

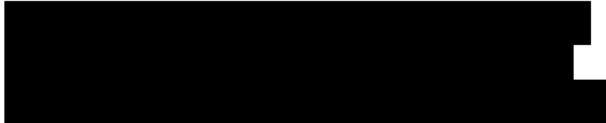
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2503052
<b>Decision Date:</b>	09/23/2025	<b>Hearing Date:</b>	03/17/2025
<b>Hearing Officer:</b>	Christopher Jones	<b>Record Open to:</b>	09/11/2025

**Appearance for Appellant:**




**Appearance for MassHealth:**

Maria Piedade – Conversion Unit



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Long Term Care; Verifications
<b>Decision Date:</b>	09/23/2025	<b>Hearing Date:</b>	03/17/2025
<b>MassHealth's Rep.:</b>	Maria Piedade	<b>Appellant's Reps.:</b>	
<b>Hearing Location:</b>	Telephonic	<b>Aid Pending:</b>	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 December 23, 2024, MassHealth denied the appellant's September 9, 2024, application for MassHealth long-term care benefits because the appellant "did not give MassHealth the information it needs to decide" eligibility. (Exhibit 1; 130 CMR 515.008.) The appellant filed this appeal in a timely manner on February 21, 2025. (Exhibit 1; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Following the hearing, the record was held open, and several extensions were granted, until September 11, 2025, to allow for the appellant to have a conservator appointed and verify certain deposits into the appellant's bank account.

### Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits because he did not verify the sources of all assets.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008 and 516.001, in determining that the appellant is ineligible for coverage for failing to cooperate and verify resources.

## Summary of Evidence

The appellant is under the age of 65, but he entered a long-term care facility in [REDACTED]. On September 9, 2024, a long-term care conversion application was filed on the appellant's behalf. On November 14, 2024, MassHealth requested that the appellant verify whether there was a personal-needs allowance (PNA) account and the sources of the following deposits into the appellant's bank account:

- November 23, 2020, \$18,933.00 was deposited as a "Counter Credit" (Exhibit 4, p. 14);
- December 7, 2020, \$8,688.94 was deposited at an ATM (Exhibit 4, p. 14);<sup>1</sup>
- December 23, 2020, \$2,654.54 was deposited at an ATM (Exhibit 4, p. 17);
- January 25, 2021, \$82,000.00 was deposited as a "Counter Credit" (Exhibit 4, p. 18);
- August 06, 2021, \$15,052.98 was deposited at an ATM (Exhibit 4, p. 20).

On December 23, 2024, MassHealth denied the application because the appellant failed to verify these large deposits.

The appellant's representative submitted a letter on the day of the hearing, identifying her firm as representing the nursing facility at which the appellant resides.<sup>2</sup> This letter goes on to argue that

due to [the appellant's] diminished mental incompetency and full time residency at [a nursing facility, the appellant] is unable to recall the purpose of these transactions or provide further clarification regarding the recipients or the nature of the expenditures. Despite our exhaustive efforts to obtain

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<sup>1</sup> A second deposit to the same ATM was made on December 8, 2020, for \$731.54. This deposit appears to be recurring but was not raised by either party. It is presumed that this recurring deposit was already verified.

<sup>2</sup> The appellant signed the fair hearing request on January 17, 2025, authorizing the appeal representative and her firm to appear on his behalf. Given the appeal representatives ethical obligations as attorneys, this appeal decision accepts that the appellant was sufficiently competent to appoint them as representatives.

verifications, there is simply no additional information available. Given these circumstances, treating this as a failure to verify results in an undue and impractical burden when the more suitable approach is to assess these transactions under MassHealth's transfer penalty provisions.

(Exhibit 5.)

At the hearing, the appellant's representative testified that the appellant has early onset dementia, and he has no recollection of these financial transactions. Furthermore, the appellant's family was not cooperative. The appellant's representative testified that they were in the process of petitioning for a conservator, but that the unverified deposits should just be treated as disqualifying transfers to allow for the application to move forward. It was noted that disqualifying transfers can only be assessed on transfers out of an applicant's resources, not deposits into their account. The appellant then asked that the record remain open to submit proof of the petition for conservatorship and for the conservator to document the appellant's assets.

The hearing record was initially held open for 3 weeks, until April 7, 2025, for the appellant to submit proof of filing for conservatorship. Following multiple record open extensions, the conservator was eventually appointed on July 2, 2025, with "the authority necessary to access the financial accounts that still need to be verified."<sup>3</sup> (Exhibit 9.) The appellant requested an additional 30 days for the conservator to get the needed verifications.

The hearing record was then held open until August 11, 2025, for the appellant to submit verifications related to the bank deposits. Belatedly, on August 13, 2025, the appellant's representative responded that the conservator had been attempting to obtain additional information to explain the deposits. The bank had informed the conservator that no copies had been retained regarding those deposits, despite the obligations on financial institutions to retain copies of checks for several years. The appellant's representative planned "to follow up with [the conservator] to obtain updates on her correspondence with [the bank] to produce these documents to verify the deposits made to the account in question." (Exhibit 12, pp. 8-9.) The appellant requested an additional 30 days to verify the deposits.

