, MassHealth notified Appellant through a letter dated 12/3/24 that she did not qualify for MassHealth LTC benefits. See Exh. 1. The notice advised Appellant that she could establish eligibility for benefits if she reduced her assets to \$2,000 or under within 30 days. See *id.* The notice informed Appellant that she did, however, qualify for a community benefit of Senior Buy-In, effective 1/1/24. *Id.*

Appellant's son and spouse appeared at the hearing as appeal representatives. Appellant's spouse did not dispute the value of the IRA that was included in the calculation of assets. The spouse asserted, however, that this asset is solely in his name and not owned by the Appellant. The appeal representatives testified that this asset was never considered by MassHealth in prior eligibility determinations, including back in September 2024. Appellant's representatives filed the appeal because they were confused why MassHealth was now counting this value of the IRA, when Appellant's individual assets remained under \$2,000.

For background, the appeal representatives testified that Appellant has dementia and that they cared for her at home for as long as they could. As her symptoms worsened, she transferred her to a nursing facility to receive more comprehensive care. They testified that in September 2024, MassHealth approved Appellant to receive services at the facility, which, at that time, was affiliated with PACE. Appellant's representatives testified that all was good until mid-November of 2024, when they received a letter from the facility indicating that its contract with PACE would be ending on 11/27/24. The facility began encouraging PACE-enrolled residents to enroll in a SCO, specifically UHC. Appellant's spouse testified that the nursing home facilitated a meeting with a UHC sales representative who enrolled them in a SCO plan. He felt pressured to enroll based on the facility and sale representative's approach. According to the spouse, they made it sound like Appellant could not remain in the facility if she did not enroll in the SCO. He was never made aware of the consequences that would result from enrolling in UHC, i.e., automatically disenrolling Appellant from PACE and subjecting her different eligibility criteria. Had they known, they would not have enrolled her in the SCO and likely looked to transfer her a different facility within the PACE program.¹

Findings of Fact

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

1. Appellant, who is over the age of [REDACTED] had previously been approved for MassHealth Standard under the PACE program and was receiving covered health care services while living in the community.
2. Appellant is married and her spouse resides in the community.
3. Appellant's spouse owns an IRA valued at \$422,461.00.
4. Appellant moved from her home in the community into a PACE-contracted nursing facility on [REDACTED]

¹ In response, the MassHealth representative explained that Appellant can submit a new application for LTC benefits. Under this option, Appellant would be subject to spend-down rules to meet the \$2,000 limit, however, if deemed eligible, she could potentially receive retroactive coverage to the benefit end date of 12/27/24. Alternatively, Appellant could seek re-enrollment in in PACE but would need to first disenroll from the SCO as a member cannot be enrolled in both simultaneously. If reenrolled, her MassHealth Standard benefit would resume, but typically retroactive coverage is not granted under the PACE program, potentially leaving Appellant with a gap in coverage. The MassHealth representative also noted that this option would require Appellant to transfer to a different nursing facility that is under contract with PACE. The parties also noted that the facility had mentioned the possibility of doing an "ad-hoc" or one-time contract with PACE for the member so that she would not have to transfer to a new facility. However, neither party had received confirmation that the facility was able to secure this contract.

5. On 9/12/24, MassHealth received an SC-1 form on behalf of Appellant, seeking a conversion to long-term care services.
6. Because Appellant was seeking coverage of LTC services that were being provided in a PACE-contracted facility, MassHealth continued to apply its PACE eligibility rules, and after determining that Appellant's individual assets were under \$2,000, approved Appellant's SC-1 application.
7. On 11/27/24, the nursing facility ended its contract with PACE and, in advance of this date, encouraged Appellant to enroll in an SCO through UHC, which automatically disenrolled her from the PACE program.
8. On 12/2/24, MassHealth was notified that Appellant had been disenrolled from PACE, prompting a new review of her 9/12/24 SC-1 application under traditional LTC benefit rules and which included consideration of her spouse's assets.
9. By including the value of the spouse's IRA, MassHealth determined Appellant had a total combined asset amount of \$424,796.00, which was reduced to \$268,656.00 after deducting the maximum allowable CSRA.
10. As the countable assets exceeded the \$2,000 program limit, MassHealth notified Appellant through a letter dated 12/3/24 that she did not qualify for MassHealth LTC benefits; however, she was approved for a community benefit of Senior Buy-In, effective 1/1/24.

