

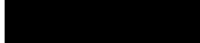
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decisions:	Dismissed; Denied	Appeal Numbers:	2502177 & 2511368
Decision Date:	12/9/2025	Hearing Date:	9/4/2025
Hearing Officer:	Cynthia Kopka	Record Open to:	10/9/2025

Appearance for Appellant:



Appearance for MassHealth:

Eileen Smith, Charlestown 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 Decisions:	Dismissed; Denied	Issues:	Long term care, start date, disqualifying transfer
Decision Date:	12/9/2025	Hearing Date:	9/4/2025
MassHealth's Rep.:	Eileen Smith	Appellant's Rep.:	[REDACTED]
Hearing Location:	Charlestown (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

By notice dated July 2, 2025, MassHealth approved Appellant for MassHealth long-term care services effective June 27, 2025. MassHealth calculated a period of ineligibility from February 1, 2025 through June 26, 2025 for making impermissible transfers of assets. Exhibit 1. Appellant filed a timely appeal on August 1, 2025. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth determined that Appellant made impermissible transfers of assets resulting in a period of ineligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019, in determining that Appellant made disqualifying transfers during the look-back period and in calculating the period of ineligibility.

Summary of Evidence

The MassHealth representative appeared by phone and provided documents in support, Exhibit 4. Appellant appeared by phone. The hearing record was held open through October 6, 2025 for production of additional evidence. Exhibit 5. A summary of testimony and documentary evidence follows.

At issue on appeal was MassHealth's approval of benefits with a penalty period. MassHealth received Appellant's application for long term care benefits on April 10, 2024. MassHealth denied this application on July 29, 2024 for missing information. Exhibit 4. MassHealth relogged the application on August 6, 2024 and denied it again for missing information on November 12, 2024.

On September 27, 2024, Appellant requested a fair hearing on the July 29, 2024 denial (Appeal No. 2414907). After a hearing on October 23, 2025, the appeal was withdrawn with the application date of April 10, 2024 preserved. On December 18, 2024, MassHealth denied the April 10, 2024 application for excess assets. Appellant's request for hearing received by the Board of Hearings (BOH) on February 4, 2025 was dismissed as an untimely appeal of the November 12, 2024 denial (Appeal No. 2502177).

Appellant filed another application on March 31, 2025. Exhibit 4 at 33. On May 13, 2025, MassHealth denied the application for missing information. MassHealth received additional information on May 30, 2025 and relogged the application. On July 2, 2025, MassHealth approved Appellant for MassHealth long-term care services effective June 27, 2025. MassHealth calculated a period of ineligibility of 146 days, from February 1, 2025 through June 26, 2025, for making impermissible transfers of assets. Exhibit 1. The MassHealth representative testified that February 1, 2025 was the earliest retroactive date possible based on the May 30, 2025 reapplication.

MassHealth provided a list of the disqualifying transfers made from Appellant's account in 2023 and 2024. Exhibit 4 at 3-4. The MassHealth representative testified that one of the identified transfers, \$1,200, was listed in error. *Id.* at 3. The MassHealth representative agreed to adjust the amount of the penalty to \$63,009. Exhibit 10 at 13. Using the average daily rate of \$441, MassHealth recalculated a penalty period of 143 days. *Id.*

Appellant was admitted to two different facilities. Appellant entered the first facility on [REDACTED] 2024. This facility sought a coverage start date of May 28, 2024. Exhibit 4 at 35. Appellant transferred from the first facility to the second facility, where she currently resides, on [REDACTED] 2025. *Id.* at 34. The SC-1 submitted by the new facility requested a start date of [REDACTED] 2025.

MassHealth attached the documents showing unverified withdrawals from Appellant's bank accounts and transfers to the son's account in 2023 and 2024. *Id.* at 3-23, 30-32. MassHealth also

identified money returned from the son's account to Appellant, curing part of the transfers. *Id.* at 24-28, 30-32. Without evidence showing that Appellant received fair market value for these large transactions or that they were otherwise permissible or exempt, MassHealth determined that these transfers were disqualifying.

Appellant's representative did not dispute the transfers or raise an argument as to why the transfers should not be considered disqualifying, despite having the opportunity to provide such evidence both at the hearing and during the record open period. Exhibit 10 at 10-11. Instead, Appellant's representative testified that Appeal No. 2502177, dismissed by BOH for timeliness, has been remanded back to BOH by Superior Court for a substantive hearing. At hearing and by motion, Appellant's representative asked that Appeal No. 2502177 be consolidated with the present appeal so that the earlier application date could be applied to the facts under this appeal. Exhibit 7. After the hearing, BOH received the court order for a substantive fair hearing on Appeal No. 2502177. Exhibit 6. In lieu of scheduling a new hearing, the parties agreed that Appeal No. 2502177 would be withdrawn upon MassHealth's agreement to honor the April 10, 2024 application date. Exhibit 8.

