

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2503487
Decision Date:	04/8/2025	Hearing Date:	03/27/2025
Hearing Officer:	Christine Therrien		

Appearance for Appellant:



Appearance for MassHealth:

Ana Costa, Taunton



*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 – Excess Assets
Decision Date:	04/8/2025	Hearing Date:	03/27/2025
MassHealth’s Rep.:	Ana Costa	Appellant’s Rep.:	[REDACTED]
Hearing Location:	Taunton MassHealth Enrollment Center Telephonic		

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 2/12/25, MassHealth denied the appellant's application for Long-Term Care (LTC) benefits because MassHealth determined that the appellant had more countable assets than regulations allow on the requested start date. (130 CMR 520.003 and Exhibit 1). The appellant’s estate filed this appeal timely on 2/28/25. (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant’s application for LTC benefits because he had more countable assets than regulations allow.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, in determining that the appellant had more countable assets than regulations allow.

Summary of Evidence

The MassHealth representative testified that the appellant was admitted to a long-term care facility on [REDACTED]. The MassHealth representative testified that the appellant died on [REDACTED]. The MassHealth representative testified that MassHealth received an application for long-term care on 1/31/24, seeking a coverage start date of 10/28/23.¹ MassHealth sent a request for information on 2/12/24, and did not receive a response. On 3/19/24, MassHealth sent a denial notice because the appellant died. On 5/6/24, the Board of Hearings received an appeal from the Personal Representative of the appellant's estate, and in July 2024 MassHealth received the requested verifications.² The MassHealth representative testified that on 9/26/24, MassHealth denied the appellant's application due to a disqualifying transfer of assets and imposed an ineligibility period from 10/28/23 to 2/25/24. The MassHealth representative testified that the beneficiary of the appellant's bank accounts withdrew \$42,238.54 on 2/2/24 (after the appellant's death) from the appellant's bank accounts, and MassHealth did not have proof that the assets were spent on the member.

The MassHealth representative testified that a denial notice for transfer of assets was appealed, a hearing was held, and the appeal decision issued on 2/7/25 ordered MassHealth "[r]escind notice of September 26, 2024. Issue a new eligibility notice to the estate reflecting that the Appellant had excess assets on the date eligibility was sought, and provide the estate with an opportunity to show that assets were reduced in compliance with 130 CMR 520.004." (Exhibit 2).³

The MassHealth representative testified that a denial notice for excess assets was issued on 2/12/25 because at the time of the appellant's application, his assets totaled \$42,238.54 in two bank accounts. The 2/12/25 notice provided the appellant's estate 30 days to submit proof that the appellant's estate spent down \$40,238.54 on the appellant's care. (Exhibit 1). The MassHealth representative testified that MassHealth did not receive proof of how the \$40,238.54 was spent. The MassHealth representative testified that the LTC application should have been submitted in October, 2023 because the appellant had enough funds to "private pay" for his LTC stay.

The appellant's estate's attorney testified that as of the date of the denial, the assets were no longer in the appellant's account, and "payable on death" accounts are not accessible to an estate's Personal Representative. The estate's attorney testified that the beneficiary who withdrew the money after the appellant's death has been unreachable. The estate's attorney testified that some of the funds (\$2,095.00) were spent at a funeral home after the appellant's

¹ MassHealth should not have accepted the appellant's application for processing because the appellant was already deceased, and the person who signed the application was not authorized at the time to sign on behalf of the appellant's estate. The timeline is as follows: [REDACTED]; 1/30/24 - Application signed/dated by Matthew Weir as personal representative; 1/30/24 - ARD submitted/signed with the application that states Matthew Weir is the personal representative for the estate; 2/3/24 - Hearing on the Decree and Order on Petition for formal adjudication; 5/24/24 - Letters of Authority for Personal Representative issued.

² Appeal #2407184 was withdrawn prior to the hearing

³ Appeal #2418084.

death (Exhibit 2). The appellant's estate's attorney submitted a brief in which she argued that the appellant did not have ownership of the fund after his death because the account transferred to the beneficiary; therefore, MassHealth would not consider them countable assets under 130 CMR 520.007(B)(2). (Exhibit 2).⁴ The estate's attorney argued that the appellant added the beneficiary to his bank account in 2018 before the look-back period for disqualifying transfers. The appellant was the sole owner of the bank account.

