

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2501993
Decision Date:	5/12/2025	Hearing Date:	02/26/2025
Hearing Officer:	Susan Burgess-Cox	Record Open to:	03/14/2025

Appearance for Appellant:



Appearance for MassHealth:

K'eisha McMullen



*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: Excess Assets
Decision Date:	5/12/2025	Hearing Date:	02/26/2025
MassHealth's Rep.:	K'eisha McMullen	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone		

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 3, 2024, MassHealth denied the appellant's application for long-term care services because the appellant had more countable assets than MassHealth benefits allow. (130 CMR 520.003; Exhibit 1). The appellant filed an appeal in a timely manner on January 31, 2025. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

The appellant's representative made a request to keep the record open for the submission of additional evidence. The Board of Hearings approved this request. This action resulted in an extension of the decision due date to May 17, 2025.

Action Taken by MassHealth

MassHealth determined that the appellant has more countable assets than MassHealth benefits allow. (130 CMR 520.003).

Issue

Whether MassHealth was correct in determining that the appellant has more countable assets than MassHealth benefits allow.

Summary of Evidence

The MassHealth representative presented documents that are incorporated into the hearing record as Exhibit 5. Counsel for the appellant presented an affidavit from the appellant that is incorporated into the hearing record as Exhibit 6. The appellant applied for MassHealth long-term care coverage in July 2024. (Testimony; Exhibit 4). On December 3, 2024, MassHealth denied the application due to the appellant having excess assets. (Testimony; Exhibit 1; Exhibit 5). The assets at issue include 5 bank accounts and a PNA account. Account #1 had a balance of \$4,949.73 as of October 2024. Account #2 had a balance of \$25.74 as of June 30, 2024. Account #3 had a balance of \$5.00 as of June 2024. Account #4 had a balance of \$49,859 as of September 2024. Account #5 had a balance of \$22.39 as of September 2024. The personal needs account (PNA) with the facility had a balance of \$1.00. In the notice on appeal, the agency calculated a total asset amount of \$54,858.¹ (Testimony; Exhibit 1; Exhibit 5). This resulted in a determination that the appellant would have to spend \$52,858 to qualify for MassHealth.

At hearing, counsel for the appellant noted that the appellant was still in the process of spending down the assets. An affidavit submitted by the appellant states that he has taken immediate and diligent steps to comply with the spenddown requirements. (Exhibit 6). The appellant states that he encountered significant administrative barriers as his address with an investment firm was outdated and an account restriction prevented immediate action. (Exhibit 6). The affidavit also states that upon receipt of the investment funds, the appellant transferred them to an account that he could use to cover expenses incurred during his stay at the facility such as securing a storage unit. (Exhibit 6). At hearing, the appellant's representative did not present any records to verify the spend down other than the affidavit. The record was held open to provide the appellant's representative the opportunity to submit records to demonstrate that the assets were spent down. (Exhibit 7).

During the record open period, the appellant's representative presented: a contract and check reflecting prepayment for cremation and funeral expenses in the amount of \$1,950; a statement from an irrevocable burial trust showing a direct deposit in the amount of \$1,600; checks made out to the facility totaling of \$23,800; a payment of \$13,000 in attorney's fees; withdrawal transactions of \$300 each from the same ATM on the same day totaling \$1,500; purchases made at Best Buy with receipts in the amount of \$1,245 and \$1,890; a receipt in the amount of \$6,532.93 for a furniture purchase listing the appellant as both the buyer and recipient of the

¹ The total amount from the figures presented at hearing is slightly higher than the amount listed on the notice with a difference of approximately \$5. This decision will utilize the amount listed in the notice. It's not clear as to how the figures differ.

furniture; a receipt from Target in the amount of \$467.95; and a rental agreement for a storage unit for \$162.20 each month with a check in the amount of \$1,946.40 which reflects 12 months paid in advance. (Exhibit 8). These payments and purchases total \$53,932.28. (Exhibit 8). The checks are from the same account with the bank listed in the affidavit. Counsel notes in the cover page of the response that the receipts from retailers such as Target and Best Buy reflect payments made to provide the appellant with necessities for his return to the community. (Exhibit 8). Counsel for the appellant notes that the appellant has successfully reduced his assets below the \$2,000 MassHealth limit noting that because the spend-down was completed just yesterday (the day before the record closed during the appeal), account statements reflecting the transactions were not available. (Exhibit 8). Counsel stated that they requested updated statements and would send them as soon as they were received. (Exhibit 8).

The MassHealth representative responded that the agency needs to see statements reflecting the current bank balance from the five accounts at issue. (Exhibit 9). The MassHealth representative stated that the agency cannot accept checks as verification for the appellant being under assets. (Exhibit 9). The MassHealth representative noted that bank receipts for the ATM withdrawals made within the record open period still show a balance over the asset limit. (Exhibit 9). Counsel for the appellant did not provide statements from the accounts in which the appellant supposedly transferred funds from to show a \$0 balance in those original accounts.

Findings of Fact

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

1. The appellant applied for MassHealth long-term care in July 2024.
2. On December 3, 2024, MassHealth denied the application due to the appellant having excess assets.
3. The assets at issue include 5 bank accounts and a PNA account.
 - a. Account #1 had a balance of \$4,949.73 as of October 2024.
 - b. Account #2 had a balance of \$25.74 as of June 30, 2024.
 - c. Account #3 had a balance of \$5.00 as of June 2024.
 - d. Account #4 had a balance of \$49,859.78 as of September 2024.
 - e. Account #5 had a balance of \$22.39 as of September 2024.
 - f. The personal needs account (PNA) with the facility had a balance of \$1.00.
4. In the notice on appeal, the agency calculated a total asset \$54,858.64 and excess asset amount of \$52,858.64.

5. The appellant encountered administrative barriers with at least one financial institution in working to spend down the assets.
6. Upon receipt of the investment funds, the appellant transferred them to an account that he could use to cover expenses incurred during his stay at the facility such as securing a storage unit.
7. The appellant entered into a contract for prepayment for cremation and funeral expenses in the amount of \$1,950;
8. The appellant deposited \$1,600 into an irrevocable burial trust.
9. The appellant paid the facility \$23,800.
10. The appellant paid \$13,000 in attorney's fees.
11. The appellant paid \$1,946.40 to pay 12 months in advance for the use of a storage unit.

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 to this case. (130 CMR 515.002).

Countable assets are all assets that must be included in the determination of eligibility. (130 CMR 520.007). 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. (130 CMR 520.003(A)(1)). During the appeal process, the appellant's representative demonstrated that actions were taken to reduce assets but did not provide confirmation that the amount spent came directly from the accounts at issue or an account to which such funds were transferred. Additionally, the receipts from stores such as Target and Best Buy do not provide any confirmation that the purchases were made from the accounts at issue or any account to which the funds were transferred and the balances presented by MassHealth were from statements in the fall of 2024 and purchases were made after the hearing date. The appellant did not demonstrate that the assets at issue were spent down.

The decision made by MassHealth is correct.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

[REDACTED]

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186