

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2508030
Decision Date:	08/08/2025	Hearing Date:	06/25/2025
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearance for MassHealth:

Jenny Chan



*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:	Approved	Issue:	Long Term Care – Disqualifying Transfer
Decision Date:	08/08/2025	Hearing Date:	06/25/2025
MassHealth’s Rep.:	Jenny Chan	Appellant’s Rep.:	
Hearing Location:	All Parties Appeared by Telephone		

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 23, 2025, MassHealth determined the appellant was not eligible for long-term care coverage until October 25, 2024 due to disqualifying asset transfers. (130 CMR 520.019; Exhibit 1). An individual authorized by the appellant’s conservator to serve as an appeal representative filed a timely appeal on May 23, 2025. (130 CMR 610.015; Exhibit 2; Exhibit 3). Denial of assistance and a determination regarding the scope and amount of assistance are valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that the appellant was not eligible for MassHealth until October 25, 2024 due to disqualifying asset transfers. (130 CMR 520.019).

Issue

Whether MassHealth was correct in determining that the appellant was not eligible until October 25, 2024.

Summary of Evidence

All parties appeared by telephone. Documents presented by MassHealth are incorporated into the hearing record as Exhibit 7. Documents submitted by the appellant's representative are incorporated into the hearing record as Exhibit 8.

On December 27, 2024, MassHealth received an application for long-term care seeking coverage as of September 1, 2025. (Testimony; Exhibit 7). On January 7, 2025, MassHealth issued a request for information. On February 18, 2025, MassHealth issued a denial for failure to provide information necessary to determine eligibility. The appellant appealed that decision, provided the necessary information and MassHealth continued to process the application honoring the December 2024 application date.

On April 23, 2025, MassHealth issued a notice determining the appellant eligible as of October 25, 2024 rather than the requested start date of September 1, 2024. MassHealth based this decision upon a determination that the appellant transferred resources to her son in transactions totaling \$11,762.63. On May 22, 2025, MassHealth received information from the appellant that cured two transfers and reduced the transfer amount to \$6,500. On May 29, 2025, MassHealth issued a notice with a new eligibility start date of October 13, 2024. The MassHealth representative testified that the appellant has 90 days from the date of the notice issued on May 29, 2025 to reduce her assets to \$2,000 by transferring the remaining assets to the community spouse.

The appellant's representative presented a letter from the appellant's spouse stating that \$5,000 was drawn from an account to pay their son \$5,000 to purchase a car as his was not repairable. (Testimony; Exhibit 8). The appellant's spouse stated that their son needed a car to drive to and from work. (Testimony; Exhibit 8). The appellant's representative testified at hearing that the appellant's son would not have been able to work if he did not have a car. The check presented to MassHealth indicates on the memo line that the check is for a "car". In January 2023, the appellant's spouse transferred \$1,500 to their son to repair the car. The appellant's representative was not aware of any other history of the appellant or her spouse providing gifts to their son.

The appellant's representative testified that at the time of the transfers, the appellant would have qualified for MassHealth as she had a spouse in the community and her countable asset amount was below the amount to qualify for MassHealth regardless of the transfers at issue. The appellant's representative testified that neither the appellant nor her spouse were aware of the possible need to apply for MassHealth long-term care coverage at the time of the transfers. The appellant's representative acknowledged that the appellant did not receive fair market value for the transfers. Instead, the appellant's representative argued that the agency should look at the total asset amount at the time of a transfer and whether an individual would qualify for MassHealth at that time in determining the purpose of a transfer and if an individual would have qualified for MassHealth at the time of the transfer, what occurred would not impact their eligibility. Therefore, the transaction should not be deemed disqualifying. The appellant's representative argued that other hearing officers have made this determination and relied on the

regulations at 130 CMR 520.019(F)(1) which state that MassHealth will not impose a period of ineligibility for transferring resources if the resources were transferred exclusively for a purpose other than to qualify for MassHealth. The appellant's representative argued that if one is eligible for MassHealth at the time of a transfer, it would not impact their eligibility for MassHealth. The appellant's representative asked that the agency review the marital status and bank balance of an individual at the time of the transfer in determining intent.

The MassHealth representative asked if the appellant's son would be able to repay the amount at issue. The appellant's representative was not sure if that was possible and did not agree that it was necessary as the transfers should not be deemed disqualifying. The primary reason being that the appellant would have been eligible for MassHealth at the time of the transfers.