Findings of Fact

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

1. The appellant was admitted to a long-term care facility on [REDACTED]
2. The appellant died on [REDACTED].
3. MassHealth received an application for long-term care on 1/31/24, seeking a coverage start date of 10/28/23.
4. MassHealth sent a request for information on 2/12/24, and did not receive a response.
5. On 3/19/24, MassHealth sent a denial notice because the appellant died.
6. On 5/6/24, the Board of Hearings received an appeal from the Personal Representative of the appellant's estate, which was ultimately withdrawn.
7. In July, 2024 MassHealth received the requested verifications.
8. On 9/26/24, MassHealth denied the appellant's application due to a disqualifying transfer of assets on 2/2/24, and imposed an ineligibility period from 10/28/23 to 2/25/24.
9. The appellant's estate filed a timely appeal of the 9/26/24 notice.
10. The beneficiary of the appellant's bank accounts withdrew \$42,238.54 on 2/2/24 from one of the appellant's bank accounts, and MassHealth did not receive proof that the assets were spent on the member.
11. The denial notice for transfer of assets was appealed, and an appeal hearing was held. The

⁴ 130 CMR 520.007(B)(2) Determination of Ownership and Accessibility. The MassHealth agency considers funds in a bank account available only to the extent that the applicant or member has both ownership of and access to such funds. The MassHealth agency determines the ownership of and access to the funds in accordance with 130 CMR 520.005 and 520.006.

appeal decision issued on 2/7/25 ordered MassHealth “[r]escind notice of September 26, 2024. Issue a new eligibility notice to the estate reflecting that the Appellant had excess assets on the date eligibility was sought, and provide the estate with an opportunity to show that assets were reduced in compliance with 130 CMR 520.004.”

12. A denial notice for excess assets was issued on 2/12/25 because at the time of the appellant’s application, his assets totaled \$42,238.54 in two bank accounts.
13. The 2/12/25 notice provided the appellant’s estate 30 days to submit proof that the appellant’s estate spent down \$40,238.54 on the appellant’s care. MassHealth did not receive proof of how the \$40,238.54 was spent.
14. The appellant was the sole owner of the bank accounts.

Analysis and Conclusions of Law

“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)). If an applicant for long-term-care benefits has more than \$2,000 in assets, they may reduce their assets and achieve eligibility per 130 CMR 520.004. 130 CMR 520.004(A) reads in part as follows:

130 CMR 520.004: Asset Reduction

(A) Criteria.

- (1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth
 - (a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or
 - (b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.
- (2) In addition, the applicant must be otherwise eligible for MassHealth.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

- (1) If after eligibility has been established, an individual submits an allowable bill with a

medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) 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.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

The appellant had assets in his bank account above the \$2,000 MassHealth limit on the date he sought coverage for his LTC stay, 10/28/23. The appellant had ownership of and access to this bank account on 10/28/23.⁵ Absent a disqualifying transfer of assets, the appellant would have been eligible for MassHealth coverage, if institutionalized, on the date on which he reduced his assets below the \$2,000 MassHealth limit. (130 CMR 520(A)(1) and (C)).

Pursuant to 130 CMR 520.004(A)(1)(b), the appellant, through his estate, had 30 days to reduce assets to \$2,000 or less by paying medical bills incurred by the appellant. Regardless of whether or not the appellant died, he or his estate must cooperate with MassHealth in providing the requested information to establish eligibility. 130 CMR 515.008(A).⁶ Given that the appellant's estate did not provide proof that the \$40,238.54 in excess assets were used for to pay for his care or for a pre-paid burial arrangement, 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

⁵ 130 CMR 520.005(A), "General." Assets owned exclusively by an applicant or member and the spouse are counted in their entirety when determining eligibility for MassHealth, except when assessing assets in accordance with 130 CMR 520.016. 130 CMR 520.006(A) Definition. An inaccessible asset is an asset to which the applicant or member has no legal access.

⁶ 130 CMR 515.008: Responsibilities of Applicants and Members (A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.

Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Christine Therrien
Hearing Officer
Board of Hearings

[REDACTED]

[REDACTED]

[REDACTED]

cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center