Despite the belated request, the record was held open for another 30 days, until September 11, 2025. This extension was allowed explicitly on the understanding that the conservator's appointment had reasonably delayed the proceedings, and any further extension would require a showing of good cause. On September 9, 2025, the appellant submitted "all available information regarding the large deposits and withdrawals listed in [the appellant's] financial accounts in 2020 and 2021." (Exhibit 12, p. 5.)

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<sup>3</sup> The conservator appointment was entered into the record, but the conservator never asked to participate in the hearing as an appeal representative, nor were they copied on any correspondence.

The cover letter to this submission states that it “is intended to address the outstanding Request for Information (RFI) concerning multiple large deposits and withdrawals reflected in [the appellant’s] financial records from 2020 and 2021. The following table summarizes the four flagged transactions, each of which we now address through verified documentation or clear supporting explanation.” (Exhibit 11, p. 1.) The letter concludes “the substantial deposits identified in the RFI have now been addressed, with documentation confirming their origin as non-disqualifying, compensatory, or benefits-based payments.” (Exhibit 11, p. 2.)

Regarding the \$82,000 deposit on January 20, 2021, the appellant submitted a letter from an insurance company, stating that the payment came from a lump sum workers’ compensation settlement. (Exhibit 11, p. 4.) Regarding the \$18,933, deposited on November 23, 2020, the appellant identified it as coming from “a one-time retroactive Social Security Disability Insurance (SSDI) payment ... , covering the period from October 2019 through October 2020. [The appellant] began receiving ongoing monthly SSDI payments of \$1,923.00 thereafter.”<sup>4</sup> (Exhibit 11, pp. 1, 6-12.) The Social Security award letter goes on to state that \$6,000 of the appellant’s retroactive benefits would be paid to his representative under a fee agreement. (Exhibit 11, p. 8.) An individual is then identified as receiving a copy of the award letter. (Exhibit 11, p. 10.)

Finally, two checks from an insurance company totaling \$15,052.98, both dated August 2, 2021, were submitted to verify the August 6, 2021 deposit. (Exhibit 11, pp. 14-18.) The appellant’s representative’s cover-letter states that these checks are “believed to represent disability-related benefits.” (Exhibit 11, p. 2.)

MassHealth’s representative responded that the appellant’s submission did not address the two deposits from December 2020. MassHealth’s representative was willing to treat all unverified large withdrawals as disqualifying transfers. (Exhibit 12, p. 5.) The appellant’s representative responded that

there has been no history throughout this matter to suggest that any of [the appellant’s] deposits were for anything other than disability or insurance-related income. Accordingly, we respectfully request that MassHealth proceed with processing the case and apply a transfer penalty to these two unverified transactions, in accordance with 130 CMR 520.019, which allows unverified transactions during the look-back period to be treated as transfers for less than fair market value when no credible explanation or documentation is available.

(Exhibit 12, p. 4.) Alternately, the appellant was “willing to request an additional record open period to allow further investigation, including renewed outreach to the bank.” (Exhibit 12, p. 4.)

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<sup>4</sup> MassHealth’s exhibit includes only excerpted bank statements from November 14, 2020, through February 11, 2021, and July 17, 2021, to August 17, 2021. The first regularly recurring SSA deposit is from July 21, 2021. (Exhibit 4, pp. 14-21.)

Both parties were asked to highlight all evidence in the administrative record that identifies these deposits. It was further noted that good cause would be required for any further extension. MassHealth's representative responded that the deposits are identified in the bank statement excerpts included in MassHealth's hearing exhibit. The appellant's representative responded that "all available information regarding the transactions ... have been provided. We were not able to secure a suitable explanation for these large transactions and we now respectfully request that MassHealth proceed with processing the case and apply a transfer penalty to these two unverified transactions, in accordance with 130 CMR 520.019." (Exhibit 12, p. 1.)

## Findings of Fact

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

- 1) The appellant has resided in a nursing facility since the [REDACTED]. A long-term care conversion application was filed on the appellant's behalf on September 9, 2024, and MassHealth requested verification of financial information on November 14, 2024. (Testimony by MassHealth's representative; Exhibit 4, pp. 1, 9, 11-13.)
- 2) Specifically, MassHealth requested proof of a PNA account at the nursing facility, and verification of deposits into the appellant's bank account from November 23, 2020, December 7, 2020, December 23, 2020, January 25, 2021, and August 06, 2021. (Exhibit 4, p. 13.)
- 3) MassHealth denied the application on December 23, 2024, when proof of the deposits was not submitted. (Exhibit 1.)
- 4) The appellant signed a fair hearing request form, authorizing this appeal and naming an attorney as his appeal representative. (Exhibit 2.)
- 5) The appellant's representative identified her firm as representing the nursing facility at which the appellant resided, but appearing on the appellant's behalf in the capacity of an appeal representative. (Exhibit 5; testimony by appellant's representative.)
- 6) The appellant is suffering from early onset dementia, which required a conservator to document his financial history. (Testimony by appellant's representative.)
- 7) The hearing record was held open for the conservator to be appointed, and for the appellant to submit the missing verifications. The conservator was appointed on July 2, 2025, and the record remained open until September 11, 2025, for the appellant to submit documentation to verify these deposits. (Exhibit 9; Exhibit 12.)

