

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2506285
Decision Date:	7/7/2025	Hearing Date:	May 21, 2025
Hearing Officer:	Brook Padgett		

Appellant Representative:



MassHealth Representative:

Krystina Trout, Springfield MEC



*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 Coverage Start Date 130 CMR 520.019
Decision Date:	7/7/2025	Hearing Date:	May 21, 2025
MassHealth Rep.:	K. Trout	Appellant Rep.:	
Hearing Location:	Springfield		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

The appellant received a notice dated March 25, 2025, stating: MassHealth reviewed the application for MassHealth Long Term Care services received on August 26, 2024 and decided that you qualify for MassHealth Standard benefits to cover your care in a nursing facility. Your coverage begins on January 26, 2025. (Exhibit 1). The appellant filed this appeal timely on April 22, 2025. (130 CMR 610.015); Exhibit 2). Date of eligibility for assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's request for long term care coverage beginning January 26, 2025 after assessing a penalty period from October 30, 2024 to January 25, 2025 due to an impermissible transfer of resources during the look-back period.

Issue

Was the appellant's date of eligibility correctly determined?

Summary of Evidence

MassHealth testified that the appellant applied for long term care benefits on August 26, 2024. A request for verifications was made on September 03, 2024 and a denial for missing verifications was issued on December 10, 2024. The application was re-opened and a second request for verifications was sent on December 17, 2024. The appellant requested long term care coverage beginning October 30, 2024; however, MassHealth approved the appellant's request beginning January 26, 2025, assessing a penalty period from the request date to January 25, 2025, because of a disqualifying transfer of \$45,000.00 during the look-back period. MassHealth argued the appellant was admitted to [REDACTED] nursing home on [REDACTED] 2024. On August [REDACTED] 2024, more than five weeks after admittance and less than two weeks before submitting her long term care application, the appellant transferred \$45,000.00 to her son. On September 18, 2024, the appellant transferred \$2,500.00 to her daughter. The appellant's son made a \$9,000.00 private payment to the facility, partially curing the \$47,500.00 transfer (\$45,000.00 to son + \$2,500.00 to daughter) reducing the total transfer amount to \$38,500.00.

The appellant maintains that her son gave her \$450.00 to \$500.00 a month from December of 2014 through February of 2021 from his business account to help pay for her assisted living expenses and that the transfer was a repayment of the money. However, the appellant provided no signed and dated agreement to prove the transferred funds were loans that needed to be repaid, as opposed to gifts which are not permissible transfers. (130 CMR 520.019 (D)). MassHealth stated the transfer period was calculated by dividing the total transfer amount of \$38,500.00 by the average daily nursing home cost of \$441.00, which equals 87.31 days. The appellant was assessed a disqualification penalty of 88 days from her request date of October 30, 2024 to January 25, 2025.

The appellant's representative explained how the appellant's son gave the appellant money over the years to help pay for her assisted living. When the appellant entered the facility it was discovered she had more assets then anyone knew about so she repaid her son for the help he had given her over the years. The representative acknowledged there was no written agreement that these funds were given as a loan and submitted into evidence copies of the cancelled checks the appellant had received from 2014 to 2021. (Exhibit 4).

Findings of Fact

Based on a preponderance of the evidence, I find:

1. On [REDACTED] 2024, the appellant was admitted to [REDACTED] nursing home. (Testimony).
2. On August 19, 2024, the appellant transferred \$45,000.00 to her son. (Exhibit 4).

3. On August 26, 2024, the appellant applied for MassHealth long term care benefits. (Testimony).
4. On September 18, 2024, the appellant transferred \$2,500.00 to her daughter (POA). (Exhibit 4).
5. The appellant's son transferred \$450.00 to \$500.00 monthly to the appellant from December of 2014 through February of 2021. (Exhibit 4).
6. The appellant's son made a \$9,000.00 payment to the nursing facility, partially curing the transfer and reducing the total transfer amount to \$38,500.00. (Testimony).
7. MassHealth calculated a disqualification period of 88 days by dividing the total transfer amount of \$38,500.00 by the average daily nursing home cost of \$441.00 = 87.31 days. (Testimony).
8. MassHealth approved the appellant's request for long term care coverage beginning January 26, 2025. (Exhibit 1).

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

The appellant was admitted to [REDACTED] nursing home on [REDACTED] 2024. On August 19, 2024, the appellant transferred \$45,000.00 to her son; and on August 26, 2024 she applied for MassHealth long term care benefits. MassHealth made a request for verifications on September 03, 2024. On September 18, 2024, the appellant transferred \$2,500.00 to her daughter. The appellant's application was approved for long term care coverage beginning January 26, 2025 due to an assessment of a penalty period resulting from the August 19th and September 18th transfer of her assets to her children.

