

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2500230
Decision Date:	09/26/2025	Hearing Date:	02/07/2025
Hearing Officer:	Casey Groff	Record Closed:	08/08/2025

Appearance for Appellant:



Appearance for MassHealth:

Alain Michel, 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:	Approved	Issue:	LTC; Excess Assets
Decision Date:	09/26/2025	Hearing Date:	02/07/2025
MassHealth's Rep.:	Alain Michel	Appellant's Rep.:	[REDACTED]
Hearing Location:	Board of Hearings, 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 11/6/24, MassHealth denied Appellant's application for MassHealth long-term-care services because Appellant had assets in excess of the allowable limit. *See* Exh. 1 and 130 CMR 520.003, 004. Appellant, through her invoked health care proxy (HCP), filed this appeal in a timely manner on 1/4/25. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032. At Appellant's request, the record was left open through 8/8/25 to await appointment of a conservator and to submit additional evidence for consideration in this appeal. *See* Exhs. 4-15.

Action Taken by MassHealth

MassHealth denied Appellant's application for long-term care services because her assets exceeded the allowable limit.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, in determining that Appellant's assets exceeded the allowable limit.

Summary of Evidence

A MassHealth representative appeared at the hearing and testified that Appellant is over the age of 65 and resides in a nursing facility. On 11/6/24, MassHealth denied Appellant's application for long-term care (LTC) benefits because MassHealth determined that Appellant had \$199.68 in assets that exceeded the \$2,000 asset limit. See Exh. 1. Specifically, the 11/5/24 notice stated the following:

MassHealth has reviewed your application for MassHealth long-term-care services which you filed on 2/12/24. You are not eligible for MassHealth long-term-care services ... [because]...[y]ou have more countable assets than MassHealth benefits allow. 130 CMR 520.003, 520.004.

Id.

According to the notice, Appellant's countable assets were comprised of life insurance policies that had a cumulative cash surrender value of \$2,198.68 and a bank account of \$1.00 for a total asset amount of \$2,199.68. The notice informed Appellant that she must demonstrate that she has reduced her assets to \$2,000 or below within the next 30 days. *Id.* The MassHealth representative testified that, as of the hearing date, Appellant had not submitted proof of a reduction in assets.

Appellant's representative testified that she was recently retained to assist with this case. For background, Appellant was previously approved for, and receiving, MassHealth LTC benefits; however, her coverage ended on 2/15/24 after she failed to submit a renewal application by the deadline. On 2/12/24, Appellant submitted a new renewal application to MassHealth. On 5/20/24, the application was denied for missing verifications. Appellant filed a timely appeal of this notice. A hearing on this matter (Appeal No. 2410255) took place on 8/7/24. The appeal was withdrawn based on MassHealth's agreement that a new notice issued on 7/29/24 was "continuing to process the February 12, 2024 application date" and that "any appeal [Appellant files] regarding that new (i.e., subsequent) notice will continue to be based upon the February application." See Exh. 16.

Appellant's representative testified that Appellant is not competent, which has caused a delay in spending down the excess assets. It took a while for an attorney to take this case, but they are currently pushing to obtain a conservator to obtain the information and change the ownership of the policy to appropriately spend down the funds. Appellant remains at the facility, but she has not had coverage since her benefits ended on 2/15/24. Appellant requested additional time to demonstrate a reduction in assets.

The MassHealth representative testified that MassHealth would not honor the 2/14/24 application date as this application had "closed." MassHealth testified that the application was re-opened on

10/6/24 when Appellant submitted an updated SC-1, which is considered the new application date. MassHealth would honor the 10/6/24 application date, but not the 2/14/24 application. Nor would it consider the assets inaccessible if Appellant were to submit proof that a petition for conservatorship had been filed, as Appellant was granted a prior period of inaccessibility when she initially applied.

The record was left open for Appellant to submit proof of conservatorship and complete a speedy spend down of existing life insurance policies. See Exh. 4. During the record open period, Appellant indicated that, in the event she did not prevail on appeal, she preemptively filed a new LTC application on 2/27/25 to preserve a backup application date. See Exh. 5-6. On 3/31/25, the Essex County Probate Court granted the petition for conservatorship. See Exh. 6. On 4/23/25, Appellant submitted proof that Appellant's ownership of two of the three life insurance policies had been turned over to the funeral home. See Exh. 7(A). Appellant also submitted the Statement of Funeral Goods and Services verifying charges and proof of an irrevocable funeral contract purchased through the cash surrender values. *Id.* On 5/16/25, Appellant provided a letter from the conservator indicating that he had been added to the remaining life insurance contract; however, it did not include a change of ownership on the policy. Appellant subsequently submitted documentation showing that the cash surrender value of the remaining life insurance policy in Appellant's name was \$1,881.65.

On 6/24/25, MassHealth responded that the documentation did not show Appellant had reduced her assets to below \$2,000. See Exh. 10, p. 2. In a follow-up email, MassHealth explained its position noting that while the remaining life insurance policy was valued at \$1,881.65, documentation showed that Appellant had a resident fund manager account (or PNA account) with a balance of \$1,875.03. *Id.*

In response, Appellant's representative submitted documentation showing that as of 6/5/25, Appellant's PNA balance had been reduced to \$99.62 after the facility processed back-owed payments for Appellant's patient paid amount (PPA). See Exh. 11(A). According to the ledger, Appellant receives a monthly income of \$2,557.00 which is directly deposited into her account through the nursing facility.

