

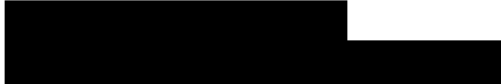
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2507843
Decision Date:	8/11/2025	Hearing Date:	June 18, 2025
Hearing Officer:	Brook Padgett	Record Open to:	July 18, 2025

Appearances for Appellant:




Appearance for MassHealth:

Nicole Conrad



*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:	Lien 130 CMR 515.012
Decision Date:	8/11/2025	Hearing Date:	June 18, 2025
MassHealth's Rep.:	Nicole Conrad	Appellant's Reps.:	
Hearing Location:	Taunton	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

The appellant received a MassHealth notice dated March 18, 2025, stating: the Commonwealth intends to place a lien on the appellant's property because MassHealth determined the appellant could not reasonably be expected to be discharged from the nursing facility and no exempt relatives of the appellant live in the home. (See 130 CMR 515.012(A) and Exhibit 1).

The appellant filed this appeal on May 20, 2025. (See 130 CMR 610.015(B) and Exhibit 2).

Challenging the placement of a lien is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth intends to place a lien on property in which the appellant has a legal interest.

Issue

Is MassHealth correct, pursuant to 130 CMR 515.012(A), when it notified the appellant of its intent to place a lien on property in which the appellant has a legal interest?

Summary of Evidence

MassHealth testified that the appellant is over the age of sixty-five and currently resides in a nursing facility. On September 19, 2024, the appellant was approved for MassHealth long-term care benefits. On March 18, 2025, MassHealth determined the appellant had a legal interest in property in the form of a life estate. Because the appellant would not be returning to the property and she has no exempt relatives living in the home, MassHealth notified the appellant of its intent to place a lien on this property.

The appellant's daughter testified that when she received the notice of MassHealth's intent to place a lien, she began the process of obtaining a child caregiver exemption for her brother. The appellant's daughter testified that she got all the required documentation for the exemption and faxed it to MassHealth on April 23, 2025. The appellant's daughter stated although she received a confirmation receipt that MassHealth received her fax, she never heard back regarding the status of the lien or whether the exemption request was approved or denied. The daughter stated she attempted to reach out to MassHealth several times to get a status update, but she struggled to get any information and was eventually told the lien was placed on the property.

MassHealth responded that MassHealth did receive the fax from the appellant's daughter, but regardless of the status of the child caregiver exemption, MassHealth regulations allow the placement of a lien on the property because the appellant has a life estate interest. MassHealth argued that the appellant's brother may be eligible for the child caregiver exemption, but the lien would nevertheless be placed on the property. MassHealth maintained that the child caregiver exemption does not prevent MassHealth from placing a lien, but the representative was unable to provide a specific regulation during the hearing.

The record was held open until July 18, 2025 for MassHealth to provide the relevant regulation and for the appellant's representative to respond. (Exhibit 4).

Prior to the close of the hearing record, MassHealth provided a citation to the regulation 130 CMR 520.007(G)(12) (Exhibit 5). No additional information was provided by the appellant.

Findings of Fact

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

1. The appellant is a MassHealth long-term care recipient and currently resides in a nursing facility. (Testimony).
2. The appellant has a legal interest in property in the form of a life estate. (Testimony).

3. The appellant does not have a spouse, a disabled child, or a sibling with an equity interest living in the property. (Testimony).
4. On March 18, 2025, MassHealth informed the appellant of its intent to lien the subject property because the appellant has a life estate and does not plan to return home. (Exhibit 1).
5. On April 23, 2025, the appellant's daughter requested a child caregiver exemption on behalf of the appellant's son. (Testimony).
6. To date, there is no evidence that the appellant's son has been determined to meet the requirements of a caretaker child.

Analysis and Conclusions of Law

The issue in this appeal is MassHealth's March 18, 2025 notice informing the appellant of its intent to lien the subject property.

