

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2500242
<b>Decision Date:</b>	3/3/2025	<b>Hearing Date:</b>	02/13/2025
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Karen Redman, Eligibility Policy Unit



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long Term Care- Disqualifying Transfer-Hardship Waiver
<b>Decision Date:</b>	3/3/2025	<b>Hearing Date:</b>	02/13/2025
<b>MassHealth's Rep.:</b>	Karen Redman	<b>Appellant's Rep.:</b>	██████████
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 17, 2024, MassHealth denied Appellant's request for a hardship waiver of the period of ineligibility from May 27, 2024, through August 23, 2024 (130 CMR 520.019(L) and Exhibit 1). Appellant filed this appeal in a timely manner on January 6, 2025 (130 CMR 610.015(B) and Exhibit 2). Denial of a hardship waiver request of a period of ineligibility is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied Appellant's request for a hardship waiver of the period of ineligibility from May 27, 2024, through August 23, 2024.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019(L), in denying Appellant's request for a hardship waiver of the period of ineligibility from May 27, 2024, through August 23, 2024.

## Summary of Evidence

The MassHealth representative testified that Appellant applied for MassHealth long-term care benefits in June 2024. Appellant was approved for long-term care coverage effective August 24, 2024 (Exhibit 7). Pursuant to a Board of Hearings decision issued on December 3, 2024, a period of ineligibility was determined from May 27, 2024, through August 23, 2024 due to disqualifying resource transfers (Exhibit 8). MassHealth issued the notice of a disqualifying resource transfer on September 25, 2024 (Id., p. 2). MassHealth asserted that pursuant to 130 CMR 520.019(L) and further explained in Eligibility Operations Memo 24-06 issued in May 2024, a hardship waiver request for a period of ineligibility must be received by MassHealth no later than 15 days from the date of the notice of a disqualifying resource transfer, in addition to meeting all required elements outlined in 130 CMR 520.019(L) (See EOM 24-06 at Exhibit 5). MassHealth received Appellant's request for a hardship waiver of the period of ineligibility on December 17, 2024 (Exhibit 6). Because the hardship waiver request was not received within 15 days of the September 25, 2024 notice of a disqualifying transfer or resources, the hardship waiver request was denied by MassHealth on December 17, 2024 (Exhibit 1).<sup>1</sup>

Appellant's representative testified that she understood the timeframe for submitting a hardship waiver was calculated from the date of a hearing decision denying the appeal on the disqualifying resource transfer. Because the hardship waiver request was submitted within 15 days of the December 3, 2024 hearing decision, the hardship waiver request is timely and should be considered by MassHealth. Appellant's representative testified that she relied on emails from a MassHealth caseworker that also indicated the need for a hearing decision before a hardship waiver is submitted (Exhibit 2).<sup>2</sup>

MassHealth testified that the timeframe requirements are frequently misunderstood, and Eligibility Operations Memo 24-06 issued to clarify those requirements.

## Findings of Fact

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

1. Appellant applied for MassHealth long-term care benefits in June 2024.
2. Appellant was approved for long-term care coverage effective August 24, 2024 (Exhibit 7).

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<sup>1</sup> MassHealth also testified that other required elements for a hardship waiver were not met. The additional elements are not reviewed here as the December 17, 2024 denial was based on submission timelines.

<sup>2</sup> The email exchange does show a misinterpretation of the hardship waiver submission timeframes by the MassHealth caseworker; however, the emails are from 2023, and are not related to Appellant or the hardship waiver submitted on Appellant's behalf (Exhibit 2).

3. Pursuant to a Board of Hearings decision issued on December 3, 2024, a period of ineligibility was determined from May 27, 2024, through August 23, 2024 due to disqualifying resource transfers (Exhibit 8).
4. MassHealth issued the notice of a disqualifying resource transfer on September 25, 2024 (Exhibit 8, p. 2).
5. On December 17, 2024, MassHealth received Appellant's request for a waiver of the period of ineligibility from May 27, 2024, through August 23, 2024, based on a claim of undue hardship (Exhibit 6).
6. Because the hardship waiver request was not received within 15 days of the September 25, 2024 notice of a disqualifying transfer or resources, the hardship waiver request was denied by MassHealth on December 17, 2024 (Exhibit 1).