With the earlier application date preserved, the MassHealth representative determined that the penalty period of 143 days would begin on May 28, 2024, the requested start date on the April 10, 2024 application. The MassHealth representative reported by email that that the penalty would run from May 28, 2024 through October 17, 2024. Exhibit 10 at 13. Appellant requested that MassHealth determine eligibility beginning January 1, 2024. *Id.* at 12. The MassHealth representative responded that May 28, 2024 is the earliest day Appellant was eligible for MassHealth based on the submitted evidence. *Id.* According to the SC-1 form submitted with the April 10, 2025 application, Appellant was deemed clinically eligible for nursing facility services effective May 28, 2024. Exhibit 4 at 35.

MassHealth issued a new notice dated September 26, 2025 approving MassHealth coverage on October 16, 2024. Exhibit 9. Appellant's representative questioned the date of the new notice, as the hearing record was still open at the time MassHealth issued the decision. Exhibit 10 at 8. Appellant's representative insisted that the notice be re-dated to October 9, 2025, the date she confirmed that she would not submit any additional evidence challenging the resource transfer. *Id.* The MassHealth representative proposed to issue a hearing decision implementation letter in lieu of a new notice, as the new action amending the penalty period would not have separate appeal rights. *Id.* at 5. MassHealth issued this implementation letter on October 14, 2025. Exhibit 9 at 11. The hearing implementation notice lists the penalty amount as \$62,009 and the penalty period as 141 days. *Id.* MassHealth did not provide a reason why the disqualifying transfer amount further reduced by \$1,000, and this may have been due to a calculation error.

Appellant's representative did not agree to accept the implementation notice as there had been no hearing decision. Exhibit 10 at 1.

Findings of Fact

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

1. On April 10, 2024, MassHealth received Appellant's application for long term care benefits. Appellant admitted to the first nursing facility on May 11, 2024 but transferred to her current nursing facility on June 20, 2024.
2. According to the SC-1 form submitted with the April 10, 2024 application, Appellant was deemed clinically eligible for nursing facility services effective May 28, 2024. Exhibit 4 at 35.
3. On July 29, 2024, MassHealth denied the April 10, 2024 application for missing information.
4. On September 27, 2024, Appellant requested a fair hearing on the July 29, 2024 denial (Appeal No. 2414907).
5. After a fair hearing on October 23, 2025, the appeal was withdrawn with the application date of April 10, 2024 preserved.
6. On December 18, 2024, MassHealth denied the April 10, 2024 application for excess assets.
7. Appellant's request for hearing received by the Board of Hearings (BOH) on February 4, 2025 was dismissed as untimely (Appeal No. 2502177).
8. On March 31, 2025, MassHealth received a second application for benefits. Exhibit 4 at 33.
9. On May 13, 2025, MassHealth denied the application for missing information. MassHealth received additional information on May 30, 2025 and relogged the application.
10. On July 2, 2025, MassHealth approved Appellant for MassHealth long-term care services effective June 27, 2025.
11. MassHealth calculated a period of ineligibility of 146 days, from February 1, 2025 through June 26, 2025, for making impermissible transfers of assets. Exhibit 1.
12. Appellant filed a timely appeal on August 1, 2025. Exhibit 2.
13. On or about September 2, 2025, Superior Court remanded Appeal No. 2502177 back to BOH for a substantive hearing on the December 18, 2024 notice.

14. On September 11, 2025, MassHealth agreed to honor the April 10, 2024 application date and Appellant withdrew Appeal No. 2502177. Exhibit 8.
15. MassHealth calculated a total of \$62,009 in unverified withdrawals and transfers from Appellant's accounts from 2023-2024 that had not been cured. Exhibit 4, Exhibit 9.
16. Using the average daily rate of \$441, MassHealth recalculated a penalty period of 141 days. Exhibit 9.
17. On September 26, 2025, MassHealth notified Appellant that she was approved for coverage of a nursing facility stay effective October 16, 2024. *Id.*
18. On October 14, 2025, MassHealth notified Appellant by fair hearing decision implementation letter that Appellant's penalty period would run from May 28, 2024 through October 15, 2024. MassHealth notified Appellant that the penalty period was calculated based on a resource transfer amount of \$62,009, which yielded a penalty period of 141 days. *Id.* at 11.

Analysis and Conclusions of Law

Appellant filed an appeal after MassHealth determined that she only qualified for benefits after a period of ineligibility. Ultimately, MassHealth determined that Appellant did not qualify for benefits for a period of 141 days.¹ Appellant has the burden "to demonstrate the invalidity of the administrative determination." *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (citing *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002)).

