

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2500161
Decision Date:	02/11/2025	Hearing Date:	01/30/2025
Hearing Officer:	Radha Tilva		

Appearances for Appellant:



Appearance for MassHealth:

Kelly Rosati (Springfield MEC Rep.)



*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:	Eligibility – LTC – start date
Decision Date:	02/11/2025	Hearing Date:	01/30/2025
MassHealth's Rep.:	██████████	Appellant's Reps.:	Lindsay MacKenzie; Rebecca Amaral
Hearing Location:	Springfield MEC (telephonic)	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 December 6, 2024, MassHealth determined that appellant is eligible for MassHealth Standard benefits effective September 13, 2024 with a patient-paid amount of \$1,350.36 (Exhibit 1). The appellant filed this appeal in a timely manner on January 3, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Limitations on the scope or amount of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that appellant is eligible for MassHealth Standard benefits effective September 13, 2024 with a patient-paid amount of \$1,350.36.

Issue

The appeal issue is whether MassHealth was correct in determining the eligibility start date.

Summary of Evidence

The MassHealth representative that appeared at hearing testified that appellant applied for MassHealth long-term care services on June 21, 2024, seeking an eligibility start date of August 7, 2024. The MassHealth representative testified that on the requested start date appellant had excess assets of \$15,317.98 (Exhibit 5, p. 5). The appellant reduced assets on October 8, 2024. The MassHealth representative stated that MassHealth performed a Haley calculation to determine the eligibility start date (see Exhibit 5). MassHealth used two medical bills provided by appellant which equaled \$1,876.00 and deducted that from the total amount appellant was over assets on the requested start date of August 7, 2024 (Exhibit 5, p. 6). The excess assets after spenddown amounted to \$13,441.98, which was then divided by the private pay rate of \$375.00 to come up with a 36-day period of ineligibility, resulting in an eligibility start date of September 12, 2024 (*Id.*). The MassHealth representative explained that MassHealth considered the \$10,791.50 available to appellant and a countable asset until it was taken from his account by the Department of Revenue. MassHealth did not consider it a disqualifying transfer.

The appellant was represented by a conservator and appeal representative who argued that on September 20, 2024, the Commonwealth of Massachusetts Department of Revenue levied \$10,791.15 from appellant's bank account, and that MassHealth should exempt that amount as inaccessible as it is money that they cannot get back. The representative stated that had that amount not been levied, then they would have spent that amount appropriately for a pre-paid burial contract, which would have been an allowable spenddown.

Findings of Fact

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

1. Appellant applied for MassHealth long-term care services on June 21, 2024, seeking an eligibility start date of August 7, 2024.
2. The MassHealth representative testified that on the requested coverage start date, appellant had excess assets of \$15,317.98.
3. The appellant reduced assets on October 8, 2024.
4. MassHealth performed a Haley calculation to determine the eligibility start date.
5. MassHealth used two medical bills provided by appellant which equaled \$1,876.00, and deducted that from the total amount appellant was over assets on the requested start date of August 7, 2024.
6. The excess assets after spenddown amounted to \$13,441.98 which was then divided by the private pay rate of \$375.00 to come up with a 36-day period of ineligibility, resulting in an

eligibility start date of September 12, 2024.

7. On September 20, 2024, the Commonwealth of Massachusetts Department of Revenue levied \$10,791.15 from appellant's bank account.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members (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 65 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 (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 (130 CMR 515.002).

Pursuant to 130 CMR 520.003(A)(1), 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 \$2,000 for an individual.

Countable assets are all assets that must be included in the determination of eligibility (130 CMR 520.007). Countable assets include bank accounts (130 CMR 520.007(B)). Bank accounts are defined as deposits in a bank, savings and loan institution, credit union, or other financial institution. Bank accounts may be in the form of savings, checking, or trust accounts, term certificates, or other types of accounts (130 CMR 520.007(B)). MassHealth considers funds in a bank account available only to the extent that the applicant or member has both ownership of and access to the funds in accordance with 130 CMR 520.005 and 520.006 (130 CMR 520.007(B)). The regulations at 520.005 speak to ownership and the regulations at 520.006 speak to accessibility. The appellant's representative did not call into question either the ownership or accessibility of the appellant's assets.

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.

(130 CMR 520.004(A)(1))

Pursuant to 130 CMR 520.004(B), MassHealth does not pay that portion of 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; 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.

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 (130 CMR 520.004(C)). 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), MassHealth readjusts the date of eligibility (130 CMR 520.004(C)(1)). 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 (130 CMR 520.004(C)(2)).

As the MassHealth representative determined, the appellant demonstrated he spent down \$1,876.00 on medical bills and other expenses with a service date that preceded the date that he incurred allowable medical expenses equal to or exceeding the amount of his excess assets (130 CMR 520.004(C)). The other bills presented by the appellant were for expenses incurred after the requested start date, and after the date that MassHealth determined that the appellant was eligible for MassHealth (130 CMR 520.004(C)). MassHealth was correct in including expenses incurred before the requested start date (130 CMR 520.004(C)). Expenses such as a patient paid-amount are those incurred after the requested start date, so are not included in determining eligibility.

MassHealth was also correct in not deducting the amount levied by the Department of Revenue (\$10,791.15) in determining the eligibility start date. While arguably that money could have been spent on an appropriate asset spenddown, such as a pre-paid burial arrangement, and not counted against the appellant in the calculation of the eligibility start date, it was not. The money was available to the appellant on the requested coverage start date of August 7, 2024. Similarly, the appellant's argument that the amount should be considered inaccessible also fails as the appellant had legal access to the money until it was levied. Under 130 CMR 520.006 an inaccessible asset is an asset to which the applicant or member has no legal access; that was not the case here.

Upon review of the MassHealth regulations, there is no exception that exempts from countability assets of an appellant later levied by the Department of Revenue. The money was available on the requested start date of August 7, 2024.

Based on the above analysis, this 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.

Radha Tilva
Hearing Officer
Board of Hearings

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