

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2501451
Decision Date:	4/1/2025	Hearing Date:	February 21, 2025
Hearing Officer:	Brook Padgett	Record Open:	March 21, 2025

Appellant Representative:



MassHealth Representative:

Jenny Chan, Quincy MEC



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Disqualifying Transfer 130 CMR 520.019
Decision Date:	4/1/2025	Hearing Date:	February 21, 2025
MassHealth Rep.:	J. Chan, Quincy	Appellant Rep.:	Daughter
Hearing Location:	Quincy		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The Appellant received a notice dated December 12, 2024 stating: MassHealth has decided you are eligible for MassHealth Standard benefits to cover your care in a nursing facility. Your eligibility begins on October 26, 2024. Starting October 01, 2024 you will owe your nursing facility \$0.00 every month. (Exhibit 1).

The Appellant timely appealed the MassHealth action on January 23, 2025. (130 CMR 610.015(B); Exhibit 2).

Eligibility start date is a valid ground for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the Appellant for long term care benefits beginning October 26, 2024.

Issue

Was the Appellant's eligibility start date correctly determined?

Summary of Evidence

MassHealth testified telephonically and stated the Appellant submitted a long-term care application on September 19, 2024 with a benefit request date of October 10, 2024. MassHealth approved the Appellant's request on December 12, 2024 with an eligibility start date of October 26, 2024. MassHealth stated the Appellant was assessed a 15-day penalty period from the date of her request on October 10, 2024 to October 25, 2024 due to a resource transfer. MassHealth maintained the Appellant transferred \$6,500.00 from her account on July 15, 2024 three weeks prior to her admission to the nursing facility on [REDACTED] 2024. The Appellant has indicated a gift of \$2,936.00 was for her granddaughter's college tuition and \$3,564.00 was given to her daughter as POA. MassHealth argued these transfers are impermissible per 130 CMR 520.019 (c), (d) and (f), Disqualifying Transfer of Resources, Permissible Transfer and Determination of Intent and 130 CMR 520.007 (4), Transactions involving future Performance. MassHealth submitted into evidence: appeal prep (Exhibit 4); and long term care (LTC) application, notice dated December 12, 2024, [REDACTED] statement dated August 09, 2024, narrative dated December 03, 2024, [REDACTED] Student Account statement dated October 28, 2024 (highlighting online payments of \$1,500.00 dated July 18, 2024, \$500.00 dated July 27, 2024, \$400.00 dated August 01, 2024 and \$536.00 dated August 05, 2024); POA documentation, and [REDACTED] Account Detail History (highlighting \$6,506.77 property taxes paid from January 29, 2024 through October 28, 2024) and \$1,020.76 in water bills paid from February 08, 2024 thorough November 18, 2024 and relevant rules and regulations. (Exhibit 5).

The Appellant's representative responded that she purchased her duplex home in 2007 where she lived beside the Appellant. The Appellant did not pay rent and did not contribute to taxes, water or insurance. The representative argued the \$3,564.00 was payments for her services as she handled all the Appellant's affairs including arrangement of all medical needs, maintenance of the residence, transportation to medical appointments, coordinating of VA services, EBT benefits, meals etc.

The record was left open for the Appellant's representative to submit verification indicating that the transfers were not disqualifying. (Exhibit 6). The Appellant's representative resubmitted within the record-open period the [REDACTED] Student Account statement dated October 28, 2024; and [REDACTED] Account Detail History highlighting property taxes and water bills. (Exhibit 7).

MassHealth reviewed the Appellant's submission and responded the MassHealth decision remains unchanged as the documents do not provide evidence the funds were not withdrawn with the intent to reduce assets. The Appellant has provided no proof such as bills or receipts showing payments were made for the benefit of the Appellant. Although the POA is allowed fees for her services, these funds were not withdrawn from the account until July 2024, and just prior to admission to the nursing facility. The funds gifted to the granddaughter are a resource transfer done within the look back period and is still considered disqualifying. (Exhibit 8).