Analysis and Conclusions of Law

The issue on appeal is whether MassHealth was correct in determining that Appellant did not qualify for MassHealth long-term care benefits based on having assets in excess of the allowable limit. To qualify for MassHealth LTC benefits, the total value of countable assets owned by the institutionalized individual must not exceed \$2,000. *See* 130 CMR §§ 519.006(A), 520.016(A). Countable assets are all assets that must be included in the determination of eligibility and include assets to which the applicant or member (or their spouse) would be entitled whether or not those assets are received when failure to receive such assets results from the action or inaction of the applicant, member or spouse. *See* 130 CMR 520.007. MassHealth counts the total assets of the applicant, and, if married, the assets of their spouse, regardless of the form of ownership between the couple. *See* 130 CMR §§ 520.016(B)(2), 520.007, 520.002. With respect to Individual Retirement Accounts (IRAs), MassHealth will count the entirety of funds held in the IRA, less the amount of penalty for early withdrawal. *See* 130 CMR 520.007(C)(1). It is the applicant or member's responsibility to verify the total amount of countable assets. *See* 130 CMR 520.007.

Once a married applicant's total countable asset amount is established, MassHealth will deduct a community spouse resource allowance (CSRA), if applicable, in accordance with 130 CMR 520.016(B). *See* 130 CMR 520.002. The CSRA is the designated portion of assets that may be kept by the community spouse and is treated as unavailable to the institutionalized spouse. *See* 130 CMR 520.016(B). At the time of Appellant's LTC application, the maximum CSRA permitted under federal and state law was \$154,140.² *See SSI and Spousal Impoverishment Standards* (2024).

In this case, there is no dispute that Appellant's husband was the sole owner of the IRA valued at \$422,461.00. Appellant contested the 12/3/24 determination because MassHealth never deemed the IRA countable in previous eligibility determinations, including its [REDACTED] approval, which was after she had been admitted to the nursing facility. This distinction, however, was due to the fact that Appellant, at that time, was enrolled in PACE and receiving services in a PACE-contracted facility. PACE is a distinct program that MassHealth administers in conjunction with CMS and is "designed to keep frail, older individuals who are certified eligible for nursing facility services living in the community." 130 CMR 519.007(C). PACE provides coordinated health services to participants in day-centers, at home, and/or in specialty or inpatient settings. *Id.* Participants must receive services by providers authorized by the PACE organization. Although enrollment in PACE is also conditioned upon a \$2,000 asset limit, MassHealth only counts the individual applicant's assets and does not count assets held by the spouse. *See* 130 CMR 519.007(C). As such, MassHealth did not previously count the value of the IRA when Appellant was enrolled in PACE. Federal law, however, requires that a PACE organization notify MassHealth of any participant's disenrollment so that MassHealth can reinstate coverage of any other Medicaid benefit for which the individual is eligible. *See* 42 CFR § 460.168. MassHealth's 12/3/24 notice was the result of determining whether Appellant was eligible for long-term care benefits under traditional program rules, i.e., non-PACE rules. Based on the applicable regulations, cited above, MassHealth appropriately included the value of the spouse's IRA in establishing a total asset amount of \$424,796.00. *See* 130 CMR §§ 520.016(B)(2), 520.007, 520.002. After deducting a maximum CSRA of \$154,140.00, MassHealth correctly determined that Appellant had \$268,656.00 available as countable assets. *See* 130 CMR 520.016(B). As this amount exceeded the \$2,000 regulatory limit, MassHealth did not err in determining Appellant was ineligible for MassHealth LTC benefits.³ MassHealth correctly determined, pursuant to its 12/3/24 notice, that the most comprehensive benefit for which Appellant was eligible was Senior Buy-In.

For these reasons, the appeal is DENIED.

Order for MassHealth

² This resource is available at: <https://www.medicaid.gov/federal-policy-guidance/downloads/cib05222024.pdf>

³ As discussed at hearing, Appellant may seek reenrollment in the PACE program which would require transferring to a PACE contracted facility. Alternatively, Appellant may reapply for MassHealth long-term care benefits at any time. Under this option she may establish financial eligibility in accordance with MassHealth spend down rules as set forth in 130 CMR 520.00 *et. seq.*

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

[REDACTED]

[REDACTED]

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957