

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2508052
<b>Decision Date:</b>	10/17/2025	<b>Hearing Date:</b>	07/14/2025
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	10/09/2025

**Appearance for Appellant:**



**Appearance for MassHealth:**

Nivdarla Anselme, Quincy 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Eligibility—over 65; Coverage Start Date
<b>Decision Date:</b>	10/17/2025	<b>Hearing Date:</b>	07/14/2025
<b>MassHealth's Rep.:</b>	Nivdarla Anselme	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy Harbor South (Telephone)	<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 March 25, 2025, MassHealth approved the Appellant for the Medicare Savings Program, QMB benefits, effective April 1, 2025. Exhibit 1. The notice stated the Appellant had excess assets of \$640.51, based on life insurance valued at \$2,600.99 and a bank account of \$39.52. *Id.* The Appellant's representative filed this appeal in a timely manner on May 23, 2025, stating that the Appellant was placing her excess assets in her prepaid funeral plan. 130 CMR 610.015(B) and Exhibit 2.<sup>1</sup> Prior to the hearing, the Appellant's representative filed with the Board

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<sup>1</sup> As part of the fair hearing request, the Appellant's representative included a copy of the dismissal in appeal no. 2501498. Exhibit 2. The Appellant's representative filed an appeal with the Board of Hearings regarding a MassHealth notice, dated December 30, 2024, which denied the Appellant's application due to missing verifications. The Board of Hearings' dismissal decision stated that the Appellant submitted an application on September 23, 2024, which checked off that she was applying for both long-term and community benefits, and because the Appellant did not submit a Long-Term-Care Supplement with the application, MassHealth processed it as an application for community benefits. The appeal of the denial was heard on February 19, 2025, the record was held open for the submission of the missing verifications, and it was closed on March 25, 2025, when the MassHealth representative informed the Appellant and Hearing Officer that the Appellant was approved for the Medicare Savings Program, QMB benefits, and was over assets for MassHealth Standard. The Hearing Officer dismissed the appeal under 130 CMR 610.035(A)(8) because the issue of the missing verifications had been resolved. *Id.* The dismissal notes that the Appellant has appeal rights on the March 25, 2025 notice. *Id.* at 5 n.1.

of Hearings a MassHealth notice, dated June 24, 2025, stating that the Appellant was approved for MassHealth Standard with an effective start date of June 1, 2025. Exhibit 5. The filing stated: “Our contention is this coverage should be retroactive to the date of the application for MassHealth which is the subject of this appeal; Appellant does not have a copy of this document, but that application is likely to have been filed on or prior to January 1, 2025. It is our contention that [Appellant] should be ruled by this Board to have MassHealth [S]tandard coverage continuously during the entire period from the application just mentioned to the present date.” *Id.* at 2. I am treating this filing as a request for fair hearing on the June 24, 2025 notice as well. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

## **Action Taken by MassHealth**

MassHealth approved the Appellant for the Medicare Savings Program, QMB benefits, effective April 1, 2025, and for MassHealth Standard, effective June 1, 2025.

## **Issue**

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.006 and 130 CMR 520.001 *et seq.*, in determining when the Appellant was eligible for MassHealth benefits in the community.

## **Summary of Evidence**

As part of the fair hearing request, the Appellant’s representative submitted information dated January 17, 2025, showing a life insurance policy for the Appellant, with a stated cash value accumulation of \$2,600.99 and a cash surrender value of \$2,613.56. Exhibit 2. He also submitted information dated May 8, 2025, showing an irrevocable funeral trust was created for the Appellant in 2006, with a current balance of \$1,103.52. *Id.*

The hearing was held by telephone. The Appellant is an adult over the age of 90 with a household of one. She was represented by her attorney and power of attorney, who verified the Appellant’s identity.

The MassHealth representative testified that the Appellant applied for MassHealth community benefits on September 23, 2024, and that MassHealth requested additional information by notice dated September 25, 2024. The MassHealth representative testified that MassHealth denied the application for failure to submit the requested information on December 30, 2024. The MassHealth representative testified that the Appellant subsequently submitted all the requested information and was approved for the Medicare Savings Program, QMB benefits, on March 25, 2025, with an effective start date of April 1, 2025. The MassHealth representative testified that an SC-1 was

submitted on the Appellant's behalf on March 19, 2025.

