

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2507524
<b>Decision Date:</b>	10/15/2025	<b>Hearing Date:</b>	06/10/2025
<b>Hearing Officer:</b>	Christopher Jones	<b>Record Open to:</b>	08/15/2025

**Appearances for Appellant:**




**Appearance for MassHealth:**

Patricia Rogers – Taunton 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	LTC; Disqualifying Transfer
<b>Decision Date:</b>	10/15/2025	<b>Hearing Date:</b>	06/10/2025
<b>MassHealth's Rep.:</b>	Patricia Rogers	<b>Appellant's Reps.:</b>	
<b>Hearing Location:</b>	Telephonic	<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 17, 2025, MassHealth imposed a period of ineligibility for long-term care benefits from October 1, 2024, to March 26, 2028, based upon "the difference between the fair market value of [assets] that were transferred and what [the appellant] received, and dividing that number by the average nursing home rate of \$441.00 per day." (Exhibit 1, pp. 4-5; 130 CMR 520.018 - .019.) The appellant filed this timely appeal on May 13, 2025. (Exhibit 1; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Following the hearing, the record was held open until August 15, 2025, for the appellant to submit additional evidence and for MassHealth to review it.

### Action Taken by MassHealth

MassHealth denied the appellant's long-term care eligibility for 1,273 days based upon \$551,200 in real estate property value transferred by the appellant to one of his sons.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.018 – 520.019, in determining that the appellant violated the transfer of resource provisions.

## Summary of Evidence

The appellant is over the age of [REDACTED] and he entered the nursing facility in the [REDACTED]. An application for long-term care benefits was filed on October 25, 2024, and the appellant is seeking long-term care coverage as of October 1, 2024. MassHealth mailed a request for information on December 2, 2024, and the application was initially denied on January 6, 2025, for failing to return requested verifications. Some verifications were received, and the application was relogged on January 14, 2025, and a second request for information was sent out. This relogged application was denied on February 19, 2025.

MassHealth's representative testified that one of the appellant's sons called after the second verification denial notice was issued, claiming that the appellant was only seeking community benefits. The case was transferred to MassHealth's community benefits department, who sent out another request for information, on March 5, 2025. Once the case was transferred back to the long-term care intake department, a final request for information was sent out on March 15, 2025. Based on the confusion arising from the ongoing unit issuing a request for information, MassHealth's representative agreed to honor the January 14, 2025, reapplication date as the pending application on appeal. MassHealth issued its final denial notice on April 17, 2025, finding that the appellant ineligible for benefits due to disqualifying transfers.

MassHealth's representative testified that there were still missing verifications. The appellant has a pension that was not disclosed or verified, and MassHealth had requested property valuations for 2 properties from the years that the appellant transferred his interest in those properties. In the absence of these verifications, MassHealth used the current assessed values for the properties to determine the disqualifying transfer amount. MassHealth moved forward to denying the application based upon transfers, because the remaining verifications would only be needed if the application was going to be approved.

The disqualifying transfer penalty involves 2 pieces of real property that the appellant jointly owned with one of his sons. The appellant transferred his interest in both of these properties to the joint owner. The appellant's 50% interest in Property T was transferred on November 22, 2021, and his 50% interest in Property S was transferred on March 7, 2022. MassHealth used \$321,600 as the transferred amount for Property T, and the transfer amount for Property S was \$229,600. (Exhibit 1.) There were also several unverified transfers from the appellant's bank account to 2 bank accounts in the name of his other son.

The appellant's representative testified that she had submitted verification of the appellant's pension on April 7, 2025, along with the relevant assessed values for the properties. At the appellant's request, the hearing record was held open to allow MassHealth to recalculate the appellant's period of ineligibility based off of the relevant assessed values for the properties, and for the appellant to submit additional documentation establishing that these transfers had been

cured or should not be considered transfers. The hearing record was to stay open until July 25, 2025, for this exchange.

MassHealth accepted the appellant's submitted real estate valuations and reduced the transfer penalty for Property T to \$195,900 and reduced the transfer for Property S to \$174,750. MassHealth also totaled the transfers to the appellant's other son to be \$6,760. MassHealth recalculated the disqualifying transfer total as \$377,410. MassHealth divided this total by the public daily rate of \$441 and reduced the period of ineligibility to 855 days. MassHealth's representative confirmed that a new denial notice had been mailed out stating the appellant is ineligible for long-term care services through February 3, 2027. MassHealth mailed out a new disqualifying transfer denial notice to this effect.

The appellant's representative submitted a letter on July 11, 2025, explaining the history of the ownership of these 2 properties. This letter is signed by the appellant's representative, not by either the appellant or his son. The appellant's son purchased Property T in 2007 and Property S in 2011. At the time, the appellant's son did not have sufficient credit to purchase the properties on his own, so the appellant and his spouse co-signed on the loans to purchase the properties. The letter does not say why the appellant signed over his interest in these properties when he did.

The appellant's representative's letter goes on to state that the appellant's son was responsible for paying for the mortgages on the properties. The appellant's representative submitted excerpts from bank statements in the appellant's son's name from 2017, on which various withdrawals were identified as paying the mortgage on Property S. These bank statements show that on or around the 17<sup>th</sup> of each month, a check was usually cashed for a little more than \$1,300. The dollar amount fluctuates. Sometimes it is a check draft, other times the line is an electronic funds transfer identified as "Central Loan Adm," and once in November 2017, it was to a specified mortgage bank. The bank statements are not in order, and nothing was submitted to document that these payments related in any way to Property S. Nor is there any evidence in the record that there is a mortgage on Property S or Property T.

