

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied Dismissed	Appeal Number:	2503825
Decision Date:	04/17/2025	Hearing Date:	03/31/2025
Hearing Officer:	Scott Bernard		

Appearances for Appellant:




Appearance for MassHealth:

Janine Monico (Tewksbury MEC) *via* telephone



*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 Dismissed	Issue:	Community Eligibility Over 65 Assets/LTC Eligibility Assets/Timeliness
Decision Date:	04/17/2025	Hearing Date:	03/31/2025
MassHealth's Rep.:	Janine Monico	Appellant's Reps.:	
Hearing Location:	Tewksbury MassHealth Enrollment Center	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

Through a notice dated February 14, 2025, MassHealth denied the appellant's application for MassHealth community based benefits because MassHealth determined that the appellant had more countable assets than MassHealth benefits allow. (See 130 CMR 520.002, 520.003, 520.016, and Ex. 1)¹. The appellant filed this appeal on March 7, 2025. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth informed the appellant that he was not eligible for MassHealth benefits because his

¹ Through a notice dated July 16, 2024, MassHealth informed the appellant that his eligibility for MassHealth Long Term Care (LTC) benefits would close by July 31, 2024 because MassHealth determined that the appellant and his spouse's assets exceeded MassHealth's asset limit. (See 130 CMR 520.003, 520.016, and Exhibit (Ex.) 6). Such notice was not timely appealed.

assets exceeded the asset limit.

Issue

Whether MassHealth correctly determined, pursuant to 130 CMR 520.002, 520.003, and 520.016, that the appellant was not eligible for community-based MassHealth because the combined assets of the appellant and spouse exceeded the allowable asset limit. Whether the appellant's appeal, filed on March 7, 2025, was timely with respect to MassHealth's termination of the appellant's long-term care (LTC) coverage on July 16, 2024. Whether there was evidence to substantiate the assertion that the appellant's representatives submitted a new application for LTC services after the appellant's benefits closed on July 31, 2024.

Summary of Evidence

The hearing was attended by a MassHealth representative from the Tewksbury MassHealth Enrollment Center, the appellant's daughter, the appellant's spouse, and a bookkeeper from the nursing facility. All parties appeared by telephone.

The MassHealth representative testified first to the following. (Testimony). On February 13, 2025, MassHealth received a letter from the appellant's spouse notifying them that the appellant was residing in a nursing facility and that their home had been sold. (Testimony). This led MassHealth to update the appellant's address in the system, and then automatically issue the notice under appeal on February 14, 2025. (Testimony; Ex. 1).

The MassHealth representative subsequently discovered that the appellant was previously on MassHealth LTC benefits, which had been terminated as of July 31, 2024. (Testimony; Ex. 6). MassHealth issued a termination notice on July 16, 2024, which stated that the appellant had more countable assets than MassHealth allowed for he and his spouse. (Testimony; Ex. 6). There was no record of the notice being appealed. (Testimony). The MassHealth representative emphasized that because of the lapse in coverage, a new Long Term Care (LTC) application would be required for the appellant to reestablish eligibility for LTC services. (Testimony).

The appellant's daughter testified that the appellant was admitted to the nursing facility in [REDACTED] and that his MassHealth long-term care (LTC) coverage began shortly thereafter, on [REDACTED]. (Testimony). She acknowledged some hospital stays but stated that the appellant had continuously resided in and received care from the facility since his initial admission.

The facility's bookkeeper testified that they were unaware of any change in the appellant's benefits until they noticed payments had ceased after July 31, 2024. (Testimony). She confirmed that no payments had been received since that date, indicating that MassHealth coverage had been discontinued. (Testimony). She further stated that a new application was submitted on November 22, 2024, and that she contacted MassHealth on December 27, 2024, to confirm its

receipt. (Testimony).

In response, the MassHealth representative testified that she could not locate an LTC application in the system and reiterated that a new LTC application was required. (Testimony). She also noted that, to her knowledge, LTC applications could not be submitted online. (Testimony). Although she agreed to follow up with the intake department, she maintained that no application was currently on file. (Testimony).

The appellant's daughter referenced the denial notice, which listed a \$12,600 investment account as a countable asset—an account she claimed the family did not recognize. (Testimony). She clarified that it had belonged to the appellant's spouse and had since been closed. (Testimony). The MassHealth representative responded that any such asset would require verification once a new application was properly submitted. (Testimony). She also clarified that the current appeal related only to the February 14 community-based denial and not the July 16, 2024, LTC termination. (Testimony).

The appellant's daughter testified that neither she, her mother, nor their attorney ever received the July 2024 denial notice. (Testimony). The facility's bookkeeper, who manages billing for multiple MassHealth residents, supported this claim, stating she had never missed a notice in the past, which, in her view, further suggested the notice had not been received. (Testimony). At the request of the hearing officer in the hearing, the MassHealth representative forwarded copies of the July 16, 2024 notice. (Ex. 6). The hearing officer confirmed with the parties that these were addressed to the appellant, the nursing facility, the appellant's attorney, and the appellant's spouse. (Testimony; Ex. 6, pp. 1, 6, 16, 21).