The MassHealth representative testified that the Appellant's September 23, 2024 application had expired after 90 days. However, the MassHealth representative also testified that the Appellant's September 23, 2024 application was approved on March 25, 2025. The MassHealth representative did not provide an alternative application date besides September 23, 2024, as the date MassHealth considered the Appellant's application for community benefits, and which MassHealth made a determination about in its March 25, 2025, and June 24, 2025 notices. The MassHealth representative testified that appeal no. 2501498 about the December 30, 2024 notice was dismissed by the Board of Hearings on March 31, 2025. *See also* Exhibit 2. The MassHealth representative testified that the Appellant also submitted a Long-Term-Care application to MassHealth on June 24, 2025, along with proof showing that her assets were reduced below \$2,000.00.

The Appellant's representative testified that he had previously served as the Appellant's attorney, and did not know of her application for MassHealth until January 1, 2025. The Appellant's representative explained that the Appellant was in a nursing facility at that point and it was unknown at that time if she would be discharged to the community or would need to stay at the nursing facility long-term. The Appellant's representative testified that only recently was it determined that the Appellant would be remaining at the nursing facility for long-term-care. The Appellant's representative testified that because he timely appealed MassHealth's decisions, he did not understand why the Appellant's eligibility would not go back to the date of her application. The Appellant's representative stated that he thought the Appellant incurred medical expenses that exceeded the excess assets of \$640.51 prior to the March 25, 2025, notice and that the Appellant should have been eligible for MassHealth benefits earlier. The Appellant's representative testified that he had on hand medical bills for the Appellant of \$7,000.00-\$8,000.00, which the Appellant is unable to pay. The Appellant's representative stated that he had timely appealed the March 25, 2025, and December 30, 2024 notices.

Under 130 CMR 610.081, the hearing officer reopened the record for the Appellant's representative to submit proof of the Appellant's medical expenses exceeding her excess assets, for MassHealth to explain when MassHealth considered the Appellant's assets spent down below \$2,000.00, and whether MassHealth considered the Appellant to have applied for MassHealth community benefits on a different date than September 23, 2024. Exhibits 6 and 7.

The Appellant's representative did not respond. The MassHealth representative responded that

Currently, the member has Standard based on a long term care decision going back to March 1, 2025.<sup>2</sup> I cannot override whatever was put in for LTC if they are looking to get backdate further than that.

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<sup>2</sup> While not the subject of this appeal, by notice dated July 30, 2025, MassHealth approved the Appellant for long-term-care services in a nursing facility, effective March 1, 2025.

There is nothing more for us to do since the member was upgraded to Standard the month MassHealth received the spenddown. The LTC determination goes back well beyond how far the backdate can go without long-term-care (first of the month when MassHealth received the change).

Exhibit 7 at 2.

The hearing officer followed up with additional questions to the parties and did not receive any response. Exhibit 7.

## **Findings of Fact**

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

1. The Appellant is an adult over the age of 90 with a household of one. Testimony, Exhibit 4.
2. The Appellant submitted an application for community MassHealth benefits on September 23, 2024. Testimony, Exhibit 2.
3. By notice dated March 25, 2025, MassHealth approved the Appellant for the Medicare Savings Program, QMB benefits, effective April 1, 2025. The notice stated the Appellant had excess assets of \$640.51, based on life insurance valued at \$2,600.99 and a bank account of \$39.52. Exhibit 1.
4. The Appellant's representative filed a timely appeal with the Board of Hearings on May 23, 2025, stating that the Appellant was placing her excess assets in her prepaid funeral plan. Exhibit 2.
5. As part of the fair hearing request, the Appellant's representative submitted information dated January 17, 2025, showing a life insurance policy for the Appellant, with a stated cash value accumulation of \$2,600.99 and a cash surrender value of \$2,613.56. He also submitted information dated May 8, 2025, showing an irrevocable funeral trust was created for the Appellant in 2006, which has a current balance of \$1,103.52. Exhibit 2.
6. Prior to the hearing, the Appellant's representative filed with the Board of Hearings a MassHealth notice, dated June 24, 2025, stating that the Appellant was approved for MassHealth Standard with an effective start date of June 1, 2025. The filing stated: "Our contention is this coverage should be retroactive to the date of the application for MassHealth which is the subject of this appeal; Appellant does not have a copy of this document, but that application is likely to have been filed on or prior to January 1, 2025. It is our contention that

[Appellant] should be ruled by this Board to have MassHealth [S]tandard coverage continuously during the entire period from the application just mentioned to the present date.” Exhibit 5.