On 7/11/25, Appellant indicated that the life insurance company on the remaining policy required that the conservator obtain a special court order which would allow him to make changes to the policy, which the conservator was in the process obtaining through the probate court. While this was pending, Appellant noted that an intake worker at MassHealth had already approved the subsequent LTC application filed on 2/27/25. Appellant submitted a copy of the notice, which was dated 6/26/25, indicating that Appellant was eligible for LTC benefits effective 11/1/24. See Exh. 14. According to Appellant, the approval was based on the same information that had been relayed in the instant case, including the updated PNA statement, life insurance policy ownership changes, and funeral contract verifications. *Id.*

MassHealth did not respond to multiple requests to confirm whether Appellant sufficiently demonstrated proof that assets were spent down to below \$2,000 following the updated account information. See Exhs. 10, 13, 15.

In the final submission, Appellant indicated that despite the approval on the subsequent notice, Appellant still had a gap in her LTC benefit between 2/15/24 and 11/1/24 and wished to pursue this appeal to obtain an earlier start date. Appellant's representative provided evidence indicating that the private daily rate for the nursing facility in February of 2024 was \$615. See Exh. 15.

Findings of Fact

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

1. On 2/15/25, Appellant's LTC benefits ended for failure to complete a timely renewal application.
2. On 2/12/24, Appellant submitted a new application to MassHealth.
3. On 5/20/24, MassHealth denied the 2/12/24 application for missing verifications.
4. Appellant filed a timely appeal of the 5/20/24 notice and the matter was resolved following MassHealth's agreement to continue processing the 2/12/24 application, and that any new notice would be based upon the 2/12/24 application date.
5. On 11/6/24, MassHealth denied Appellant's 2/12/24 application because it determined that Appellant had \$199.68 in assets that exceeded the \$2,000 asset limit.
6. As of the 11/6/24 date, Appellant's countable assets were comprised of the cash surrender values of three life insurance policies, totaling \$2,198.68, of which she was the owner, and a bank account of \$1.00, for a total countable asset amount of \$2,199.68.
7. As of 4/23/25, two of the three life insurance policies had been transferred from Appellant's name to a funeral home for the purpose of funding an irrevocable prepaid funeral and burial contract.

Analysis and Conclusions of Law

At issue in this appeal is whether the assets, as listed in MassHealth's 11/6/24 denial notice, are countable for purposes of eligibility for long-term care (LTC) benefits, and whether Appellant has appropriately reduced assets following the 11/6/24 denial.

To qualify for MassHealth LTC benefits, the total value of countable assets or resources owned by or available to the applicant may not exceed \$2,000. See 130 CMR 520.003(A)(1). An applicant whose countable assets exceed the asset limit may establish eligibility in accordance with the following regulation regarding asset reduction:

(A) Criteria.

(1) 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.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

130 CMR 520.004.

The evidence indicates that on 11/6/24, MassHealth denied Appellant's 2/12/24 LTC application based on a finding that she had a total countable asset amount of \$2,199.68, effectively placing over the limit by \$199.68. It is undisputed that Appellant, at the time of application and through the date of the 11/6/24 denial, was the owner of three life insurance policies. It is the cumulative cash surrender value of the three policies upon which MassHealth's excess asset determination is based.

MassHealth financial eligibility regulations consider the cash surrender value of an applicant's life insurance policy to be "countable" for purposes of determining whether they are financially eligible for benefits. In particular, subsection (E) of 130 CMR 520.007 states, in relevant part, the following:

- (1) The cash-surrender value of a life-insurance policy is the amount of money, if any, that the issuing company has agreed to pay the owner of the policy upon its cancellation. An individual may adjust the cash-surrender value of life insurance to meet the asset limit. The MassHealth agency will consider the cash-surrender-value amount an inaccessible asset during the adjustment period.

MassHealth also sets forth categories of assets that are exempt from consideration when determining the value of an applicant's total countable resource amount. These assets, which are considered "noncountable" under 130 CMR 520.008, include the following:

(F) Funeral or Burial Arrangements.

(1) The following funeral or burial arrangements for the applicant, member, or spouse are considered noncountable assets:

...

(d) prepaid irrevocable burial contracts or irrevocable trust accounts designated for funeral and burial expense.

...

(3) The applicant, member, or spouse has the right to establish a burial arrangement or change the designation of his or her funds to a burial arrangement described in 130 CMR 520.008(F). If such arrangement is made within 60 days after the date that the applicant or member was notified of his or her right to do so, then the MassHealth agency considers the arrangement to have been in existence on the first day of the third month before the application.

(Emphases added)

In filing a timely appeal of the 11/6/24 notice, Appellant submitted proof, during the pendency of this appeal, that she transferred her ownership of two of the three life insurance policies, for the purpose of funding a prepaid funeral and burial contract, and that such arrangement was irrevocable. See Exh. 7(A). Under 130 CMR 520.008(F)(3), above, the cash surrender value of the two policies may be excluded from consideration as of the 2/12/24 application date, leaving only the remaining life insurance policy, valued at \$1,881.65, as a countable asset. The only other asset listed in the denial notice was bank account with funds of \$1.00. With a total asset amount of \$1,882.65, Appellant demonstrated she was below the MassHealth asset limit at the time of application. The additional income Appellant accrued in her PNA account following the eligibility determination was verified as having been appropriately used to pay retroactive PPA payments and should not affect eligibility for purposes of this decision. Therefore, Appellant is eligible for LTC benefits and has demonstrated that she was otherwise eligible for benefits on her requested start date of 2/16/24.

Based on the foregoing, this appeal is APPROVED.

Order for MassHealth

Rescind denial notice dated 11/6/2024. Approve Appellant's 2/12/24 LTC application with an effective start date of 2/16/24 to close the gap in her LTC coverage.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Casey Groff
Hearing Officer
Board of Hearings

[REDACTED]

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