

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2506309
Decision Date:	07/29/2025	Hearing Date:	06/02/2025
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearance for MassHealth:

Christina Prunier – Tewksbury Intake



*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; Coverage start date
Decision Date:	07/29/2025	Hearing Date:	06/02/2025
MassHealth's Rep.:	Christina Prunier	Appellant's Rep.:	[REDACTED]
Hearing Location:	Telephonic	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 18, 2025, MassHealth approved the appellant's long-term care benefits, starting December 7, 2024, with a \$0 patient-paid amount. (Exhibit 1.) The appellant filed this appeal in a timely manner on April 22, 2025. (Exhibit 2; 130 CMR 610.015(B).) Determinations regarding scope and amount of assistance, such as when assistance begins, are valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth approved the appellant for long-term care benefits 10 days after her requested start date.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.004, in determining the appellant's benefits-start date.

Summary of Evidence

The appellant entered the long-term care facility [REDACTED]. An application for long-term care benefits was submitted on December 4, 2024, and the appellant is requesting that benefits

start as of November 27, 2024. At that time, the appellant had a bank account with \$218.28, and a life insurance policy with a cash-surrender value of \$25,962.43.

MassHealth's representative testified that [REDACTED], the appellant spent \$19,190 on pre-paid funeral and burial arrangements. The appellant's assets were not below \$2,000 until April 1, 2025. On April 18, 2025, MassHealth approved coverage starting December 7, 2024, with a \$0 per month patient-paid amount.¹

MassHealth's representative testified that she excluded the burial and funeral expenses from the appellant's assets. MassHealth also excluded the \$2,000 asset limit. The remaining difference is \$4,990.71. The private-pay rate at the nursing facility was \$516.60 per day. MassHealth divided \$4,990.71 by \$516.60 and determined that the appellant's assets would have been reduced on the 10th day of private payment to the nursing facility. MassHealth approved long-term care benefits as of December 7, 2024, 10 days after the benefits request date. Because MassHealth did not consider any of the expenses to be disqualifying transfers, this date was used instead of the date on which the assets were finally reduced, April 1, 2025.

The appellant's son testified that the remainder of the assets were reduced on rent at the appellant's community residence and expenses associated with clearing out the appellant's apartment. The appellant's son testified that he had worked as expeditiously as possible, given that he lives in another state. He had been working to close out the life-insurance policy from the moment the appellant entered the nursing facility, but there was a delay in getting correct instructions from the insurance company about how to surrender the policy. The appellant's son formally surrendered the policy for adjustment on February 10, 2025. The appellant's son testified that he had been under the impression that the money could be spent on the appellant's expenses, closing out her lease and cleaning her apartment.

Findings of Fact

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

- 1) The appellant is over the age of 65, and she has been residing in a long-term care facility since [REDACTED] (Testimony by MassHealth's representative.)
- 2) An application for long-term care benefits was submitted on December 4, 2024, seeking benefits start as of November 27, 2024. At that time, the appellant had a bank account

¹ The patient-paid amount was calculated using the appellant's Social Security income of \$1,377 per month and deducting \$72.80 for a personal-needs allowance, and \$1,305 for a home-maintenance needs allowance. Neither party discussed patient-paid amount during the hearing, and this decision takes no position on the issue.

with \$218.28, and a life insurance policy worth \$25,962.43. (Testimony by MassHealth's representative.)

- 3) The appellant's son surrendered the life insurance policy on or around February 10, 2025. From the proceeds of this policy, \$19,190 was spent on burial and funeral arrangements, and \$4,990.71 was used to pay the appellant's rent and expenses associated with clearing out her apartment. (Testimony by the appellant's and MassHealth's representative.)
- 4) The appellant's assets were reduced below \$2,000 on April 1, 2025. (Testimony by MassHealth's representative.)

Analysis and Conclusions of Law

An individual applying for MassHealth long-term care benefits must have countable assets below \$2,000. (130 CMR 520.003(A).) If an applicant has assets above this threshold, their earliest eligibility start date is either:

- (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.

(130 CMR 520.004(A)(1).) These alternative dates are referred to as the asset-eligibility date and the "Haley" calculation date.²

Assets may also be reduced retroactively through funeral and burial expenses in accordance with 130 CMR 520.008(F). Money used to make funeral or burial arrangements is treated as having been spent "on the first day of the third month before the application." Effectively, this excludes assets from countability under 130 CMR 520.004 if they are used to fund funeral or burial arrangements. (See 130 CMR 516.002.)

Assets are also excluded while they are "inaccessible."

- (A) Definition. An inaccessible asset is an asset to which the applicant or member has no legal access. **The MassHealth agency does not count an inaccessible asset when determining eligibility for MassHealth for the period**

² The "Haley" calculation is a reference to the Supreme Judicial Court decision, Haley v. Comm'r of Pub. Welfare, 394 Mass. 466 (1985).

that it is inaccessible or is deemed to be inaccessible under 130 CMR 520.006.

(B) Examples of Inaccessible Assets. Inaccessible assets include, but are not limited to

- (1) property, the ownership of which is the subject of legal proceedings (for example, probate and divorce suits); and
- (2) **the cash-surrender value of life-insurance policies when the policy has been assigned to the issuing company for adjustment.**

(C) Date of Accessibility. The MassHealth agency considers accessible to the applicant or member all assets to which the applicant or member is legally entitled

- (1) **from the date of application or acquisition, whichever is later, if the applicant or member does not meet the conditions of 130 CMR 520.006(C)(2)(a) or (b); or**
- (2) from the period beginning six months after the date of application or acquisition, whichever is later, if [a guardian, conservator, or trustee of an irrevocable trust is being sought]

(130 CMR 520.006 (emphasis added).)

MassHealth's excluded \$19,190 from countable assets because that money was used to fund funeral and burial arrangements. MassHealth also excluded the \$2,000 asset limit. (130 CMR 520.003.) MassHealth approved benefits as of the date the appellant's documented medical expenses exceeded \$4,990.71, which is the difference between their assets as of the benefits-request date and the allowable exclusions. The only alternative start date available is April 1, 2025, "the date the applicant reduce[d] 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)."

The fact that the appellant's assets were in the form of a life insurance policy is unavailing due to the timeline of events. MassHealth counts the cash-surrender value of life insurance policies as an asset, and excludes that value "during the adjustment period," or after the "policy has been assigned to the issuing company for adjustment." (130 CMR 520.007(E)(1); 130 CMR 520.006(B)(2).) Nothing in the regulations allows MassHealth to exclude the value of life insurance policies retroactively. At best, the regulations would allow for the asset-eligibility date to be moved from April 1, 2025, to February 10, 2025, when the policy was surrendered. Because this would still be less advantageous than December 7, 2024, MassHealth was correct to approve benefits applying 130 CMR 520.004(A)(1)(b). 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.

Christopher Jones
Hearing Officer
Board of Hearings


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