

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	APPROVED	Appeal Number:	2506439
Decision Date:	08/14/2025	Hearing Date:	05/30/2025
Hearing Officer:	Kenneth Brodzinski	Record Open to:	06/27/2025

Appearance for Appellant:



Appearance for MassHealth:

Donovan Sorhaindo



*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:	APPROVED	Issue:	Disqualifying asset transfer
Decision Date:	08/14/2025	Hearing Date:	05/30/2025
MassHealth's Rep.:		Appellant's Rep.:	Son
Hearing Location:	Taunton MEC		

Authority

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

Jurisdiction

Through notice dated April 4, 2025, MassHealth denied Appellant's MassHealth Long Term Care application due to failing to provide requested verifications (Exhibit A). Appellant filed for this appeal in a timely manner on April 22, 2025 (Exhibit A). An eligibility determination constitutes valid grounds for appeal (see 130 CMR 610.032).

During the pendency of the appeal, the Masshealth took a subsequent action on April 25, 2025 denying the same application on the grounds of disqualifying transfer of assets and assessing a resulting period of ineligibility (Exhibit B). The hearing addressed the disqualifying transfer.

Action Taken by MassHealth

MassHealth denied Appellant's MassHealth Long Term Care application due to a disqualifying transfer of assets and assessed a resulting period of ineligibility.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied Appellant's MassHealth Long Term Care application due to a disqualifying transfer of assets and assessed a resulting period of ineligibility.

Summary of Evidence

Both parties appeared by telephone.

Prior to hearing, Masshealth filed a packet of documents (Exhibit B). Post-hearing submissions were made by Appellant (Exhibit C) and Masshealth (Exhibit D).

The MassHealth representative testified that Appellant filed an application for MassHealth Long Term Care benefits on January 31, 2025. On April 4, the application was denied for failing to file requested verifications (Exhibit A). Verifications were filed on April 22, 2025 and MassHealth issued a second denial based on a determination that Appellant transferred \$40,000.00 to her son and daughter-in-law in 2024 without receiving anything of fair market value in return. The funds at issue were the proceeds from the sale of a home owned by Appellant. The home was sold in [REDACTED] for \$75,000.00 (Exhibit B). Deeming this a disqualifying transfer of countable assets as it occurred within 5 years of the LTC application, MassHealth assessed a period of ineligibility dividing the transfer amount by the average SNF daily rate (Exhibit B). There was no discussion of whether all other requested verifications had been filed; MassHealth only addressed the transfer issue.

Appellant was represented by her son (power of attorney). The son testified consistently with a letter he drafted explaining generally how and why the funds were spent (Exhibit C). The son testified that he and his wife had been caring for their respective parents since 2020. In [REDACTED] Appellant's husband died and the son paid for the funeral and cemetery costs and also the costs of relocating Appellant to a new home. In late [REDACTED] the son's wife was diagnosed with cancer and had to leave her job to receive treatment and recover. The son also took time off to work to care for his wife. At the same time, his wife's mother was living with the son and his wife and entered hospice and later passed away. On top of this, Appellant had to move in with the son and his wife in [REDACTED] after she was displaced by a fire in her apartment. Appellant remained in the son's home until she entered the nursing facility in [REDACTED] due to advancing dementia.

The son testified that the home that was sold was seriously dilapidated and had been abandoned for over 16 years. This is why the property sold for only \$75,000.00 and only \$40,000.00 were realized in proceeds. The son testified that Appellant gave him \$40,000.00 to meet the unusual expenses he and his family were facing through this very difficult year. He testified that during this time he and his wife suffered lost income and incurred significant medical expenses of their own

as well as those related to caring for his mother-in-law and Appellant including providing Appellant with shelter and board for ten months after the fire. The son testified that he had no idea that the spending might affect Appellant's future MassHealth eligibility and that Appellant was merely helping them all get through a very difficult time that placed significant financial strain on Appellant and her family.

The son was able to supply MassHealth with some receipts relative to the funeral and cemetery expenses for his father (Exhibit A). Appellant reimbursed the son for these expenses when she received the proceeds from the home sale and contributed to the general monthly expenses while she lived with the son for the 10 months after the fire.

