

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2506208
Decision Date:	6/18/2025	Hearing Date:	05/20/2025
Hearing Officer:	Christine Therrien		

Appearance for Appellant:



Appearance for MassHealth:

Rhiannon Wojick, Tewksbury



*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; Disqualifying Transfer
Decision Date:	6/18/2025	Hearing Date:	05/20/2025
MassHealth's Rep.:	Rhiannon Wojick	Appellant's Rep.:	
Hearing Location:	Tewksbury 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 2/21/25, MassHealth approved the appellant's application for MassHealth Long Term Care benefits beginning 5/4/24, with a patient-paid amount (PPA) of \$2,436.64 a month beginning on 3/1/25. (130 CMR 520.026 and Exhibit 1). The appellant filed this appeal in a timely manner, challenging the coverage start date, on 4/18/25. (130 CMR 610.015(B) and Exhibit 2). Determination of a start date is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined a MassHealth start date of 5/4/24.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.006, in determining that the appellant's LTC benefits start date of 5/4/24.

Summary of Evidence

The MassHealth representative testified that the appellant is [REDACTED] years old and was admitted to a long-term care (LTC) facility on [REDACTED] 24. The MassHealth representative testified that on 3/22/24, MassHealth received a LTC application with a requested coverage start date of 4/15/24. The MassHealth representative testified that on 4/1/24, an information request was issued. The MassHealth representative testified that on 7/8/24, a denial was issued for missing verifications. MassHealth received some of the requested verifications, prompting a second information request that was issued on 9/25/24. The MassHealth representative testified that on 10/2/24, an appeal hearing was scheduled on the issue of missing verifications. The appeal was withdrawn when it was resolved, and the application date of 3/22/24 was preserved. The MassHealth representative testified that on 10/30/24, an excess assets notice was issued. The MassHealth representative testified that on 2/7/25, there was an appeal hearing (appeal #2500168) for excess assets, which was dismissed after the appellant reduced his assets below the MassHealth limit. The MassHealth representative testified that the notice on appeal was issued because of a disqualifying transfer during the look-back period, resulting in a period of ineligibility from 4/15/24 through 5/3/24. The MassHealth representative testified that MassHealth found that on 3/6/24, the appellant wrote a check for \$8,000 to his daughter. The MassHealth representative testified that MassHealth calculates the period of ineligibility by dividing the disqualifying transfer amount by the average cost to a person paying privately for nursing facility services in the Commonwealth; \$8000 (transfer amount) divided by \$433.00 (average daily nursing home rate) = 18.47, or 19 Days.

The appellant's representative submitted an email into evidence from the appellant's daughter dated [REDACTED] 25, which states, "my father gave me money to help me out with my car so I will be able to take him back and forth to the [hospital]. However, he eventually ended up being sent to [the LTC facility]. I now travel there to see him." (Exhibit 6).

The MassHealth representative submitted a 10/29/24 faxed letter from the appellant's representative into the record, which states in part, "[r]egarding check on 3/6/24 for \$8000 – this was money given to daughter. We will accept penalty for that." (Exhibit 5).

The MassHealth representative testified that the appellant listed a car as an asset, which MassHealth verified on 7/30/24.

Findings of Fact

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

1. The appellant is [REDACTED] years old and was admitted to an LTC facility on [REDACTED] 24.
2. On 3/22/24, MassHealth received a LTC application with a requested start date of

4/15/24.

3. On 4/1/24, an information request was issued.
4. On 7/8/24, a denial was issued for missing verifications.
5. MassHealth received some of the requested verifications, prompting a second information request that was issued on 9/25/24.
6. On 10/2/24, an appeal was scheduled for missing verifications. The appeal was withdrawn because it was resolved, and the application date of 3/22/24 was preserved.
7. On 10/30/24, an excess assets notice was issued.
8. On 2/7/25, there was an appeal for excess assets, which was dismissed after the appellant reduced his assets below the MassHealth limit.
9. The notice on appeal was issued because of a disqualifying transfer during the look-back period, resulting in a period of ineligibility from 4/15/24 through 5/3/24.
10. On 3/6/24, the appellant wrote a check for \$8,000 to his daughter.
11. MassHealth calculates the period of ineligibility by dividing the disqualifying transfer amount by the average cost to a person paying privately for nursing facility services in the Commonwealth; \$8000 (transfer amount) divided by \$433.00 (average daily nursing home rate) = 18.47, or 19 Days (Eligibility Operations Memo 24-07 (November, 2024)).
12. An email from the appellant's daughter dated [REDACTED] 25 states, "my father gave me money to help me out with my car so I will be able to take him back and forth to the [hospital]. However, he eventually ended up being sent to [the LTC facility]. I now travel there to see him."
13. On 7/30/24, MassHealth verified that the appellant owned a car.
14. A 10/29/24 faxed letter from the appellant's representative states in part, "[r]egarding check on 3/6/24 for \$8000 – this was money given to daughter. We will accept penalty for that." (Exhibit 5).

Analysis and Conclusions of Law

To qualify for MassHealth LTC coverage, the assets of the institutionalized applicant cannot exceed

\$2,000.00 (130 CMR 520.016(A)). If resources above the program limit are available to the applicant, then 130 CMR 520.018(B) and 130 CMR 520.019 govern whether those assets are disqualifying transfers.

130 CMR 520.018(B) states:

The MassHealth agency will deny payment for nursing facility services to an otherwise eligible nursing-facility resident ... who transfers or whose spouse transfers countable resources for less than fair-market value during or after the period of time referred to as the look-back period.