Findings of Fact

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

1. On August 06, 2024, the Appellant entered a nursing facility. (Exhibit 4).
2. On September 19, 2024, the Appellant submitted a long-term care application with a benefit request date of October 10, 2024. (Exhibit 4).
3. On December 12, 2024, MassHealth approved the Appellant's application with an eligibility date of October 26, 2024. (Exhibit 1).
4. MassHealth assessed a 15-day penalty period due to resource transfers totaling \$6,500.00. (Exhibit 1 and 4).
5. On July 15, 2024, the Appellant made a withdrawal of \$1,000.00 and another for \$5,500.00 from her bank account; these funds were transferred to her granddaughter (\$2,936.00) and to her daughter (\$3,564.00). (Exhibit 4).
6. The Appellant lived on one side of a duplex home she shared with her daughter (POA) who lived on the other side. (Testimony).
7. In July and August 2024, the Appellant's granddaughter paid \$2,936.00 for college tuition. (Testimony and Exhibit 7).
8. The Appellant's POA paid the [REDACTED] \$6,506.77 for property taxes from January 29, 2024 through October 28, 2024 and \$1,020.76 for water bills from February 08, 2024 thorough November 18, 2024. (Exhibit 7).

Analysis and Conclusions of Law

MassHealth considers any transfer during the appropriate look-back period by the nursing-facility resident or spouse of a resource, or interest in a resource, owned by or available to the nursing-facility resident or the spouse (including the home or former home of the nursing-facility resident or the spouse) for less than fair-market value a disqualifying transfer unless listed as permissible in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019(J).¹

¹ 130 CMR 520.019: Transfer of Resources Occurring on or after August 11, 1993 (B) Look-Back Period. Transfers of resources are subject to a look-back period, beginning on the first date the individual is both a nursing-facility resident and has applied for or is receiving MassHealth Standard. This period generally extends back in time for 36 months. The look-back period for transfers of resources from a revocable trust to someone other than the nursing-facility resident, or transfers of resources into an irrevocable trust where future payment to the nursing-facility resident is prevented, is 60 months. (C) Disqualifying Transfer of Resources. The Division considers any transfer during the appropriate look-

There is no dispute that the Appellant transferred funds or that the transfers occurred within the look-back period. MassHealth contends the withdrawal of \$1,000.00 and \$5,500.00 on July 15, 2024 was for the purpose of obtaining MassHealth eligibility, not for fair market value, and therefore disqualifying. The Appellant's representative testified that \$2,936.00 was given to her granddaughter as a gift for her college tuition and \$3,564.00 was for reimbursement to the POA for household expenses and her caring for the Appellant. In an effort to justify the transfers, the Appellant's representative submitted verification of college tuition payments of \$1,500.00 dated July 18, 2024, \$500.00 dated July 27, 2024, \$400.00 dated August 01, 2024 and \$536.00 dated August 05, 2024; and \$6,506.77 paid for property taxes from January 29, 2024 through October 28, 2024 and \$1,020.76 paid for water bills from February 08, 2024 thorough November 18, 2024 for the [REDACTED]

When funds are spent which could have been used to pay for an applicant's long-term care, the applicant has the burden of proof to present credible evidence that the applicant received fair market value or that the transfers were not otherwise disqualifying as defined by MassHealth regulations. (130 CMR 520.019(F)).² Regarding the funds transferred to the appellant's daughter, I find that the submission of property tax and water bills are of little evidentiary value and unconvincing to demonstrate 1) that the appellant received fair market value for the transferred funds or 2) that the Appellant's intent at the time of the transfer was exclusively for a purpose other than to qualify for MassHealth. (130 CMR 520.019). Such evidence on its own fails to demonstrate that the transferred assets were expended on the Appellant's behalf. To be persuasive, evidence requires some form of contemporaneous third-party independent corroboration of the activity verified by receipts and/or cancelled checks or paid bills. Simply

back period by the nursing-facility resident or spouse of a resource, or interest in a resource, owned by or available to the nursing-facility resident or the spouse (including the home or former home of the nursing-facility resident or the spouse) for less than fair-market value a disqualifying transfer unless listed as permissible in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019(J). The Division may consider as a disqualifying transfer any action taken to avoid receiving a resource to which the nursing-facility resident or spouse is or would be entitled if such action had not been taken. Action taken to avoid receiving a resource may include, but is not limited to, waiving the right to receive a resource, not accepting a resource, agreeing to the diversion of a resource, or failure to take legal action to obtain a resource. In determining whether or not failure to take legal action to receive a resource is reasonably considered a transfer by the individual, the Division will consider the specific circumstances involved. A disqualifying transfer may include any action taken which would result in making a formerly available asset no longer available.