MassHealth 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). MassHealth 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. Action taken to avoid receiving a resource may include, but is not limited to, waiving the right to receive a resource, not accepting a resource, agreeing to the diversion of a resource, or

failure to take legal action to obtain a resource. In determining whether or not failure to take legal action to receive a resource is reasonably considered a transfer by the individual, MassHealth will consider the specific circumstances involved. 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)).

There is no dispute that appellant transferred her own funds to her son and daughter within the applicable look back period. MassHealth takes the position that the appellant did not receive fair market value for the transferred funds and thus determined that the transactions were disqualifying transfers.¹ The appellant argues, however, that the transfer was a repayment of the money her son gave her from December of 2014 through February of 2021 to help pay for her assisted living expenses. Thus, the appellant takes the position that she received fair market value for the transferred funds.

The appellant has not demonstrated that transfers were anything other than gifts made to reduce the appellant's assets so that she could obtain MassHealth eligibility. In this case, there exists no contract or writing to evidence that either appellant or her son or daughter ever intended to be repaid for any help or assistance rendered. It is simply too self-serving to rely solely on the statements of the appellant or her son as to the existence of a reimbursement agreement, as both parties have a vested financial interest here. The appellant has not met her burden to demonstrate that she received fair market value for the transferred funds.

While not specifically argued by the appellant, she has also not demonstrated that a penalty period should not be imposed because these funds were transferred exclusively for a purpose other than to qualify for MassHealth per 130 CMR 520.019. Under this regulation, 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 MassHealth defines fair-market value as an estimate of the value of a resource if sold at the prevailing price at the time of the transfer (130 CMR 515.001). This definition is taken from the State Medicaid Manual 3257-3259 "Transmittal 64" which further states:

For an asset to be considered transferred for fair market value or to be considered to be transferred for valuable consideration, the compensation received for the asset must be in a tangible form with intrinsic value. A transfer for love and consideration, for example, is not considered a transfer for fair market value. Also, while relatives and family members legitimately can be paid for care they provide to the individual, HCFA [Health Care Financing Administration] presumes that services provided for free at the time were intended to be provided without compensation. Thus, a transfer to a relative for care provided for free in the past is a transfer of assets for less than fair market value. However, an individual can rebut this presumption with tangible evidence that is acceptable to the State. For example, you may require that a payback arrangement had been agreed to in writing at the time services were provided.

(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. (*Emphasis added*).

Under subpart 1 of this regulation, it is not enough to demonstrate that the applicant intended to derive a benefit from the transfer other than the benefit of reducing assets and qualifying for MassHealth. Pursuant to the regulation's use of the word "*exclusively*" an applicant must demonstrate "*to MassHealth's satisfaction*" that qualifying for MassHealth had absolutely nothing to do with the matter. To be satisfied that MassHealth eligibility considerations were in no way a part of the purpose of the transfer, the regulation requires the hearing officer to find that it would have been unreasonable for the applicant to have anticipated a possible nursing home placement in the foreseeable future. Such a finding may be warranted in cases where an applicant is in good physical and mental health prior to the transfer and some unforeseen disabling accident or medical event unexpectedly occurs. These circumstances are not present here.

The appellant was already in a skilled nursing facility when she made the transfers at issue. She had also applied for MassHealth long term care benefits around this time as well. Given these facts, it would not be reasonable to conclude that appellant made the transfers "***exclusively***" for purpose other than to qualify for MassHealth. Given appellant's need for nursing facility care and for MassHealth coverage, any claim that the transfers were completely unrelated to MassHealth eligibility would not be credible. For, the appellant's representative testified about the appellant's intent, noting that when the appellant entered the facility it was discovered she had more assets than anyone knew about, so she repaid her son for the help he had given her over the years. This statement further weakens any argument that the transfers were unrelated to qualifying for MassHealth.

MassHealth correctly calculated the appellant's disqualification period by dividing the total transfer amount of \$38,500.00 by the average daily nursing home cost of \$441.00 equaling 87.31 days. The appellant was assessed a disqualification penalty of 88 days or from October 30, 2024 to January 25, 2025.

Based on the evidence in the record, the appellant has failed to demonstrate that she received fair market value for the \$38,500.00 she transferred and has also failed to demonstrate that these transfers were made exclusively for a purpose other than to qualify for MassHealth (130 CMR 520.018; 520.019(F)). This appeal is therefore DENIED.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, in part or whole, 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.

Brook Padgett
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Springfield MEC

[REDACTED]