## **Analysis and Conclusions of Law**

Regulation 130 CMR 520.019 provides in relevant part with emphasis added:

(L) Waiver of the Period of Ineligibility Due to Undue Hardship. In addition to revising a trust and curing a transfer, the nursing-facility resident may claim undue hardship in order to eliminate the period of ineligibility.

(1) The MassHealth agency may waive a period of ineligibility due to a disqualifying transfer of resources if ineligibility would cause the nursing-facility resident undue hardship. The MassHealth agency may waive the entire period of ineligibility or only a portion when all of the following circumstances exist.

(a) The denial of MassHealth would deprive the nursing-facility resident of medical care such that his or her health or life would be endangered, or the nursing-facility resident would be deprived of food, shelter, clothing, or other necessities such that he or she would be at risk of serious deprivation.

(b) Documentary evidence has been provided that demonstrates to the satisfaction of the MassHealth agency that all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained to provide payment, in whole or part, to the nursing-facility resident or the nursing facility.

(c) The institution has notified the nursing-facility resident of its intent to initiate a discharge of the resident because the resident has not paid for his or her institutionalization.

(d) There is no less costly noninstitutional alternative available to meet the nursing-facility resident's needs.

(2) Undue hardship does not exist when imposition of the period of ineligibility would merely inconvenience or restrict the nursing-facility resident without putting the nursing-facility resident at risk of serious deprivation.

(3) Where the MassHealth agency has issued a notice of the period of ineligibility due to a disqualifying transfer of resources, the nursing-facility resident may request a hardship waiver. For transfers occurring on or after February 8, 2006, nursing facilities may apply for a hardship waiver on behalf of a resident, with the consent of the nursing-facility resident or the resident's authorized representative.

**(4) If the nursing-facility resident feels the imposition of a period of ineligibility would result in undue hardship, the nursing-facility resident must submit a written request for consideration of undue hardship and any supporting documentation to the MassHealth Enrollment Center listed on the notice of the period of ineligibility within 15 days after the date on the notice. Within 30 days after the date of the nursing-facility resident's request, the MassHealth agency will inform the nursing-facility resident in writing of the undue-hardship decision and of the right to a fair hearing. The MassHealth agency will extend this 30-day period if the MassHealth agency requests additional documentation or if extenuating circumstances as determined by the MassHealth agency require additional time.<sup>3</sup>**

(5) The nursing-facility resident may appeal the MassHealth agency's undue-hardship decision and the imposition of a period of ineligibility by submitting a request for a fair hearing to the Office of Medicaid Board of Hearings within 30 days after the nursing-facility resident's receipt of the MassHealth agency's written undue-hardship notice, in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*.

(6) The nursing-facility resident's request for consideration of undue hardship does not limit his or her right to request a fair hearing for reasons other than undue hardship.

The regulatory requirements and timeframes for submitting a hardship waiver request are clear and are further explained in Eligibility Operations Memo 24-06 dated May 2024 (Exhibit 5). The request for a hardship waiver of a period of ineligibility must be submitted to MassHealth within 15 days from the date of the MassHealth notice that informed the applicant or member of a period of ineligibility. In this case, the notice that informed Appellant of a period of ineligibility based on a disqualifying resource transfer is dated September 25, 2024. Appellant's hardship waiver request was signed by Appellant on December 11, 2024, and received by MassHealth on December 17, 2024, which is beyond 15 days from the September 25, 2024, notice. Therefore, MassHealth correctly denied Appellant's request for a hardship waiver of the period of ineligibility from May 27, 2024, through August 23, 2024.

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<sup>3</sup> See also Exhibit 6, MassHealth Request for a Hardship Waiver of a Period of Ineligibility submitted by Appellant, which also outlines these timeframes under the heading Submission Process.

The 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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings



MassHealth Representative: Karen Redman, MassHealth Member Policy Implementation Unit,  
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