MassHealth is authorized to place a lien against any property in which the member has a legal interest provided the property is not shared with a spouse, a child younger than 21 years old, or a blind or permanently and totally disabled child, or a sibling who has a legal interest in the property and has been living in the house for at least one year before the member's admission to the medical institution; and MassHealth determines that the member cannot reasonably be expected to be discharged from the medical institution and return home.¹

In this instance, there is no dispute the appellant is in a medical institution and is not expected to be discharged and return home. There is also no dispute that the appellant has a legal interest in property in the form of a life estate and that there is no spouse, disabled child, or sibling with an equity interest living in the property.

The appellant argues that the child caregiver exemption prevents MassHealth from placing a lien on

¹ 130 CMR 515.012: Real Estate Liens (A) Liens. A real estate lien enables the MassHealth agency to recover the cost of medical benefits paid or to be paid on behalf of a member. Before the death of a member, the MassHealth agency will place a lien against any property in which the member has a legal interest, subject to the following conditions: (1) per court order or judgment; or (2) without a court order or judgment, if all of the following requirements are met: (a) the member is an inpatient receiving long-term or chronic care in a nursing facility or other medical institution; **(b) none of the following relatives lives in the property: 1. a spouse; 2. a child younger than 21 years old, or a blind or permanently and totally disabled child; or 3. a sibling who has a legal interest in the property and has been living in the house for at least one year before the member's admission to the medical institution;** (c) the MassHealth agency determines that the member cannot reasonably be expected to be discharged from the medical institution and return home; and (d) the member has received notice of the MassHealth determination that the above conditions have been met and that a lien will be placed. The notice includes the member's right to a fair hearing. (*Emphasis added*).

the property. Notably, MassHealth has not yet made a determination as to whether the appellant's son meets the requirements of a caretaker child under 130 CMR 520.007(G)(8)(b)(4).² Further, even if the appellant's son does meet the requirements of 130 CMR 520.007(G)(8)(b)(4), MassHealth may still place the lien here.³ In this circumstance, repayment of the lien would simply be deferred while the appellant's son was still lawfully living in the property.

MassHealth did not err in sending the March 18, 2025, notice of intent to lien the appellant's property and this appeal is DENIED.

Order for MassHealth

None.

² 130 CMR 520.007 Countable Assets (G)(8) Former Home of an Institutionalized Individual. If an applicant or member moves out of his or her home to enter a medical institution, the MassHealth agency considers the former home a countable asset that is subject to 130 CMR 520.007(G)(2), provided all of the following conditions are met. If the former home of a nursing-facility resident as defined in 130 CMR 515.001: Definition of Terms is placed in a trust, the MassHealth agency will apply the trust rules in accordance with 130 CMR 520.021 through 520.024. (a) The individual is institutionalized as defined in 130 CMR 515.001: Definition of Terms. (b) None of the following relatives of the individual is living in the property: 1. a spouse; 2. a child who is younger than 21 years old or who is blind or permanently and totally disabled; 3. a sibling who has a legal interest in the home and who was living there for a period of at least one year immediately before the applicant's or member's admission to the medical institution; **4. a son or daughter who was living in the applicant's or member's home for a period of at least two years immediately before the date of the applicant's or member's admission to the medical institution, and who establishes to the satisfaction of the MassHealth agency that he or she provided care to the applicant or member that permitted him or her to live in the home rather than in a medical institution; or . . .** (*Emphasis added*).

³ 130 CMR 515.012(D) Repayment Deferred. (1) **In the case of a lien on a member's home, repayment under 130 CMR 515.012 is not required while any of the following relatives are still lawfully living in the property:** (a) a sibling who has been living in the property for at least one year before the member's admission to the nursing facility or other medical institution; or (b) **a son or daughter who** 1. has been living in the property for at least two years immediately before the member was admitted to a nursing facility or other medical institution; 2. **establishes to the satisfaction of the MassHealth agency that he or she provided care that permitted the parent to live at home during the two-year period before institutionalization;** and 3. has lived lawfully in the property on a continual basis while the parent has been in the institution. (*Emphasis added*).

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: Taunton MEC

[REDACTED]