- 8) On September 9, 2025, the appellant submitted “all available information regarding the large deposits and withdrawals listed in [the appellant’s] financial accounts in 2020 and 2021.” (Exhibit 12, p. 5.)
- 9) The appellant’s representative believed “the substantial deposits identified in the RFI have now been addressed, with documentation confirming their origin as non-disqualifying, compensatory, or benefits-based payments.” (Exhibit 11, p. 2.)
- 10) The submission documents that the \$82,000 deposit on January 20, 2021, was a lump sum workers’ compensation settlement. (Exhibit 11, p. 4.)
- 11) The \$18,933, deposit on November 23, 2020, is “a one-time retroactive Social Security Disability Insurance (SSDI) payment ... , covering the period from October 2019 through October 2020.” (Exhibit 11, pp. 6-12.)
- 12) The SSDI award identifies that a representative for the appellant was paid \$6,000, and it identifies another individual as receiving a copy of the award letter. (Exhibit 11, pp. 8, 10.)
- 13) The appellant submitted two checks from an insurance company that totaled the \$15,052.98 deposited on August 6, 2021. (Exhibit 11, pp. 14-18.)

## **Analysis and Conclusions of Law**

To qualify for long-term care benefits, an applicant must complete an application and cooperate with the MassHealth agency by submitting corroborative information. (See 130 CMR 516.001(B).) If the requested verifications are received within 30 days, “the application is considered complete” and MassHealth continues to “determine the coverage type ... for which the applicant is eligible.”<sup>5</sup> (130 CMR 516.001(C).) MassHealth may deny an application where the member has failed to provide requested information within 30 days. (130 CMR 516.001(C).) If some, but not all, of the requested information is received with 30 days of the denial, MassHealth deems the date of receipt to be the date of reapplication, and the agency will send out a new verification request. If a MassHealth member fails to cooperate with MassHealth and submit the documentation requested, MassHealth will deny the member’s application. (See 130 CMR 515.008(C).)

MassHealth has multiple methods by which it will verify an individual’s assets and income, including information matches with other government entities and electronic data sources that track financial assets. (See 130 CMR 516.003.) MassHealth “will permit, on a case-by-case basis, self-attestation of individuals for all eligibility criteria when documentation does not exist at the

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<sup>5</sup> “Effective April 1, 2023, MassHealth [extended] the time that non-MAGI applicants and members will have for verifying eligibility factors and providing corroborative information, from 30 days to 90 days.” (EOM 23-09 (Mar. 2023).) This extended verification timeline was revoked for long-term care applicants effective September 9, 2024. (EOM 25-03 (Feb. 2025).)

time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster.” (130 CMR 516.003(G).)

Based on the evidence in the administrative record, I cannot find that the appellant has verified all of his resources, nor established that documentation “is not reasonably available” to establish his eligibility. No evidence whatsoever was submitted regarding the deposits made in December 2020, despite the appellant’s representative claiming to submit documentation regarding all “substantial deposits identified in the RFI.” The appellant’s representative, in one of their record open extension requests, stated that the extension was required to get documentation regarding the conservator’s correspondence with the bank. Nothing regarding the conservator’s correspondence was ever submitted. I also note that the submitted documentation identifies the name of the appellant’s representative before Social Security in his disability case. There is no indication that this individual was ever contacted to request assistance in identifying other potential resources that may have been the source of the December 2020 deposits. I cannot conclude that this failure to document is the result of a reasonably thorough search for information. Therefore, this appeal must be DENIED.

This appeal must also be denied with the appellant’s representatives’ repeated request that the unverified deposits be treated as disqualifying transfers. The transfer of resource provisions allow MassHealth to see whether an applicant has given away assets within the previous five years in order to qualify – this is referred to as the “lookback period.” (See 130 CMR 520.019(B); 130 CMR 520.023(A).) A disqualifying transfer may include

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).<sup>6]</sup> 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. 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 MassHealth agency considers the specific circumstances involved. **A**

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<sup>6</sup> As published, the last cross-reference is to subsection (J) and is a typographical error. Subsection (J) specifically **includes** as disqualifying transfers of home equity loans and reverse mortgages if transferred for less than fair market value. Subsection (K), however, **exempts** listed transactions from the period of ineligibility.

**disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available.**

(130 CMR 520.019(C) (emphasis added.)

A disqualifying transfer cannot be assessed if the total value of the resource has not yet been verified. MassHealth requires large deposits be verified is to ensure that the applicant has not allowed a larger resource to be diverted, which would result in a larger disqualifying transfer than the amount of the unverified deposit. Therefore, the appellant's request that the unverified deposits be treated as disqualifying transfers is also 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.

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Christopher Jones  
Hearing Officer  
Board of Hearings

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