

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2507251
<b>Decision Date:</b>	08/07/2025	<b>Hearing Date:</b>	06/11/2025
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Scott Michael, Taunton 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over 65; Long-term care; Start Date
<b>Decision Date:</b>	08/07/2025	<b>Hearing Date:</b>	06/11/2025
<b>MassHealth's Rep.:</b>	Scott Michael	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center Room 2 (Remote)	<b>Aid Pending:</b>	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 24, 2025, MassHealth approved the appellant's application for long-term care benefits beginning on February 5, 2025, with a Patient Paid Amount (PPA) assessed. (Exhibit 1). The appellant filed this appeal in a timely manner on or about May 8, 2025. (130 CMR 610.015(B); Exhibit 2). On May 8, 2025, the Board of Hearings dismissed the appeal because it did not receive a pending petition of a probate appointment by the Probate and Family Court pursuant to 130 CMR 610.016. (Exhibit 5). The appellant timely submitted the Probate Court documentation. (Exhibits 6-7). On May 21, 2025, the Board of Hearings vacated the dismissal and scheduled a hearing. (Exhibit 8). A dispute over the scope of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that he is eligible for long-term care benefits starting on February 5, 2025.

## Issue

The appeal issue is whether MassHealth was correct in determining a February 5, 2025 coverage start date for the appellant's MassHealth coverage.

## Summary of Evidence

The MassHealth representative testified by telephone, in summary, as follows: the appellant is over the age of 65 and was admitted to a nursing facility on [REDACTED]. (Exhibit 9, p. 26). On May 8, 2024, MassHealth received his long-term care application, with a requested start date of March 1, 2024. (Exhibit 9, pp. 26-27). On [REDACTED], the appellant passed away. (Exhibit 7). On August 22, 2024, MassHealth denied the appellant's long term care application for missing verifications, including bank statements and clarification/information regarding an annuity/income that was listed on his application. (Exhibit 9, p. 1). On April 15, 2025, MassHealth received all requested verifications needed to make a determination.<sup>1</sup> On April 24, 2025, MassHealth approved the appellant's long-term care application beginning on February 5, 2025. (Exhibit 1). The MassHealth representative explained that the appellant became eligible for long term care benefits on February 5<sup>th</sup> because that is the date that the decedent's community spouse purchased an annuity which reduced their assets to the asset limit. (Exhibit 9, p. 25). The MassHealth representative stated that he performed a Haley calculation which can be beneficial to an applicant at times. He explained that he used the facility's requested start date of March 1, 2024. (Exhibit 9, p. 2). On that date, the appellant's assets amounted to \$259,512.11. MassHealth divided that amount by the private rate at the nursing facility of \$539 per day, which equates to 175 days from March 1, 2024, or August 23, 2025. The MassHealth representative explained that performing a Haley calculation was not beneficial to the appellant in this case. Therefore, MassHealth used the date that the appellant's assets were reduced (February 5, 2025) as the start date.

The appellant's attorney testified that he does not dispute the facts of this case. He requested that some consideration be given to the decedent's spouse. He explained that the annuity company in question was noncooperative in providing additional information and documentation, despite numerous attempts that were made. The appellant's attorney ultimately learned that the annuity in question was a variable annuity and therefore an unavailable asset. He stated that the appellant's spouse is now a widow on a fixed income and payment to the nursing facility is a huge financial burden for her. He requested to backdate coverage to May 1, 2024. (Exhibit 2).

The MassHealth representative stated that while he suspected that the annuity in question may be a variable annuity, he understood that the appellant's attorney required confirmation from the company. He noted that if the appellant's start date is adjusted, he will need the appellant's

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<sup>1</sup> See, Appeal No. 2414199

attorney to submit an annuity tracking form to MassHealth; the appellant's attorney stated that he would do so.

## Findings of Fact

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

1. The appellant is over the age of 65 and was admitted to a nursing facility on [REDACTED]
2. On May 8, 2024, MassHealth received the appellant's long-term care application with a requested start date of March 1, 2024.
3. On [REDACTED] the appellant passed away.
4. On August 22, 2024, MassHealth denied the appellant's long-term care application for missing verifications, including bank statements and income/annuity information.
5. On February 5, 2025, the decedent's spouse purchased an annuity which reduced their assets to the asset limit.
6. On April 15, 2025, MassHealth received all requested verifications needed to make a determination.
7. On April 24, 2025, MassHealth notified the appellant that he is eligible for MassHealth Standard long-term care services with a coverage date of February 5, 2025.

## Analysis and Conclusions of Law

It is undisputed that the appellant meets all the eligibility requirements for MassHealth Standard long-term care coverage; at issue is the start date of his coverage. The appellant's attorney requests that his coverage go back to May 1, 2024; MassHealth takes the position that the appellant's coverage should begin on the date that his assets were reduced, which is February 5, 2025.

The applicable MassHealth regulations do not provide the appellant with the remedy he seeks. The start date for MassHealth Standard coverage *may* be retroactive to "the first day of the third calendar month before the month of application, if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided." (130 CMR 516.006(A)(2); emphasis added).

Where an applicant's assets exceed the asset limit of MassHealth Standard, 130 CMR 520.004(A) provides the following regarding asset reduction:

(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.

Applying this regulation to the facts of this appeal, as more fully described above, the earliest date of coverage for the appellant would be the asset-reduction date of February 5, 2025, and coverage would not reach far back enough to cover the dates of services at issue. (See, 130 CMR 520.004(A)(1)). While I appreciate the difficult situation that the decedent's spouse faces, there are unfortunately not any applicable exceptions within the regulations. 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.

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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

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