The appellant requested 2 additional weeks to submit bank statements showing mortgage payments for Property T, and to submit bank statements regarding the transfers to the other son. At the close of their record open period, the appellant's representative responded that they would not be submitting any more documents for the appeal. The appellant's representative did not dispute the transfers to the appellant's other son.

It was noted that there appeared to be a lack of evidence regarding why the transfers should not be treated as disqualifying. The appellant's representative noted the bank statements showing regular withdrawals for the mortgage on Property S. The appellant's representative's email states that the appellant did not intend to qualify for Medicaid when he transferred Property S to his son. The appellant's representative then requested 2 more weeks to get additional documentation regarding payments for Property T. This request was denied as good cause was not provided for why a belated extension request should be granted.

## Findings of Fact

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

- 1) The appellant entered the nursing facility in the [REDACTED] An application for long-term care benefits was filed on October 25, 2024, seeking long-term care coverage as of October 1, 2024. (Testimony by MassHealth's representative.)
- 2) This application was denied for missing verifications on January 6, 2025. Some verifications were received on January 14, 2025, and the application was relogged. This re-application was denied on February 19, 2025. (Testimony by MassHealth's representative.)
- 3) MassHealth issued a new denial on April 17, 2025, honoring the January 14, 2025, reapplication date. This denial imposed a 1,273-day period of ineligibility based upon \$551,200 in real estate property value transferred by the appellant to one of his sons. (Exhibit 1; testimony by MassHealth's representative.)
- 4) The appellant was the joint owner of 2 properties, Property T and Property S. The transferred his 50% interest in Property T to his son on November 22, 2021, and he transferred his 50% interest in Property S to the same son on March 7, 2022. The appellant also transferred \$6,760 to his other son's accounts during the lookback period. (Exhibit 5; Exhibit 7.)
- 5) In 2021, the value of Property T was \$391,800. The value of Property S in 2022 was \$349,500. (Exhibit 8.)
- 6) MassHealth updated the disqualifying transfer amount to reflect the historical property valuations. The new transfer amount totaled \$377,410. MassHealth divided this by the public daily rate of \$441, and MassHealth imposed a new period of ineligibility of 855 days. The appellant will be eligible for long-term care services on February 4, 2027. (Exhibit 7.)
- 7) The appellant's representative wrote a letter herself indicating that the appellant's name was only on the titles to the 2 properties to facilitate better credit terms for the appellant's son, and that the mortgages for both properties were paid solely by the appellant's son. Bank statements in the appellant's son's name were submitted showing that on or around the 17<sup>th</sup> of the month, a similar amount of money was paid out. Many of these transfers were labeled as going to a mortgage company. (Exhibit 6.)

## Analysis and Conclusions of Law

The purpose of Medicaid is to provide medical assistance to those "whose income and resources are insufficient to meet the costs of necessary medical services." (42 USC § 1396-1 (2014).) To limit benefits only to those who truly do not have the resources to provide for their care, MassHealth

requires an individual over the age of sixty-five to have less than \$2,000 in assets to qualify for benefits. (130 CMR 520.003.)

The applicant becomes eligible for long-term care benefits “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 ... or ... as of the date ... the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit.” (130 CMR 520.004(A)(1)(a)-(b).)

The transfer of resource provisions allow MassHealth to see whether an applicant has given away assets within the previous five years in order to qualify – this is referred to as the “lookback period.” (See 130 CMR 520.019(B); 130 CMR 520.023(A).) A disqualifying transfer may include

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).<sup>[1]</sup> 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.

(130 CMR 520.019(C) (emphasis added.) Permissible transfers are made to benefit a community spouse or a disabled relative. Exempted transfers are cured in some manner after the fact.

The applicant’s intent can affect whether a transfer of resources results in a period of ineligibility:

(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

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<sup>1</sup> As published, the last cross-reference is to subsection (J) and is a typographical error. Subsection (J) specifically **includes** as disqualifying transfers of home equity loans and reverse mortgages if transferred for less than fair market value. Subsection (K), however, **exempts** listed transactions from the period of ineligibility.

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.

(130 CMR 520.019(F) (emphasis added).) Federal guidance requires an applicant to make a heightened evidentiary showing on this issue: "Verbal assurances that the individual was not considering Medicaid when the asset was disposed of are not sufficient. Rather, convincing evidence must be presented as to the specific purpose for which the asset was transferred." (*Gauthier v. Dir., Office of Medicaid*, 80 Mass. App. Ct. 777, 785 (2011) (citing State Medicaid Manual, Health Care Financing Administration Transmittal No. 64, § 3258.10(C)(2)).) Essentially, there is a presumption that transfers made within the look-back period were intended to preserve assets from being used to pay for an individual's care.

There is no evidence in the record as to why the appellant signed over his ownership interest in the 2 properties. This occurred a little more than 2 years before the appellant entered a long-term care facility. There is a very attenuated assertion by the appellant's representative that the appellant was only ever on the title for the properties to facilitate better loan terms for his son, and the appellant's representative's assertion in an email that the appellant had no intent to qualify for Medicaid when the transfer of Property S occurred. There is no documentation that either property had a mortgage. There is no comment from either the appellant or his son regarding these transactions, and the submitted bank statements provide no way of confirming whether the payments were related to Property S. No evidence was submitted regarding the transfer of the appellant's interest in Property T or the bank transfers to the appellant's other son.

MassHealth has already taken action to reduce the disqualifying transfer amount in accordance with the newly verified assessment values submitted during the hearing process. This decision accepts this new disqualifying transfer notice as accurately calculated. To the extent that this appeal seeks a further reduction in the disqualifying transfer amount, it 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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Christopher Jones  
Hearing Officer  
Board of Hearings

CC:

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171