

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2503947
Decision Date:	5/9/2025	Hearing Date:	4/10/2025
Hearing Officer:	David Jacobs	Record Open to:	5/01/2025

Appearance for Appellant:



Appearance for MassHealth:

Rhiannon Wojick, Tewksbury MEC



*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 eligibility – Start date
Decision Date:	5/9/2025	Hearing Date:	4/10/2025
MassHealth's Rep.:	Rhiannon Wojick	Appellant's Rep.:	
Hearing Location:	Remote	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 13, 2025, MassHealth approved Appellant for MassHealth Standard long-term care benefits, effective July 16, 2024 (Exhibit 1). Appellant filed this appeal in a timely manner on March 11, 2025 (Exhibit 2 & 130 CMR 610.015(B)). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth approved Appellant for MassHealth Standard long-term care benefits, effective July 16, 2024.

Issue

The appeal issue is whether MassHealth was correct in determining the start date of long-term care coverage.

Summary of Evidence

The MassHealth representative appeared telephonically and submitted the following into the record:

“The applicant is an [REDACTED]-year-old married individual who was admitted to the facility on [REDACTED] 24 and they are seeking a start date of 7/1/24.

Application timeline:

8/29/24 LTC application received. (controlling application).
 9/17/24 Information request issued.
 10/3/24 Denial issued for missing verifications.
 11/6/24 Verifications received.
 1/6/25 Denied for exceeds assets.
 2/13/25 Approved for 7/16/24.
 2/21/25 Appeal for exceeds assets was scheduled and withdrawn.

Countryside is requesting an eligibility date of 7/1/24		
Countable Assets	Date	Balance
Checking x [REDACTED]	7/3/2024	\$70,258.76
CD X [REDACTED]	6/28/2024	\$8,374.22
CD X [REDACTED]	6/28/2024	\$10,642.36
CD X [REDACTED] CLOSED 7/8/24	6/28/2024	\$144,766.28
CD X [REDACTED]	6/28/2024	\$9,742.08
CD x [REDACTED]	6/28/2024	\$26,911.52
CD x [REDACTED]	6/28/2024	\$0.03
Checking x [REDACTED]	7/7/2024	\$1,527.13
Moneymarket X [REDACTED]	7/1/2024	\$32,943.15
IRA x [REDACTED] closed 7/8/24	7/1/2024	\$261,926.32
[REDACTED]	9/26/2024	\$3,766.53
Total		\$570,858.38
Allowable Deductions	Date	Amounts
		\$2,000.00
Private pay	4/5/24 - 6/30/24	\$41,375.00
Total		\$43,375.00

Total Countable Assets		\$570,858.38
Total Allowable Deductions		\$43,375.00
Remainder		\$527,483.38
Divided Private Pay Rate		\$481.10
Days not qualified		1096.41
Member is eligible for start date of 7/3/27		

After reviewing documents MassHealth finds that we can adjust the start date to 7/8 as this is the date the 2nd annuity was funded and in which the applicant/spouse assets become below the allowable limit. Reg 130 CMR 520.003 and 520.004

It's MassHealth position that the applicant had the funds available to pay for their care until 7/8/24."

(Exhibit 6).

The appellant's representative appeared telephonically and conceded most of the facts set forth by MassHealth. However, he argues that the start date should be July 1, 2024, not July 8, 2024 because although the second annuity was funded on July 8, the check to purchase it was handed over to the Rockland Trust on July 1 by the appellant's spouse, to later be transferred to Nationwide for the annuity. He argues the appellant had no access to the funds on the date it was turned over to [REDACTED] on July 1, thus she was under the asset limit for MassHealth on that date.

MassHealth responded that even though the check was given to [REDACTED] on July 1, it was not out of the appellant's control until it was transferred to [REDACTED] to fund the annuity on July 8. Therefore, the appellant was over the asset limit until that date.

The appellant's representative was adamant that he had experiences like this in the past with MassHealth and MassHealth was always willing to honor the date the check was handed over, not the date it was cashed. In response, the hearing officer left the record open until April 24, 2025 for the appellant representative to support his position with a legal brief (Exhibit 7). MassHealth was given until May 1, 2025 to review it and respond (*id*).

On April 30, 2025, the appellant's representative submitted the requested brief (Exhibit 8). That same day MassHealth responded that its position was unchanged and requested that the hearing officer render a decision (Exhibit 9).

In the brief, the appellant's representative summarizes the facts and argues that because

“Federal Medicaid law at 42 U.S.C. § 1396a(a)(19) requires that each state Medicaid program be administered ‘in a manner consistent with simplicity of administration and the best interests of the recipients,’ the appellant should be given the benefit of the July 1 start date as it was the appellant’s spouse every intent and effort to divest himself of the funds on July 1, 2025 (Exhibit 8, pg. 3). If the appellant’s spouse were to withdraw the funds at that time, he would be exposing himself to unnecessary state and federal taxes (*id*).

Findings of Fact

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

1. Appellant was admitted to the nursing facility on [REDACTED] 2024.
2. On August 29, 2024, MassHealth received Appellant’s application for long-term care benefits.
3. Appellant requested an eligibility start date of July 1, 2024.
4. On February 13, 2025, MassHealth approved the application and established a coverage start date of July 16, 2024.
5. On March 11, 2025, the appellant appealed the February 13, 2025 notice.
6. Before the hearing on April 10, 2025, the MassHealth representative reviewed the appellant’s submissions and recalculated the start date to July 8, 2024.
7. On July 1, 2024, the appellant’s spouse gave a check to [REDACTED] for purchase of an annuity from [REDACTED].
8. [REDACTED] purchased the annuity from [REDACTED] on July 8, 2024.

Analysis and Conclusions of Law

The issue on appeal is the start date of the appellant’s long-term care coverage. The date of coverage relates to when her assets were reduced to below the \$2,000 regulatory limit. In this matter, the appellant’s spouse gave a check to [REDACTED] on July 1, 2024 to be transferred to [REDACTED] for purchase of an annuity to qualify for MassHealth. The actual purchase of the annuity occurred on July 8, 2024. MassHealth considers July 8, 2024 to be the controlling date because that is the date the appellant had no ownership or access to the funds. However, the appellant representative argues July 1, 2024 should be the controlling date as it was the date the appellant made every effort to no longer have access or ownership of the funds.

Per 130 CMR 520.004(A), the start date for MassHealth long-term care benefits is calculated as follows:

- (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.

The appellant's position regarding a July 1st start date is not persuasive. Per 130 CMR 520.007(B)(3), MassHealth considers the current balance of the bank account when calculating an applicant's assets. Until July 8, 2024, Appellant had ownership of and access to the funds in the account because she or her spouse had the opportunity to stop payment on the checks. *See* Mass. Gen. Laws ch. 106 § 4–403(a).¹ Further, if the annuity application had been denied, Appellant would have maintained ownership of the funds. The appellant's representative's argument that to exercise control of the funds after it was given to [REDACTED] would expose the appellant to state and federal taxes does not change the fact that the funds were within the appellant's control. Moreover, the appellant's representative's argument that Medicaid must be administered "in a manner consistent with simplicity of administration and the best interests of the recipients" likewise does not change the requirements of 130 CMR 520.007(B)(3).

The appeal is denied.

Order for MassHealth

None.

¹ A bank check or cashier's check, on the other hand, clears the account on the date of purchase.

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.

David Jacobs
Hearing Officer
Board of Hearings

cc:

Tewksbury MEC

[REDACTED]

[REDACTED]