The record was left open to allow Appellant's son to obtain and file some supporting documentation to help verify his version of events. Appellant made a timely submission (Exhibit C). Appellant's post hearing submission contained several letters supporting the son's testimony. These include a statement from a neighbor/friend confirming what the family had gone through in 2024 and the son's care of his wife, Appellant and mother-in-law. There were also letters from the son and wife's respective employers confirming that both had to leave work either full time or intermittently due to the healthcare needs of the son's wife and Appellant.

MassHealth filed a response indicating that no changes could be made because Appellant's post-hearing submission did not evidence a full or partial cure (Exhibit D).

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant filed an application for MassHealth Long Term Care benefits on January 31, 2025.
2. On April 4, the application was denied for failing to file requested verifications (Exhibit A).
3. Verifications were filed on April 22, 2025 and MassHealth issued a second denial based on a determination that Appellant transferred \$40,000.00 to her son and daughter-in-law in 2024 without receiving anything of fair market value in return.
4. The funds at issue were the proceeds from the sale of a home owned by Appellant.
5. The home was sold in [REDACTED] for \$75,000.00 (Exhibit B).
6. The home had been abandoned for over 16 years and was seriously dilapidated.
7. Deeming this a disqualifying transfer of countable assets as it occurred within 5 years of

the LTC application, MassHealth assessed a period of ineligibility dividing the transfer amount of \$40,000.00 by the average SNF daily rate (Exhibit B).

8. Appellant son and his wife had been caring for their respective parents since [REDACTED]
9. In [REDACTED] Appellant's husband died and the son paid for the funeral and cemetery costs and also the costs of relocating Appellant to a new home.
10. In late [REDACTED] the son's wife was diagnosed with cancer and had to leave her job to receive treatment and recover.
11. The son also took time off to work to care for his wife.
12. At the same time, the son's mother-in-law was living with the son and his wife; she entered hospice and later passed away.
13. Appellant had to move in with the son and his wife in [REDACTED] after she was displaced by a fire in her apartment.
14. Appellant remained in the son's home until she entered the nursing facility in [REDACTED] [REDACTED] due to advancing dementia.
15. Appellant gave the son the \$40,000.00 sale proceeds to help him meet the unusual expenses he and his family were facing through 2024.
16. Appellant did not give the son the \$40,000.00 in order to qualify for MassHealth.
17. Throughout [REDACTED] the son and his wife suffered lost income and incurred significant medical expenses of their own as well as those related to caring for his mother-in-law and Appellant including providing for Appellant's shelter and board for ten months after the fire.

Analysis and Conclusions of Law

Masshealth regulation 130 CMR 520.019 governing resource transfers states as follows:

(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.

(1) For transfers occurring before February 8, 2006, this period generally extends back in time for 36 months.

(2) For transfers of resources occurring on or after February 8, 2006, the period generally extends back in time for 60 months. The 60-month look-back period will begin to be phased in on February 8, 2009. Beginning on March 8, 2009, applicants will be asked to provide verifications of their assets for the 37 months prior to the application. As each month passes, the look-back period will increase by one month until the full 60 months is reached on February 8, 2011.

(3) For transfers of resources from or into trusts, the look-back period is described in 130 CMR 520.023(A).

(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. 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, the MassHealth agency considers the specific circumstances involved. A disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available.

MassHealth regulation 130 CMR 520.019(F) states (emphasis supplied):

(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.

There was no dispute about the amount of the transfer or that it occurred within the controlling look-period. The controlling issue is the matter of intent. This record supports a finding that Appellant transferred the subject funds to her son for reasons that did not include qualifying for MassHealth benefits. The record reveals that the Appellant and her family faced very significant healthcare problems and required social supports that heavily taxed the family's (Appellant's son and his wife) financial resources both through lost income and increased

medical costs and living expenses. The subject funds came to Appellant through the sale of an abandoned and dilapidated property and she used the \$40,000.00 proceeds to help her family recover from their sudden and recent financial setbacks which included housing and caring for Appellant for 10 months. This record does not support a finding that Appellant transferred the funds to qualify for Masshealth benefits.

For the foregoing reasons, the appeal is approved relative to the transfer issue.

It was unclear after the hearing whether MH had all the verifications it needed to make a further eligibility determination beyond the transfer issue. If further verifications are still needed, MassHealth is to issue a new verifications request honoring the application date of January 31, 2025.

Order for MassHealth

Remove disqualifying transfer and reassess eligibility if needed. If verifications from original requests remain outstanding, issue new written request honoring application date of January 31, 2025.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If the Enrollment Center gives you any problems with implementing this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

[REDACTED]

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616