

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2503397
Decision Date:	6/23/2025	Hearing Date:	03/27/2025
Hearing Officer:	Kenneth Brodzinski	Record Open to:	04/24/2025

Appearance for Appellant:



Appearance for MassHealth:

Evelyn Daniel



*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:	LTC; Disqualifying Asset Transfer
Decision Date:	6/23/2025	Hearing Date:	03/27/2025
MassHealth's Rep.:	Evelyn Daniel	Appellant's Rep.:	
Hearing Location:	Springfield MEC		

Authority

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

Jurisdiction

Through notice dated February 6, 2025, MassHealth approved Appellant for MassHealth Long term Care benefits effective November 15, 2025, and assessed a penalty period resulting in denial of coverage on and between July 25, 2024 and November 14, 2024 due to a disqualifying transfer of assets (Exhibit A). Appellant filed this appeal in a timely manner on February 28, 2025 (Exhibit A). Denial of a period of assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved Appellant for MassHealth Long term Care benefits effective November 15, 2025, and assessed a penalty period resulting in denial of coverage on and between July 25, 2024 and November 14, 2024 due to a disqualifying transfer of assets.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it MassHealth approved Appellant for MassHealth Long term Care benefits effective November 15, 2025, and assessed a penalty period resulting in denial of coverage on and between July 25, 2024 and November 14, 2024 due to a disqualifying transfer of assets.

Summary of Evidence

Both parties appeared by telephone.

Prior to hearing, MassHealth filed a packet of documents (Exhibit B). Post-hearing submissions were made by Appellant (Exhibit C) and Masshealth (Exhibit D).

The MassHealth representative testified that Appellant was assessed a period of disqualification due to having transferred countable assets without receiving fair market value in return. The transfers were each made during the five-year look-back period prior to the date of Appellant's application for MassHealth Long Term Care benefits. The MassHealth representative testified that Appellant transferred \$4,000.00 from an account held in her name ending in [REDACTED] and \$44,510.00 from an account held in her name ending in [REDACTED] for a total transfer amount of \$48,510.00 (Exhibit B). MassHealth divided the total transfer amount by the average daily rate for Long Term Care in the Commonwealth and calculated a 113-day period of disqualification which runs on and between July 25, 2024 and November 14, 2024.

Appellant's representative did not dispute the figures and calculations cited by the MassHealth representative. Appellant did not dispute that the subject withdrawals occurred within the 5-year look-back period. Appellant's representative testified that he believed there was some confusion on MassHealth's part as to what the subject funds were used for. Appellant's representative testified the funds were transferred between accounts and then used to privately pay the nursing facility where Appellant resides.

Appellant requested and was granted time to verify that the subject funds were used to pay the nursing facility. Appellant made a timely post-hearing submission which consisted of copies of a single check for \$35,000.00, two accounting statements from the nursing facility, and an email stating that he could only find the check for the \$35,000.00 used to pay the facility but could not document the other \$13,000.00 (Exhibit C).

MassHealth filed a timely response noting that the \$35,000.00 check was not part of the assessed \$48,510.00 transfer amount and showed the withdrawals which did make up the \$48,510.00 transfer amount (Exhibit D and Exhibit B).

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant applied for MassHealth Long Term Care benefits.
2. MassHealth assessed a period of disqualification due to having transferred countable assets without receiving fair market value in return.
3. The transfers were each made during the five-year look back period prior to the date of Appellant's application for MassHealth Long Term Care benefits.
4. Appellant transferred \$4,000.00 from an account held in her name ending in [REDACTED] and \$44,510.00 from an account held in her name ending in [REDACTED] for a total transfer amount of \$48,510.00 (Exhibit B).
5. MassHealth divided the total transfer amount by the average daily rate for Long Term Care in the Commonwealth and calculated a 113-day period of disqualification which runs on and between July 25, 2024, and November 14, 2024.
6. Appellant requested and was granted time to verify that the subject funds were used to pay the nursing facility.
7. Appellant made a timely post-hearing submission which consisted of copies of a single check for \$35,000.00, two accounting statements from the nursing facility, and an email stating that he could only find the check for the \$35,000.00 used to pay the facility but could not document the other \$13,000.00 (Exhibit C).
8. The \$35,000.00 check was not part of the assessed \$48,510.00 transfer amount (Exhibit D and Exhibit B).

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)). On this record, Appellant has failed to meet her burden.

Regulation 130 CMR 520.019 governing resource transfers states as follows:

(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.

(1) For transfers occurring before February 8, 2006, this period generally extends back in time for 36 months.

(2) For transfers of resources occurring on or after February 8, 2006, the period generally extends back in time for 60 months. The 60-month look-back period will begin to be phased in on February 8, 2009. Beginning on March 8, 2009, applicants will be asked to provide verifications of their assets for the 37 months prior to the application. As each month passes, the look-back period will increase by one month until the full 60 months is reached on February 8, 2011.

(3) For transfers of resources from or into trusts, the look-back period is described in 130 CMR 520.023(A).

(C) Disqualifying Transfer of Resources. 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. 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 disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available.

There was no dispute about the total amount of the subject transfers or that they occurred during the five-year look back period. Appellant's only dispute was that the funds were used to pay the nursing facility; therefore, that fair market value was received and they should not be deemed disqualifying. To this end, Appellant filed only the copy of a particular \$35,000.00 check and documents meant to show how these funds were used to pay the nursing facility (Exhibit C). MassHealth has shown that this \$35,000.00 was not part of the \$48,510.00 transfer amount. Accordingly, Appellant has failed to show that any of the total transfer amount was used to pay the nursing facility or that Appellant otherwise received fair market value for these funds; therefore, the transfers are disqualifying for MassHealth eligibility purposes (130 CMR 520.019).

For the foregoing reasons, the 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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