

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2506029
Decision Date:	6/11/2025	Hearing Date:	05/13/2025
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:



Appearance for MassHealth:

Via telephone:

Kelly Rosati, Springfield 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:	LTC; Start Date
Decision Date:	6/11/2025	Hearing Date:	05/13/2025
MassHealth's Rep.:	Kelly Rosati	Appellant's Rep.:	[REDACTED]
Hearing Location:	Springfield MassHealth Enrollment Center, 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 April 1, 2025, MassHealth informed the appellant that she was approved for MassHealth long-term care benefits with a start date of November 2, 2024 (see Exhibit 1). The appellant filed this appeal in a timely manner on April 15, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Challenging the scope of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant for MassHealth long-term care benefits with a start date of November 2, 2024.

Issue

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

Summary of Evidence

The appellant was represented at hearing via telephone by two Medicare consultants. The MassHealth representative appeared at hearing via telephone and testified as follows: on November 21, 2024, MassHealth received an application for long-term care benefits with a requested start date of September 21, 2024. The appellant is over 65 and a resident of a nursing facility. On April 1, 2025, MassHealth informed the appellant that she was approved for MassHealth long-term care benefits with a start date of November 2, 2024. The appellant is disputing the period of ineligibility due to a transfer of resources and the resulting start date.

The MassHealth representative testified that as of the requested start date of September 21, 2024, the appellant had excess assets of \$14,690.40. At the time, the private daily nursing facility rate was \$433. The appellant spent \$10,000 on a prepaid burial contract, putting her \$4,690.40 over the allowable asset limit as of September 21, 2024. When divided by the daily nursing facility rate, it results in 11 days of ineligibility, or an otherwise eligible date of October 2, 2024. The appellant closed out three IRAs on March 3, 2023 in the total amount of \$13,235. MassHealth did not have any receipts or verifications to show how this money was spent, which resulted in a 31-day period of ineligibility (\$13,235 divided by the daily nursing facility rate of \$433) due to the disqualifying transfer of resources and a start date of November 2, 2024.

The appellant's representatives testified that the appellant has dementia and cannot explain how the \$13,235 was used. They provided an affidavit from the appellant's power of attorney who attested that the appellant used cash for various living expenses, including take-out/delivery meals, groceries, prescriptions/pharmacy, clothing, household necessities, lawn care/landscaping, hairdressing services, and gas; however, she did not know exactly how the funds were spent. The appellant's representatives stated that from March 2023 to the time the appellant's health care proxy was invoked in September 2024, it is feasible that she could have spent that amount on those personal needs. The power of attorney could not find any receipts or supporting documentation, but did not recall any substantial purchases, just her everyday living expenses.

Findings of Fact

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

1. The appellant is over the age of 65 and a resident in a nursing facility (Testimony and Exhibit 4).
2. On November 21, 2024, MassHealth received an application on behalf of the appellant for MassHealth long-term care benefits with a requested start date of September 21, 2024 (Testimony and Exhibit 5).

3. On April 1, 2025, MassHealth approved the appellant for MassHealth long-term care benefits with a start date of November 2, 2024 (Testimony and Exhibit 1).
4. On April 15, 2025, the appellant timely appealed the notice (Exhibit 2).
5. As of the requested start date of September 21, 2024, the appellant was over the \$2,000 allowable asset limit by \$14,690.40 (Testimony and Exhibit 5).
6. The appellant spent down \$10,000 on a prepaid burial contract which put her \$4,690.40 over the allowable asset limit as of September 21, 2024 (Testimony and Exhibit 5).
7. Based on the private pay daily nursing facility rate of \$433, MassHealth calculated an 11-day period of ineligibility and determined an otherwise eligible date of October 2, 2024 (Testimony and Exhibit 5).
8. The appellant closed out three IRAs on March 3, 2023 in the total amount of \$13,235 (Testimony and Exhibit 5).
9. MassHealth did not have any receipts or verifications to show how this money was spent, which resulted in a 31-day period of ineligibility (\$13,235 divided by the daily nursing facility rate of \$433) due to the disqualifying transfer of resources and a start date of November 2, 2024 (Testimony and Exhibit 5).
10. The appellant's appeal representatives and power of attorney did not know exactly how the money was spent, but stated that the appellant used cash for various living expenses (Testimony and Exhibit 6).
11. The appellant, who has dementia, and her representatives could not provide any receipts or other supporting documentation to show how the \$13,235 was spent (Testimony and Exhibit 6).