Findings of Fact

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

1. [REDACTED]
2. The appellant has a spouse who lives in the community. (Testimony).
3. Shortly after his admission to the nursing facility, the appellant applied for MassHealth LTC coverage, which was approved and began on [REDACTED]. (Testimony).
4. With the exception of some short hospital stays, the appellant has lived continuously at the nursing facility since [REDACTED]. (Testimony).
5. On July 16, 2024, MassHealth sent the appellant a notice informing him that it would terminate his LTC benefits on July 31, 2024 because he had more countable assets than MassHealth benefits allow for he and his spouse. (Testimony; Ex. 6).

6. Copies of the notice were sent to the appellant at the nursing facility, the nursing facility, the appellant's attorney, and the appellant's spouse. (Ex. 6, pp. 1, 6, 16, 21).
7. MassHealth did not receive an appeal of the notice, and the appellant's LTC benefits ended on July 31, 2024. (Testimony).
8. On February 13, 2025, MassHealth received a letter from the appellant's spouse notifying them that the appellant was residing in a nursing facility and that their home had been sold. (Testimony).
9. This led MassHealth to update the appellant's address in the system, which automatically caused MassHealth to issue a notice on February 14, 2025 informing the appellant that it was denying his request for MassHealth benefits because he had more countable assets than MassHealth benefits allowed. (Testimony; Ex. 1).
10. The appellant, through his representatives, submitted a timely appeal of the February 14, 2025 notice on March 7, 2025. (Ex. 1; Ex. 2).
11. As of the close of the hearing, the appellant is over the asset limit to receive MassHealth Community benefits. (Testimony).
12. MassHealth does not have a record of the appellant submitting an application for LTC benefits since July 31, 2024, the date his LTC benefits closed. (Testimony).

Analysis and Conclusions of Law

Under 130 CMR 610.015(B)(1), the Board of Hearings (BOH) generally has jurisdiction over MassHealth actions only when a written request for a fair hearing is submitted within 60 days of the applicant or member receiving written notice of the intended action. Pursuant to 130 CMR 610.015(B)(2), unless waived by the BOH Director or designee, BOH may also assert jurisdiction when a written request is submitted within 120 days of:

- the application date (if MassHealth fails to act),
- the service request date (if MassHealth fails to respond),
- the action date (when no written notice was issued), or
- the date of alleged coercive or improper conduct.

The record indicates that the appellant had been receiving long-term care (LTC) benefits since [REDACTED]. On July 16, 2024, MassHealth issued a written notice to the appellant and several interested parties stating that his LTC benefits would end on July 31, 2024, due to assets exceeding the MassHealth asset limit.

There is no evidence that this notice was timely appealed to the Board of Hearings. Although the appellant's representatives asserted that neither they nor the facility received the termination notice and were therefore unaware of the termination, MassHealth submitted copies of the July 16, 2024 notice addressed to the relevant parties. Further, the facility's bookkeeper noted that the nursing facility was aware that MassHealth was no longer paying after July, 2024 and that the facility attempted to submit a new application in November, 2024, which indicates the facility was aware that MassHealth had been terminated at those times. Assuming without deciding that MassHealth did not send the submitted notices, the appeal was not received by the Board of Hearings until March 7, 2025—well beyond the 120-day timeframe from the effective date of termination. BOH lacks jurisdiction to review the July 16, 2024 termination notice.

In this case, on February 13, 2025, the appellant's spouse reported that the appellant remained in a nursing facility and that their home had been sold. This report triggered a review of the appellant's eligibility. Because the appellant had already been terminated from LTC benefits, the review was for community MassHealth benefits. Based on that review, MassHealth determined the appellant's countable assets exceeded allowable limits, which for a couple living in the community is \$3,000 or for an individual living in an institution is \$2,000. (See 130 CMR 520.003; 520.016). MassHealth therefore issued a denial notice dated February 14, 2025 stating that the appellant was not eligible because his assets exceeded the asset limit. Although the appellant's representatives asserted that the appellant was under the asset limit, they did not submit any evidence, either before or during the hearing, to support this claim.

The appellant's representatives also claimed that a new LTC application was submitted on November 22, 2024, and that MassHealth was contacted on December 27, 2024, to confirm receipt.

According to 130 CMR 516.001(A)(1), individuals applying for LTC services—whether in the community or a nursing facility—must submit a complete paper Senior Application with all required Supplements, or apply in person at a MassHealth Enrollment Center (MEC).

The MassHealth representative testified that no such application was on file and that LTC applications cannot be submitted online. The appellant's representatives did not provide any documentation to support their claim that a new application was submitted.

Based on the above findings:

- BOH does not have jurisdiction over the July 16, 2024 termination notice and any appeal of such notice is dismissed;
- The February 14, 2025 denial notice was properly issued based on a change in reported circumstances and lack of verification of asset eligibility; and

- The alleged submission of a new LTC application was unsubstantiated.

For these reasons, the appeal is DISMISSED in part and DENIED in part.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957