Appeal No. 2502177 – Excess Assets, Application Date

Appellant's request that Appeal No. 2502177 be consolidated with the present action is approved, as the underlying issues of fact are common to both cases. 130 CMR 610.073. MassHealth agreed to honor the application date of April 10, 2024 and Appellant agreed to withdraw Appeal No. 2502177. Accordingly, Appeal No. 2502177 is dismissed and the active application date for the present appeal is the original April 10, 2024 date. 130 CMR 610.035(A)(2).

As part of the April 10, 2024 application, Appellant provided an SC-1 form requesting coverage begin on May 28, 2024. Under 130 CMR 520.004(A)(1) and (2), an applicant is eligible for MassHealth Standard as of the date their assets are reduced under the allowable limit and the applicant is

¹ MassHealth may have calculated 141 days in error, but this hearing decision will not disturb the notices issued with the more favorable determination.

otherwise eligible for MassHealth. For MassHealth payment of nursing facility services, a member must meet the clinical eligibility provisions of 130 CMR 456.409. 130 CMR 456.408(A)(1). "In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type." 130 CMR 520.004(C)(2).

Here, MassHealth considered the first date of Appellant's eligibility long-term care eligibility to be May 28, 2024, based on the SC-1 form submitted with the application. Appellant did not offer any evidence that Appellant was eligible clinically or financially for MassHealth coverage of a nursing facility stay prior to May 28, 2024. Therefore, MassHealth was correct in determining May 28, 2024 to be the first available date of MassHealth coverage of a nursing facility stay.

Appeal No. 2511368 – Resource Transfer

To qualify for MassHealth Standard coverage as a resident of a long term care facility, an individual must have countable assets of \$2,000 or less. 130 CMR 519.006(A)(4). MassHealth considers any transfer of a resource owned by a nursing facility resident for less than fair market value during the appropriate look-back period to be a disqualifying transfer unless the transfer in question is permitted or exempted under the regulations. Specifically, 130 CMR 520.018(B) states that MassHealth "will deny payment for nursing facility services to an otherwise eligible nursing-facility resident ... who transfers or whose spouse transfers countable resources for less than fair-market value during or after the period of time referred to as the look-back period." The look-back period for transfers of resources occurring on or after February 8, 2006 is 60 months. 130 CMR 520.019(B)(2).

According to 130 CMR 520.019(C), set forth in pertinent part,

The MassHealth agency 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). The MassHealth agency 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.

Per 130 CMR 520.0019(G),

Where the MassHealth has determined that a disqualifying transfer of resources has occurred, the MassHealth will calculate a period of ineligibility. The number of months in the period of ineligibility is equal to the total, cumulative, uncompensated value as defined in 130 CMR 515.001 of all resources transferred by the nursing-facility resident

or the spouse, divided by the average monthly cost to a private patient receiving nursing-facility services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency.

A transfer may be cured if the full value or a portion of the full value of the transferred resources is returned to the applicant. 130 CMR 520.019(K)(2)(b).

Here, MassHealth presented evidence that Appellant made unverified transfers of resources during the lookback period of the application. MassHealth also offered evidence that some of the transfers had been cured by being returned to Appellant. The total amount of disqualifying transfers, less the amounts deemed cured, was \$62,009.

Appellant's representative did not dispute the transfer amount at hearing and did not offer evidence demonstrating that the calculation was made in error despite having an opportunity to do so at hearing and with a record-open period. Appellant has not met the burden of showing that MassHealth's calculation of a 141 day penalty period was made in error.

Appellant objected to MassHealth's issuance of the September 26, 2025 notice because the issuance date was within the record open period. Appellant also objected to the October 14, 2025 hearing implementation notice because a hearing decision had not been rendered. Appellant has not established that either of these documents violates Appellant's right to adequate notice pursuant to 130 CMR 610.026. Further, it was not incorrect for MassHealth to determine that the adjustment of the penalty period would not have an appeal right, as BOH has adjudicated the appealable action of the penalty period in this present action. Accordingly, any appeal arising out of the September 26, 2025 notice or October 14, 2025 action would be dismissed by BOH pursuant to 130 CMR 610.036(A)(6), and Appellant was not prejudiced by the issuance of either letter. MassHealth has approved Appellant's benefit as of October 16, 2024 and Appellant has not demonstrated that this determination was made in error. Accordingly, this appeal is denied.

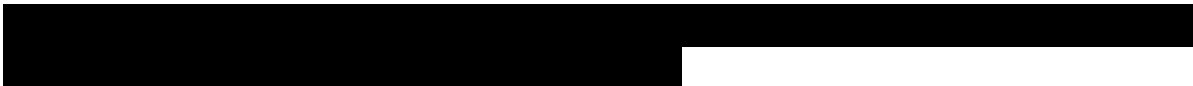
Order for MassHealth

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.

Cynthia Kopka
Hearing Officer
Board of Hearings


MassHealth Representative: Monica Ramirez, Charlestown MassHealth Enrollment Center, 529
Main Street, Suite 1M, Charlestown, MA 02129