Analysis and Conclusions of Law

This appeal addresses whether MassHealth correctly approved the appellant for long-term care coverage with a benefit start date of November 2, 2024. First, for an individual to become eligible for long-term care benefits, his or her assets may not exceed \$2,000. See 130 CMR 520.003. However, an applicant whose countable assets exceed the asset limit may become eligible through MassHealth's asset reduction process, described as follows:

(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.***

130 CMR 520.004 (emphasis added).

In this case, MassHealth correctly determined that the appellant had \$14,690.40 in excess assets as of the requested start date of September 21, 2024. MassHealth then correctly deducted the prepaid burial contract, leaving the appellant with \$4,690.40 in excess assets as of September 21, 2024.¹ As there were no other allowable medical expenses that MassHealth could appropriately consider, MassHealth then calculated the date the appellant would be eligible for MassHealth benefits pursuant to 130 CMR 520.004(C) by dividing the remaining excess assets (\$4,690.40) by the private pay daily nursing facility rate (\$433) and calculated an 11-day period of ineligibility. As such, MassHealth correctly determined that the appellant was otherwise eligible beginning October 2, 2024.

Next, MassHealth considers any transfer during the appropriate look-back period by the nursing-facility resident. . . of a resource, or interest in a resource, owned by or available to the nursing-facility resident . . . 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). A disqualifying transfer may include any action taken which would result in making a formerly available asset no longer available. 130 CMR 520.019(C). In addition to the permissible transfers described at 130 CMR 520.109(D), MassHealth will not impose a period of ineligibility for transferring resources at less than fair market value if the resident demonstrates to MassHealth's satisfaction that the resources were transferred exclusively for a purpose other than to qualify for MassHealth, or the resident intended to dispose of the resource at either fair market value or for other valuable consideration. 130 CMR 520.019(F). Under Federal law, an

¹ Funeral and burial arrangements are considered noncountable assets pursuant to 130 CMR 520.008(F).

applicant must make a heightened evidentiary showing on this issue: **“Verbal assurances that the individual was not considering Medicaid when the asset was disposed of are not sufficient. Rather, convincing evidence must be presented as to the specific purpose for which the asset was transferred.”** Gauthier v. Dir., Office of Medicaid, 80 Mass.App.Ct. 777, 785 (2011) (citing State Medicaid Manual, Health Care Financing Administration Transmittal No. 64, § 3258.10(C)(2)).

After calculating the otherwise eligible date of October 2, 2024, MassHealth found that the appellant was ineligible for MassHealth long-term care benefits from October 2, 2024 through November 1, 2024 because she transferred resources for less than fair market value. Specifically, the appellant cashed out three IRAs, totaling \$13,235, on March 3, 2023, which is within the five-year look-back period. While the appellant’s representatives’ testimony and power of attorney’s affidavit are credible, those verbal assurances are insufficient to show that those resources were “transferred exclusively for a purpose other than to qualify for MassHealth, or the resident intended to dispose of the resource at either fair market value or for other valuable consideration.” Convincing evidence must be presented as to the specific purpose for which the asset was transferred and the appellant has not done so here.

Accordingly, MassHealth correctly determined the appellant’s long-term care coverage start date of November 2, 2024 and 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 Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Alexandra Shube
Hearing Officer
Board of Hearings

[REDACTED]

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104

