

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2507485
Decision Date:	08/19/2025	Hearing Date:	06/11/2025
Hearing Officer:	Radha Tilva	Record Open to:	06/25/2025

Appearance for Appellant:



Appearance for MassHealth:

Mandy Lau (Charlestown 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

Appeal Decision:	Denied	Issue:	LTC – Haley calc – start date
Decision Date:	08/19/2025	Hearing Date:	06/11/2025
MassHealth’s Rep.:	Mandy Lau	Appellant’s Rep.:	
Hearing Location:	Charlestown (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 March 19, 2025, MassHealth determined that appellant is eligible for MassHealth long term care benefits effective June 15, 2024 (Exhibit 1). The appellant filed this appeal in a timely manner on May 14, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined appellant is eligible for MassHealth long term care benefits effective June 15, 2024.

Issue

The appeal issue is whether MassHealth was correct in determining the eligibility start date.

Summary of Evidence

The MassHealth representative testified telephonically to the following: appellant was admitted to the nursing facility in [REDACTED] and applied for MassHealth benefits on July 31, 2024 seeking an eligibility start date of April 25, 2024. The appellant's excess assets on April 25, 2024 totaled \$52,196.75. The MassHealth representative provided a narrative with the exact breakdown of assets owned on April 25, 2024 (Exhibit 5). The assets included a 401K account with a balance of \$47,794.92 as of April 1, 2024, that appellant was disputing (Exhibit 5). MassHealth allowed deductions in the amount of \$26,939.77 for private pay and a payment on an existing loan. MassHealth did not allow a \$15,438.00 payment appellant made to the nursing facility on October 7, 2024 as a part of the spenddown as the money was used for March 2024 private payment and appellant was seeking an April 25, 2024 start date (Exhibit 7, p. 6). The total excess remained at \$25,256.98. By the March 19, 2025 approval date, the assets had been spent down to the MassHealth limit. The April 25, 2024 excess asset amount of \$25,256.97 was divided by the nursing facility's private pay rate of \$498 per day to determine the date on which the appellant's excess assets equaled or exceeded the appellant's incurred medical expenses pursuant to 130 CMR 520.004. (Exhibit 5). As the requested start date was April 25, 2024, the excess assets equaled or exceeded the incurred medical expenses on June 15, 2024 (51 days after April 25, 2024).

The appellant's representative stated that when the appellant originally entered the facility, he thought that it was only for a short-term rehabilitation stay. The appellant was originally admitted to the facility in 2023 and was his own person, not accepting that he was not going to leave the facility. His longtime friend, an attorney, was helping him access his financial affairs, but the appellant was having difficulty retrieving passwords and gaining access to his accounts and the 401K funds. The financial institution finally approved the closing of the 401K account on August 8, 2024 and the funds were deposited on August 12, 2024. In September 2024, the attorney (and friend) unexpectedly passed away while on vacation which caused a delay to access the funds and make payments to the facility. The applicant was grieving at this time and all of this contributed to the delay in making payments to the facility. The appellant's representative argued that the payment of \$15,438 made on October 7, 2024 towards the March 2024 private payment should be an allowed deduction which would revise the approval date back 31 days to May 15, 2024 (Exhibit 7, p. 2). The appellant's representative cited to 130 CMR 520.006(C)(2)(a) which pertains to inaccessible assets. The representative argued that the 401K met the definition of inaccessible until he gained access to his funds on August 8, 2024 (Exhibit 7, p. 2). The delay was due to the appellant's physical and cognitive limitations and need for third-party assistance to access and liquidate the account and was not caused by negligence or unwillingness to cooperate (Exhibit 7, p. 2).

Findings of Fact

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

1. Appellant was admitted to the nursing facility in [REDACTED] and applied for MassHealth benefits on July 31, 2024 seeking an eligibility start date of April 25, 2024.
2. The appellant's excess assets on April 25, 2024 totaled \$52,196.75.
3. The assets included a 401K account with a balance of \$47,794.92 as of April 1, 2024 that appellant was disputing.
 - a. The appellant had difficulty accessing the 401K account and had to have a friend help him gain access to the account.
 - b. The financial institution finally allowed the closing of the account on August 8, 2024.
4. MassHealth allowed deductions in the amount of \$26,939.77 for private pay and a payment on an existing loan.
5. MassHealth did not allow a \$15,438.00 payment appellant made to the nursing facility on October 7, 2024 as a part of the spenddown as the money was used for March 2024 private payment.
6. The total excess remained at \$25,256.98 which was divided by the private pay rate of \$498 per day which would have covered the appellant's incurred medical expenses from April 25, 2024 to June 15, 2024.

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case (130 CMR 515.002).

Pursuant to 130 CMR 520.003(A)(1), the total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Essential, or Limited may not exceed \$2,000 for an individual.

Countable assets are all assets that must be included in the determination of eligibility (130

CMR 520.007). Countable assets include bank accounts (130 CMR 520.007(B)). Countable assets also include retirement accounts. MassHealth regulations do not specifically address 401Ks, however, 130 CMR 520.007(C)(1) states that an Individual Retirement Account (IRA) is a tax-deductible savings account that sets aside money for retirement. Funds in an IRA are counted as an asset in their entirety less the amount of penalty for early withdrawal. The main difference between an IRA and a 401K is that the latter is employer-sponsored. Thus, based on the regulation above the funds in the 401K are countable in their entirety.

Appellant argues that the assets in the 401K should have been deemed inaccessible, and therefore, non-countable until they became available on August 8, 2024. An inaccessible asset is defined in the regulations an asset to which the applicant or member has no legal access (130 CMR 520.006(A)). The regulation goes on further to provide examples:

- (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

The appellant has not demonstrated that the appellant had no legal access to the funds in the 401K. Though he may have required assistance in gaining access to the account this does not equate to having no legal access. Thus, the funds in the 401K are not inaccessible.

As such the analysis proceeds to whether MassHealth should have allowed the \$15,438.00 payment as a deduction. An applicant whose countable assets exceed the asset limit of MassHealth Standard, Essential, 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. (130 CMR 520.004(A)(1)).

Pursuant to 130 CMR 520.004(B), MassHealth does not pay that portion of medical bills equal to the amount of excess assets. Bills used to establish eligibility:

- (1) ***cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002***; and
- (2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(emphasis added). As the appellant's representative spent the \$15,438.00 bill towards private payment for March 2024 this amount cannot be used to establish eligibility as it precedes the first day of the third month prior to the date of application which was July 31, 2024. Thus, MassHealth did not err in not allowing \$15,438.00 spent on private payment for March 2024.

By the March 19, 2025 approval date, the appellant had reduced his assets to the MassHealth limit without violating the transfer of resource provisions at 130 CMR 520.019. The April 25, 2024 excess asset amount of \$25,256.97 was divided by the nursing facility's private pay rate of \$498 per day to determine the date on which the appellant's excess assets equaled or exceeded the appellant's incurred medical expenses pursuant to 130 CMR 520.004. The appellant's excess assets equaled or exceeded the incurred medical expenses on June 15, 2024, which was 51 days after April 25, 2024.

For these reasons this appeal is DENIED and MassHealth did not err in calculating the eligibility start date.

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.

Radha Tilva
Hearing Officer
Board of Hearings

[REDACTED]

MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129