² 130 CMR 520.019(F) Determination of Intent In addition to the permissible transfers described in 130 CMR 520.019(D), the MassHealth agency will not impose a period of ineligibility for transferring resources at less than fair-market value if the nursing-facility resident or the spouse demonstrates to the MassHealth agency's satisfaction that: (1) the resources were transferred exclusively for a purpose other than to qualify for MassHealth. (2) the nursing-facility resident or spouse intended to dispose of the resource at either fair-market value or for other valuable consideration. Valuable consideration is a tangible benefit equal to at least the fair-market value of the transferred resource. The State Medicaid Manual (HCFA Transmittal letter 64) at Section 3258.10 sets forth the following guidance to address transfers exclusively for a purpose other than qualifying for Medicaid: 2. Transfers Exclusively for a Purpose Other Than to Qualify for Medicaid. - Require the individual to establish, to your satisfaction, that the asset was transferred for a purpose other than to qualify for Medicaid. Verbal assurances that the individual was not considering Medicaid when the asset was disposed of are not sufficient. Rather, convincing evidence must be presented as to the specific purpose for which the asset was transferred.

providing a past bill for the period February 08, 2024 through November 18, 2024 for \$6,506.77 and January 29, 2024 through October 28, 2024 for \$1,020.76 and indicating funds withdrawn on July 15, 2024 for \$1,000.00 and \$5,500.00 were for payment of these bills is not sufficient. Without any concurrent evidence that validates the funds actually went to such payments the payments are not sufficient when determining credibility of the claim or to establish eligibility, particularly when some of the evidence of household expenses covers a time period when the Appellant was no longer living in the home. In this instance there is no evidence these household bills were ever the responsibility of the Appellant (in fact the Appellant's representative testified the Appellant paid nothing to live with her) and no history that the Appellant was required to pay them prior to the decision to enter a long-term care facility and the need to reduce her assets for MassHealth eligibility. Further, there are no receipts or supporting documentation to verify the transferred funds were actually used to pay the household bills. Regarding the appellant's intent, I find that the record does not support an argument that MassHealth eligibility was not a consideration at the time of the July 15, 2024 transfer. Notably, the transfer to the daughter was made just weeks prior to the appellant's admission to the nursing facility. Though she had not yet applied for MassHealth long-term care benefits at the time of the transfer, her need to do so was reasonably foreseeable. Under these circumstances, it is not convincing to argue that the purpose of this transfer was exclusively for a purpose other than to qualify for MassHealth.

As for the gift to the appellant's granddaughter, there is no dispute that the appellant did not receive fair market value for this gift. Regarding her intent, as set forth above, the record does not support an argument that MassHealth eligibility was not a consideration at the time of the July 15, 2024 transfer.

Although the Appellant's representative argues the funds were not transferred in an effort to obtain MassHealth, due to the Appellant's age and medical issues it is more than likely the Appellant and her family were contemplating the possibility of the Appellant requiring nursing home care in the near future (August) when the transfers were made in July. While the Appellant is certainly free to dispose of assets in any manner she deems appropriate; when applying for public assistance on the grounds of impoverishment, convincing evidence must be shown to prove the transfers were made exclusively for a purpose other than MassHealth eligibility. It is not sufficient to merely show that funds could have been used for a particular purpose. In light of the fact that multiple transfers were made during the look-back period, in addition to Appellant's age, health, and medical conditions at the time the transfers were made, I find that Appellant has not carried the burden of demonstrating that MassHealth eligibility was not contemplated when depleting \$6,500.00 in assets, so that the cost of the Appellant's nursing home care should be shifted from the Appellant to the publicly funded Medicaid/MassHealth program;³ a program that was "designed to provide health care for indigent persons," with the expectation that individuals deplete their own resources before obtaining assistance from the government. *Lebow v Comm'r of the Div of Med. Assistance*, 433 Mass. 171, 172 (2001).

³ MassHealth is a joint federal and state Medicaid program established in 1965 by Title XIX of the Social Security Act. See 42 U.S.C § 1396 et seq., 42 C.F.R. § 430 et seq.

The Appellant has failed to meet her burden, and MassHealth has correctly determined the Appellant is disqualified from receiving MassHealth for 15 days (\$6,500.00 ÷ \$433.00 a day nursing home rate (effective date November 01, 2023) or from October 10, 2024 to October 26, 2024. 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.

Brook Padgett
Hearing Officer
Board of Hearings

cc:

MassHealth representative: Quincy MEC

[REDACTED]