

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2502841
Decision Date:	5/29/2025	Hearing Date:	04/09/2025
Hearing Officer:	Marc Tonaszuck	Record Open to:	04/25/2025

Appearance for Appellant:



Appearance for MassHealth:

K'eisha McMullen, MEC
Maria Maggiore, Lien Coordinator



*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 - Lien
Decision Date:	5/29/2025	Hearing Date:	04/09/2025
MassHealth's Rep.:	K'eisha McMullen	Appellant's Rep.:	Business Office Manager
Hearing Location:	Springfield MassHealth Enrollment Center	Aid Pending:	No

Jurisdiction

Through a notice dated 02/10/2025, MassHealth informed the appellant of its intention to place a lien on her property located at [REDACTED] (130 CMR 515.012(A); Exhibit 1). The appellant appealed this action timely on 03/28/2022 (130 CMR 610.015(B); Exhibits 2 and 4). Issuing a notice of intent to place a lien constitutes valid grounds for appeal (130 CMR 610.032).

A fair hearing was held before the Board of Hearings on 04/09/2025 (Exhibit 3). All parties appeared telephonically. The appellant's representative requested additional time to provide documents to support the argument against MassHealth's placement of the lien. Her request was granted, and the record remained open in this matter until 04/18/2025 for her submission and until 04/25/2025 for MassHealth's response (Exhibit 6).

Action Taken by MassHealth

MassHealth issued a notice of intent to place a lien on the appellant's subject property.

Issue

Is MassHealth correct, pursuant to 130 CMR 515.012(A) that a lien may be placed on her subject property?

Summary of Evidence

The MassHealth representative testified the appellant is a resident of a skilled nursing facility and has been approved for long term care (“LTC”) benefits. During the review of the appellant’s application and supporting materials, MassHealth recognized that the appellant has a legal interest in real property located at [REDACTED]. According to a quitclaim deed filed with the registry of deeds, the subject property was transferred to the appellant and her late husband in [REDACTED]. The lien must be placed unless there is a spouse living in the home, a child younger than [REDACTED] or a blind or permanently and totally disabled child; or a sibling who has a legal interest in the property and has been living in the house for at least one year before the member’s admission to the medical institution. In this case, none of those situations apply. Once a lien is placed, if the property is sold while the appellant is a resident of the skilled nursing facility, MassHealth has the right to recover the cost of her care up to the point of her financial interest in the subject property (Exhibits 1 and 5).

The appellant was represented by a business office representative from the skilled nursing facility. She testified that the appellant’s daughter meets the requirements of a caretaker child for the purposes of the lien. She requested an opportunity to show that the appellant’s daughter cared for and lived with the appellant for at least two years. Her request was granted, and the record remained open until 04/18/2025 for her submission and until 04/25/2025 for MassHealth’s response (Exhibit 6).

During the record open period, the appellant’s representative provided proof that the appellant’s daughter cared for her for at least two years prior to her admission to the skilled nursing facility, that the daughter lived with the appellant in the property for at least two years and that the daughter is, indeed, the appellant’s daughter (Exhibit 7).

The MassHealth representative responded during the record open period, that the lien would be placed until the property is transferred to the daughter (Exhibit 8).

Findings of Fact

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

1. The appellant, a nursing home resident, applied for, and was approved for, MassHealth LTC benefits (Testimony).
2. The appellant owns real estate located at [REDACTED] (Testimony; Exhibit 5).
3. The appellant continues to reside in the skilled nursing facility (Testimony).

4. There is no court order or judgment preventing MassHealth from placing a lien on the appellant's interest in the subject property (Testimony).
5. The appellant does not have a spouse living in the subject property (Testimony).
6. The appellant does not have a child under [REDACTED] who lives in the subject property (Testimony).
7. The appellant does not have a disabled or blind child who lives in the subject property (Testimony).
8. The appellant does not have a sibling who lives in the subject property (Testimony).

Analysis and Conclusions of Law

The MassHealth notified the appellant of its intention to place a lien on her property. The regulation regarding real estate liens is found at 130 CMR 515.012, which states:

(A) Liens. A real estate lien enables the MassHealth agency to recover the cost of medical benefits paid or to be paid on behalf of a member. ***Before the death of a member, the MassHealth agency will place a lien against any property in which the member has a legal interest, subject to the following conditions:***

- (1) per court order or judgment; or
- (2) without a court order or judgment, if all of the following requirements are met:
 - (a) the member is an inpatient receiving long-term or chronic care in a nursing facility or other medical institution;
 - (b) none of the following relatives lives in the property:
 1. a spouse;
 2. a child younger than [REDACTED] years old, or a blind or permanently and totally disabled child; or
 3. a sibling who has a legal interest in the property and has been living in the house for at least one year before the member's admission to the medical institution;
 - (c) the MassHealth agency determines that the member cannot reasonably be expected to be discharged from the medical institution and return home; and
 - (d) the member has received notice of the MassHealth determination that the above conditions have been met and that a lien will be placed. The notice includes the member's right to a fair hearing.

(B) Recovery. If property against which the MassHealth agency has placed a lien under 130 CMR 515.012(A) is sold during the member's lifetime, the MassHealth agency may

recover all payment for services provided on or after April 1, 1995. This provision does not limit the MassHealth agency's ability to recover from the member's estate in accordance with 130 CMR 515.011.

(C) Exception. No recovery for nursing-facility or other long-term-care services may be made under 130 CMR 515.012(B) if the member

- (1) was institutionalized;
- (2) notified the MassHealth agency that he or she had no intention of returning home; and
- (3) on the date of admission to a long-term-care institution had long-term-care insurance whose coverage met the requirements of 130 CMR 515.014 and the Division of Insurance regulations at 211 CMR 65.09(1)(e)(2).

(D) Repayment Deferred.

(1) *In the case of a lien on a member's home, repayment under 130 CMR 515.012 is not required while any of the following relatives are still lawfully living in the property:*

(a) a sibling who has been living in the property for at least one year before the member's admission to the nursing facility or other medical institution; or

(b) ***a son or daughter who***

(i) has been living in the property for at least two years immediately before the member was admitted to a nursing facility or other medical institution;

(ii) establishes to the satisfaction of the MassHealth agency that he or she provided care that permitted the parent to live at home during the two-year period before institutionalization; and

(iii) has lived lawfully in the property on a continual basis while the parent has been in the institution.

(2) Repayment from the estate of a member that would otherwise be recoverable under any regulation is still required even if the relatives described in 130 CMR 515.012(D) are still living in the property.

(E) Dissolution. The MassHealth agency will discharge a lien placed against property under 130 CMR 515.012(A) if the member is released from the medical institution and returns home.

The appellant resides in a skilled nursing facility and was approved for MassHealth long term care benefits, having been admitted to the skilled nursing facility in [REDACTED]. The appellant is the owner of the subject property upon which MassHealth seeks to place a lien. There was no assertion by the appellant's representative that any of the above situations exist which would prevent the placement of the lien. Rather, the appellant's representative presented evidence that the appellant's child lives in the real property and that the daughter cared for the appellant for at least two years prior to her admission to the skilled nursing facility. Although not relevant for the purposes

of MassHealth's placement of the lien, this information is helpful to the appellant's daughter when she may wish to defer repayment of the health care expenses covered by the lien. No information was received from the appellant's representative to show that MassHealth's placement of the lien was unsupported by the regulations or the facts in the hearing record. Accordingly, this appeal is denied.

Order for MassHealth

Proceed with placement of the intended lien.

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: [REDACTED]

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

MassHealth Representative: Maria Maggiore, Lien Coordinator, 508-856-7638