

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2507650
Decision Date:	9/02/2025	Hearing Date:	06/16/2025
Hearing Officer:	Marc Tonaszuck	Record Open to:	06/27/2025 for Appellant's Submission; 07/11/2025 for MassHealth's Response

Appearance for Appellant:



Appearance for MassHealth:

Lynn Bloomquist



*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 – Assets
Decision Date:	9/02/2025	Hearing Date:	06/16/2025
MassHealth’s Rep.:	Lynn Bloomquist	Appellant’s Rep.:	██████████
Hearing Location:	Taunton MassHealth Enrollment Center	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 05/08/2025, MassHealth informed the appellant that it decided she was not eligible for MassHealth benefits because she has more countable assets than MassHealth benefits allow (see 130 CMR 520.001, 520.003, 520.004 and Exhibit 1). The appellant filed this appeal in a timely manner on 05/16/2025 (see 130 CMR 610.015(B) and Exhibit 2). MassHealth agency actions to suspend, reduce, terminate, or restrict a member's assistance are valid grounds for appeal (see 130 CMR 610.032).

A fair hearing was held on 06/16/2025. The appellant was represented by his conservator who appeared telephonically, as did the MassHealth representative. During the fair hearing, the appellant’s representative requested additional time to show verification that the appellant’s assets have been reduced. Her request was granted, and the record remained open until 06/19/2025 for his submission and until 06/27/2025 for MassHealth’s response (Exhibit 6).

On 06/18/2025, the appellant’s conservator requested one additional day to make the appellant’s submission. Her request was granted, and the record open period was extended to 06/20/2025 for the appellant’s submission. MassHealth’s response was due on 06/27/2025 (Exhibit 7).

On 06/20/2025, the appellant’s conservator requested that the record open period again be

extended so that additional documentation could be submitted. The appellant's request was granted, and the record open period was extended until 06/27/2025 for his submission and until 07/11/2025 for MassHealth's response (Exhibit 8).

Action Taken by MassHealth

MassHealth denied the appellant's application for Long Term Care (LTC) benefits because her assets exceed the program limits.

Issue

The issue is whether the appellant's assets are below the program limits for MassHealth Long Term Care benefits.

Summary of Evidence

All parties appeared telephonically for this hearing. Exhibits 1-4 were marked as evidence. The MassHealth representative testified that the appellant, a nursing home resident, applied for MassHealth Long Term Care (LTC) benefits on 02/21/2024. In processing the appellant's application, MassHealth determined that the appellant has assets over the \$2,000.00 limit. Specifically, the appellant has a bank account containing \$23,955.49, the balance of this account is countable in an asset calculation. Because the appellant's countable assets exceed the \$2,000.00 limit, the 05/08/2025 denial notice was issued (Exhibits 1 and 5).

The appellant was represented in these proceedings by his conservator and other employees of the Conservator. The conservator testified that she had "just received" the verification of the prepaid funeral expenses. She requested that the record remain open until the "end of the week," to provide verification that the appellant's assets are below \$2,000.00. Her request was granted, and the record remained open in this matter until 06/19/2025 for the appellant's submission and until 06/27/2025 for MassHealth's response (Exhibit 6).

On 06/18/2025, the appellant's guardian requested one additional day to make the appellant's submission. Her request was granted, and the record open period was extended to 06/20/2025 for the appellant's submission. MassHealth's response was due on 06/27/2025 (Exhibit 7).

On 06/20/2025, the appellant's conservator requested that the record open period again be extended so that additional documentation could be submitted. The appellant's request was granted, and the record open period was extended until 06/27/2025 for his submission and until 07/11/2025 (Exhibit 8).

During the record open period, the MassHealth representative informed the hearing officer and the appellant's representative that all verifications had been received, but she had a question regarding a transfer of \$5,000.00 on 4/1/2025 from the applicant's account to the conservator's retainer account [REDACTED] (Exhibit 9).

Ryan Bradley from the conservator's office argued that the funds held in the conservator's retainer account should not be counted towards the applicant as "our job as Conservator has not been finished and costs cannot be estimated when it comes to serving, citations, GAL appointments, & legal fees" (Exhibit 10).

The MassHealth representative responded that the appellant's assets held in a retainer account by his conservator are countable in an eligibility determination. She cited MassHealth regulations at 130 CMR 520.007.

