

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2500757
Decision Date:	4/7/2025	Hearing Date:	02/11/2025
Hearing Officer:	Marc Tonaszuck	Record Open to:	02/28/2025

Appearance for Appellant:



Appearance for MassHealth:

Gina Ciaramella Burbank



*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 – Assets
Decision Date:	4/7/2025	Hearing Date:	02/11/2025
MassHealth’s Rep.:	Gina Ciaramella Burbank	Appellant’s Rep.:	[REDACTED]
Hearing Location:	Taunton MassHealth Enrollment Center	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 11/15/2024, MassHealth informed the appellant that it decided she was not eligible for MassHealth benefits because she has more countable assets than MassHealth benefits allow (see 130 CMR 520.001, 520.003, 520.004 and Exhibit 1). The appellant filed this appeal in a timely manner on 01/13/2025 (see 130 CMR 610.015(B) and Exhibit 2). MassHealth agency actions to suspend, reduce, terminate, or restrict a member's assistance are valid grounds for appeal (see 130 CMR 610.032).

A fair hearing was held on 02/11/2025. The appellant was represented by a Medicaid consultant who appeared telephonically, as did the MassHealth representative. During the fair hearing, the appellant’s representative requested additional time to show verification that the appellant’s assets have been reduced. Her request was granted, and the record remained open until 02/18/2025 for her submission and until 02/28/2025 for MassHealth’s response.

Action Taken by MassHealth

MassHealth denied the appellant’s application for Long Term Care (LTC) benefits because her assets exceed the program limits.

Issue

The issue is whether or not the appellant's assets are below the program limits for MassHealth Long Term Care benefits.

Summary of Evidence

All parties appeared telephonically for this hearing. Exhibits 1-5 were marked as evidence. The MassHealth representative testified that the appellant, a nursing home resident, was previously approved for MassHealth Long Term Care (LTC) benefits on 10/01/2017. Her LTC benefits ended at some point and a new application was submitted on 11/15/2024. In processing her most recent application, MassHealth determined that the appellant has assets over the \$2,000.00 limit. Specifically, the appellant has three bank accounts that are countable in an asset calculation. First is [REDACTED] which has a balance of \$8,155.00. The second account is a [REDACTED] which is owned by the appellant and her attorney (who is also her POA), holding a balance of \$46,213.00. Also countable is a personal needs account (PNA), which has a balance of \$2.20. The appellant has countable assets totaling \$54,370.32. The asset limit for a single individual who is applying for LTC benefits is \$2,000.00. Because the appellant has countable assets that are in excess of the limit by \$52,370.32, the denial notice was issued on 11/15/2024.

The appellant was represented by a Medicaid consultant who testified that the appellant was awarded two settlements in November 2021: one totaling \$102,557.72; and a second for \$1,715.46. The \$102,557.72 was deposited into the attorney's IOLTA account and used for legal fees. The appellant's representative requested an opportunity to show how the assets have been spent down to \$2,000.00.

The appellant's request was granted, and the record remained open in this matter until 02/18/2025 for the appellant's submission and until 02/28/2025 for MassHealth's response (Exhibit 6).

The appellant submitted bank statements on 02/12/2025 (Exhibit 7). MassHealth responded on 02/12/2025, stating that she had not received verification that the assets had been spent down to \$2,000.00 (Exhibit 8).

Findings of Fact

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

1. The appellant, a nursing home resident was previously approved for MassHealth LTC benefits. Her benefits terminated at some point and a new application for benefits was submitted to MassHealth on 11/15/2024.
2. In establishing eligibility for MassHealth benefits, an asset assessment was made by MassHealth.
3. The asset limit for MassHealth LTC benefits is \$2,000.00.
4. In the asset assessment, MassHealth determined the appellant has three bank accounts that are countable in an asset calculation. First is [REDACTED] which has a balance of \$8,155.00. The second account is a [REDACTED] which is owned by the appellant and her attorney (who is also her POA), holding a balance of \$46,213.00. Also countable is a personal needs account (PNA), which has a balance of \$2.20.
5. The appellant has countable assets totaling \$54,370.32.
6. On 11/15/2024, MassHealth informed the appellant that it decided she was not eligible for MassHealth benefits because she has more countable assets than MassHealth benefits allow.
7. The appellant submitted a request for a fair hearing on 01/13/2025.
8. A fair hearing took place before the Board of Hearings on 02/11/2025.
9. As of the date of the fair hearing, there was no verification that the assets have been reduced.
10. At the fair hearing, the appellant's appeal representative requested additional time to provide verification that the assets were reduced. Her request was granted, and the record remained open in this matter until 02/18/2025 for the appellant's submission and until 02/28/2025 for MassHealth's response.
11. During the record open period, the appellant submitted copies of bank statements.
12. During the record open period, MassHealth stated that the submitted documents were reviewed, but there was no evidence to show that the appellant's assets are below the \$2,000.00 limit.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members (See 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 [REDACTED] 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 (See 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 to this case (See 130 CMR 515.002).

MassHealth regulations at 130 CMR 520.003 address asset limits as follows:

(A) 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 the following limits:

(1) for an individual — \$2,000; and

(2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

Regulations at 130 CMR 520.007 address countable assets as follows:

Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such assets is reasonably considered to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. The applicant or member and the spouse must verify the total value of countable assets. However, if he or she is applying solely for Mass-Health Senior Buy-in for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-in for Qualifying Individuals (QI) both as described in 130 CMR 519.011: MassHealth Buy-in, verification is required only upon request by the MassHealth agency. 130 CMR 520.007 also contains the verification requirements for certain assets. The assets that the MassHealth agency considers include, but are not limited to, the following...

The appellant submitted an application for LTC benefits on 11/15/2024. In an asset calculation, MassHealth determined that the appellant had more than \$2,000.00 in countable assets; specifically, the appellant has three bank accounts that are countable in an asset calculation. First is [REDACTED] which has a balance of \$8,155.00. The second account is a [REDACTED] which is owned by the appellant and her attorney (who is also her POA), holding a balance of \$46,213.00. Also countable is a personal needs account (PNA), which has a balance of \$2.20. The appellant has countable assets totaling \$54,370.32, which

exceeds the \$2,000.00 asset limit for LTC benefits. As a result, MassHealth denied the application.

At hearing, the appellant representative testified that the funds stemmed from a settlement in 2021, when the appellant was awarded two settlements in November 2021: one totaling \$102,557.72; and a second for \$1,715.46. The \$102,557.72 was deposited into the attorney's IOLTA account and used for legal fees.

Upon request of the appellant's representative, the record was held open to submit verification that the assets had been reduced to \$2,000.00 or less. The appellant produced records showing that the [REDACTED] had been reduced, but no information regarding if the [REDACTED] was reduced and, if so, how.

Appellant's representative asserts that the [REDACTED] is an IOLTA account held by the appellant's attorney. She also testified that the balance of that account was spent on legal fees. There is no evidence in the hearing record to show that the funds in this account were spent on legal fees. Likewise, there is no evidence of a current balance in that account.

There was no dispute as to what information was requested by MassHealth and what the appellant's countable assets were at the time of the fair hearing. The appellant's representative requested time to provide verifications that the appellant was eligible for LTC benefits; however, she failed to do so within the record open period. Accordingly, MassHealth's denial is supported by the regulations and relevant facts in the hearing record. This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

CC:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780