The relevant parts of 130 CMR 520.019(B) and (C) ("Transfer of Resources Occurring on or after August 11, 1993") state:

(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. This period generally extends back in time for 36 months. For transfers of resources occurring on or after February 8, 2006, the period extends back in time for 60 months...

(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...

130 CMR 520.019(D)(1) through (5) do not apply as the transfer was neither for the benefit of the appellant's spouse, nor a permanently disabled child, nor placed in a trust for the benefit of a permanently disabled appellant in a nursing facility or a permanently disabled person under the age of 65. Further, 130 CMR 520.019(D)(6) does not apply as this transfer does not include a home, and subsection (7) does not apply as this transfer was not used to fund a burial account for the appellant or his spouse.¹ This transfer was also not exempt under 130 CMR 520.019(J) since it

¹ 130 CMR 520.019(D) Permissible Transfers. The MassHealth agency considers the following transfers permissible. Transfers of resources made for the sole benefit of a particular person must be in accordance with federal law. (1) The resources were transferred to the spouse of the nursing-facility resident or to another for the sole benefit of the spouse. A nursing facility resident who has been determined eligible for MassHealth agency payment of nursing facility services and who has received an asset assessment from the MassHealth agency must make any

was not the proceeds from a home equity loan or reverse mortgage. Therefore, the only regulation that applies is 130 CMR 520.019(F), which states the following:

(F) Determination of Intent. In addition to the permissible transfers described in 130 CMR 520.019(D), the MassHealth agency will not impose a period of ineligibility for transferring resources at less than fair-market value if the nursing-facility resident or the spouse demonstrates to the MassHealth agency's satisfaction that

- (1) the resources were transferred exclusively for a purpose other than to qualify for MassHealth; or
- (2) the nursing-facility resident or spouse intended to dispose of the resource at either fair-market value or for other valuable consideration. Valuable consideration is a tangible benefit equal to at least the fair-market value of the transferred resource.

The transfer of \$8,000 to the appellant's daughter falls within the look-back period described in 130 CMR 520.019(B) and (C). The appellant made the transfer to his daughter on [REDACTED] 24, which is after he entered the LTC facility on [REDACTED] 24. Although the appellant's daughter claimed the check was used for her car so she could drive him to the hospital, the check was actually written after he entered the LTC facility. Thus, I conclude that this transfer was made in order to reduce the appellant's assets below the MassHealth asset limit. Additionally, the appellant did not provide

necessary transfers within 90 days after the date of the notice of approval for MassHealth in accordance with 130 CMR 520.016(B)(3). (2) The resources were transferred from the spouse of the nursing facility resident to another for the sole benefit of the spouse. (3) The resources were transferred to the nursing facility resident's permanently and totally disabled or blind child or to a trust, a pooled trust, or a special-needs trust created for the sole benefit of such child. (4) The resources were transferred to a trust, a special-needs trust, or a pooled trust created for the sole benefit of a permanently and totally disabled person who was younger than 65 years old at the time the trust was created or funded. (5) Effective until sixty days after the end of the maintenance of effort and continuous eligibility provisions of Section 6008 of the Families First Coronavirus Response Act (Public Law No. 116-127), the resources were transferred to a pooled trust created for the sole benefit of the permanently and totally disabled nursing-facility resident. Effective sixty days after the end of the maintenance of effort and continuous eligibility provisions of Section 6008 of the Families First Coronavirus Response Act (Public Law No. 116-127), this transfer is no longer permissible. (6) The nursing facility resident transferred the home he or she used as the principal residence at the time of transfer and the title to the home to one of the following persons: (a) the spouse; (b) the nursing facility resident's child who is younger than 21 years old, or who is blind or permanently and totally disabled; (c) the nursing facility resident's sibling who has a legal interest in the nursing facility resident's home and was living in the nursing facility resident's home for at least one year immediately before the date of the nursing-facility resident's admission to the nursing facility; or (d) the nursing facility resident's child (other than the child described in 130 CMR 520.019(D)(6)(b)) who was living in the nursing facility resident's home for at least two years immediately before the date of the nursing facility resident's admission to the institution, and who, as determined by the MassHealth agency, provided care to the nursing facility resident that permitted him or her to live at home rather than in a nursing facility. (7) The resources were transferred to a separately identifiable burial account, burial arrangement, or a similar device for the nursing facility resident or the spouse in accordance with 130 CMR 520.008(F).

itemized receipts showing he received “a tangible benefit equal to at least the fair-market value of the transferred” \$8,000. Under 130 CMR 520.019(F), the check to the appellant’s daughter is considered a disqualifying transfer.

If the MassHealth agency has determined that a disqualifying transfer of resources has occurred, the MassHealth agency will calculate a period of ineligibility 130 CMR 520.019(G)(1).

The relevant part of 130 CMR 520.019(G)(2) (“Determination of the Period of Ineligibility in Special Circumstances”) states:

(i) Multiple transfers occurring on or after February 8, 2006. The MassHealth agency adds the value of all the resources transferred during the look-back period and divides the total by the average monthly cost to a private patient receiving long-term-care services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency. The result will be a single period of ineligibility beginning on the first day of the month in which the first transfer was made or the date on which the individual is otherwise eligible for long-term-care services, whichever is later.

Based on the above, the appellant transferred \$8,000 for less than fair market value, and MassHealth correctly determined an ineligibility period of 19 days ($\$8,000/\$433 = 19$ days) from 4/15/24 through 5/3/24. 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.

Christine Therrien
Hearing Officer
Board of Hearings

[REDACTED]

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center