Findings of Fact

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

1. On December 27, 2024, MassHealth received an application for long-term care seeking coverage as of September 1, 2025.
2. On January 7, 2025, MassHealth issued a request for information.
3. On February 18, 2025, MassHealth issued a denial for failure to provide information necessary to determine eligibility.
4. The appellant appealed that decision, provided the necessary information and MassHealth continued to process the application honoring the December 2024 application date.
5. On April 23, 2025, MassHealth issued a notice determining the appellant eligible as of October 25, 2024 rather than the requested start date of September 1, 2024.
6. MassHealth based this decision upon a determination that the appellant transferred resources to her son in transactions totaling \$11,762.63.
7. On May 22, 2025, MassHealth received information from the appellant that cured two transfers and reduced the transfer amount to \$6,500.
8. On May 29, 2025, MassHealth issued a notice with a new eligibility start date of October 13, 2024.
9. The appellant has a spouse in the community.

10. On October 22, 2022, the appellant's spouse signed a check in the amount of \$5,000 payable to the appellant's son for the purchase of a car.
11. The appellant's son needed a car to drive to and from work.
12. At the time of the transfer, the appellant's son had a car that was not repairable.
13. In January 2023, the appellant's spouse transferred \$1,500 to their son's bank account for repairs to the car.
14. The appellant did not present evidence of any other transfers to her son.

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 individual. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

The regulations at 130 CMR 520.019 apply to nursing-facility residents as defined at 130 CMR 515.001 requesting MassHealth payment for nursing-facility services provided in a nursing facility or in any institution for a level of care equivalent to that received in a nursing facility or for home- and community-based services provided in accordance with 130 CMR 519.007(B). Under this section, transfers of resources are subject to a look-back period, beginning on the first date the individual is both a nursing facility resident and has applied for or is receiving MassHealth Standard. (130 CMR 520.019(B)).

MassHealth considers any transfer during the appropriate look-back period by the nursing facility resident of a resource or interest in a resource, owned by or available to the nursing-facility resident 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). (130 CMR 520.019(C)). 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)).

MassHealth does consider certain transfers as permissible. (130 CMR 520.019(D)). Such permissible transfers include a transfer of resources to the spouse of the nursing-facility

resident, a transfer from the spouse to a third-party for the benefit of the spouse, a transfer to a permanently and totally disabled or blind child, a transfer to a trust for the sole benefit of a permanently and totally disabled person who was under 65 years of age, a transfer to a pooled trust created for the sole benefit of the nursing-facility resident, certain transfers of the nursing-facility resident's home, and a transfer to a burial account or similar device. (130 CMR 520.019(D)). The transfers at issue do not reflect any such transfer. (130 CMR 520.019(D)).

In addition to the permissible transfers described in 130 CMR 520.019(D), MassHealth will not impose a period of 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. (130 CMR 520.019(F)).

The regulations state that valuable consideration is a tangible benefit equal to at least the fair-market value of the transferred resource. (130 CMR 520.019(F)). The appellant's representative did not dispute the fact that the appellant did not receive fair market value for the transfers at issue. Instead, the appellant's representative argued that the transfers were done exclusively for a purpose other than to qualify for MassHealth because at the time of each transfer, the appellant would have been eligible for MassHealth as one with a spouse in the community. The appellant's representative relied primarily on the timing and possible eligibility of the appellant at the time of the transfer rather than the actual purpose. The regulations speak to purpose of the transfer, not the balance of one's asset amount at the time of the transfer. If this was something for the agency to consider in processing an application, such language would likely be included in the regulations.

Rather than relying on an argument that one would otherwise qualify at the time of the transfer, which seems flawed, this decision will look to the documents presented by the parties which show that the purpose was exclusively other than to qualify for MassHealth. The fact that the appellant did not present a history of other gifts or transfers to the son, that the check indicates that the purpose of the check was for the purchase of a "car" and the other transaction was done shortly after the purchase of the car show that the transfers were exclusively for a purpose other than to qualify for MassHealth.

The decision made by MassHealth was not correct.

This appeal is approved.

Order for MassHealth

Rescind the notice on appeal and process the appellant's application for long-term care without regarding the transfers at issue.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Susan Burgess-Cox
Hearing Officer
Board of Hearings



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