Findings of Fact

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

1. The appellant, a nursing home resident applied for LTC benefits to MassHealth on 02/21/2024.
2. In establishing eligibility for MassHealth benefits, an asset assessment was made by MassHealth.
3. The asset limit for MassHealth LTC benefits for an unmarried person is \$2,000.00.
4. In the asset assessment, MassHealth determined the appellant has a bank account, the balance of which is countable in an asset calculation. This bank account had a balance of \$23,955.49.
5. The appellant has countable assets totaling \$23,955.49.
6. On 05/08/2025, MassHealth informed the appellant that it decided he was not eligible for MassHealth benefits because he has more countable assets than MassHealth benefits allow.
7. The appellant submitted a request for a fair hearing on 05/16/2025.
8. A fair hearing took place before the Board of Hearings on 06/16/2025.
9. As of the date of the fair hearing, there was no verification that the assets had been reduced.
10. At the fair hearing, the appellant's conservator requested additional time to provide verification that the assets were reduced. She requested that the record remain open until the "end of the

week,” to provide verification that the appellant’s assets are below \$2,000.00. Her request was granted, and the record remained open in this matter until 06/19/2025 for the appellant’s submission and until 06/27/2025 for MassHealth’s response (Exhibit 6).

11. On 06/18/2025, the appellant’s guardian requested one additional day to make the appellant’s submission. Her request was granted, and the record open period was extended to 06/20/2025 for the appellant’s submission. MassHealth’s response was due on 06/27/2025 (Exhibit 7).
12. On 06/20/2025, the appellant’s guardian requested that the record open period again be extended so that additional documentation could be submitted. The appellant’s request was granted, and the record open period was extended until 06/27/2025 for his submission and until 07/11/2025 (Exhibit 8).
13. During the record open period, the appellant submitted verifications, satisfactory to MassHealth that the assets had been reduced; however, there remained a \$5,000.00 countable asset, which prevented MassHealth from approving the benefits (Exhibit 9).
14. On 4/1/2025, a transfer was made in the amount of \$5,000.00 from the appellant’s bank account to the conservator’s retainer account [REDACTED].

Analysis and Conclusions of Law

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members (See 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 (See 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 (See 130 CMR 515.002).

MassHealth regulations at 130 CMR 520.003 address asset limits as follows:

- (A) The total value of countable assets owned by or available to individuals applying for or receiving MassHealth Standard, Family Assistance, or Limited may not exceed the following limits:
- (1) for an individual — \$2,000; and
 - (2) for a couple living together in the community where there is financial responsibility according to 130 CMR 520.002(A)(1) — \$3,000.

Regulations at 130 CMR 520.007 address countable assets as follows:

Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether failure to receive such assets is reasonably considered to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. The applicant or member and the spouse must verify the total value of countable assets. However, if he or she is applying solely for MassHealth Senior Buy-in for Qualified Medicare Beneficiaries (QMB) as described in 130 CMR 519.010: MassHealth Senior Buy-in (for Qualified Medicare Beneficiaries (QMB)) or MassHealth Buy-in for Specified Low Income Medicare Beneficiaries (SLMB) or MassHealth Buy-in for Qualifying Individuals (QI) both as described in 130 CMR 519.011: MassHealth Buy-in, verification is required only upon request by the MassHealth agency. 130 CMR 520.007 also contains the verification requirements for certain assets. The assets that the MassHealth agency considers include, but are not limited to, the following...

The appellant applied for LTC benefits on 02/21/2024. In an asset calculation, MassHealth determined that the appellant had more than \$2,000.00 in countable assets; specifically, the appellant had a bank account, the balance of which is countable in an asset calculation. The balance of the account, \$23,955.99, was countable and was over the asset limit for a single individual to be eligible for LTC benefits. That determination gave rise to this appeal.

At the fair hearing, the record was left open for the appellant's conservator to verify that the assets had been reduced to under \$2,000.00. The MassHealth representative informed the hearing officer and the conservator that the assets had been reduced; however, there remained a transfer of \$5,000.00 from the appellant's bank account to the conservator's account as a retainer for services not yet provided.

MassHealth determined that the appellant assets remained over the \$2,000.00 guideline because of the \$5,000.00 in the conservator's retainer account. During the record open period, one of the appellant's representatives from the conservator's office argued that the retainer account should not be counted towards the appellant as "our job as Conservator has not been finished and costs cannot be estimated when it comes to serving, citations, GAL appointments, & legal fees."

MassHealth's determination that the appellant has excess assets is supported by the regulations and the facts in the hearing record. I find that the regulations require that MassHealth count the balance of funds in the retainer account as assets in an eligibility determination. Also, there is no exception in the regulations. The appellant's representatives provided no regulatory support for their argument that the balance of the retainer account was not countable. Therefore, MassHealth's action is upheld. 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: [REDACTED]

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