## **Analysis and Conclusions of Law**

MassHealth regulations provide:

### 130 CMR 516.001: Application for Benefits

#### (A) Filing an Application.

##### (1) Application. To apply for MassHealth

- (a) for an individual living in the community, an individual or his or her authorized representative must file a complete paper Senior Application and all required Supplements or apply in person at a MassHealth Enrollment Center (MEC); or
- (b) for an individual in need of long-term-care services in a nursing facility, a person or his or her authorized representative must file a complete paper Senior Application and Supplements or apply in person at a MassHealth Enrollment Center (MEC).

##### (2) Date of Application.

- (a) The date of application is the date the application is received by the MassHealth agency.
- (b) An application is considered complete as provided in 130 CMR 516.001(C).
- (c) If an applicant described in 130 CMR 519.002(A)(1) has been denied SSI in the 30-day period before the date of application for MassHealth, the date of application for MassHealth is the date the person applied for SSI.

### 130 CMR 516.002: Reactivating the Application

The MassHealth agency will reactivate the application after a denial of eligibility for failure to provide requested verifications.

(A) If the requested information is received within 30 days of the date of denial, the date of receipt of one or more of the verifications is considered the date of reapplication.

(B) The date of reapplication replaces the date of the denied application. The applicant’s earliest date of eligibility for MassHealth is based on the date of reapplication.

(C) If the reapplication is subsequently denied and not appealed, the applicant must submit a new application to pursue eligibility for MassHealth. The earliest date of eligibility for MassHealth is based on the date of the new application.

(D) If the denial is due to excess assets, the date of reapplication is described at 130 CMR 520.004:

*Asset Reduction.*

(E) A new application is required if a reapplication is not received within 30 days from the date of denial.

130 CMR 516.006: Coverage Date

(A) Start Date of Coverage.

(1) For individuals applying for coverage, the date of coverage for MassHealth is determined by the coverage type for which the applicant may be eligible. 130 CMR 519.000: *MassHealth: Coverage Types* describes the rules for establishing this date.

(2) The begin date of MassHealth Standard, Family Assistance, or Limited coverage may be retroactive to the first day of the third calendar month before the month of application, if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided. If more than one application has been submitted and not denied, the begin date will be based on the earliest application that is approved. Retroactive eligibility does not apply to services rendered under a home- and community-based services waiver provided under section 1915(c) of the Social Security Act.

(B) End Date of Coverage. MassHealth benefits terminate or downgrade no sooner than 14 days from the date of the termination or downgrade notice unless the MassHealth member timely files an appeal and requests continued MassHealth benefits pending such appeal.

130 CMR 519.005: Community Residents 65 Years of Age and Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

(1) the countable-income amount, as defined in 130 CMR 520.009: *Countable-income Amount*, of the individual or couple is less than or equal to 100% of the federal poverty level; and

(2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.005(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

130 CMR 520.003: Asset Limit

(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.

(B) The total value of countable assets owned by or available to individuals applying for or receiving 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*, may not exceed the amount equal to two times the amount of allowable assets for Medicare Savings Programs as identified by the Centers for Medicare and Medicaid Services. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

(C) The treatment of a married couple's assets when one spouse is institutionalized is described in 130 CMR 520.016(B).

#### 130 CMR 520.004: Asset Reduction

(A) Criteria.

- (1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, 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.
- (2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the 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: *Date of Application*; 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.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

- (1) If after eligibility has been established, an individual submits an allowable bill with a medical

service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

#### 130 CMR 520.007: Countable Assets

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 or not 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 or not 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.

....

(E) Cash-surrender Value of Life-insurance Policies.

(1) The cash-surrender value of a life-insurance policy is the amount of money, if any, that the issuing company has agreed to pay the owner of the policy upon its cancellation. An individual may adjust the cash-surrender value of life insurance to meet the asset limit. The MassHealth agency will consider the cash-surrender-value amount an inaccessible asset during the adjustment period.

(2) If the total face value of all countable life-insurance policies owned by the applicant, member, or spouse exceeds \$1,500, the total cash-surrender value of all policies held by that individual is countable. The MassHealth agency does not count the face value of burial insurance and the face value of life-insurance policies not having cash-surrender value (for instance, term insurance) in determining the total face value of life-insurance policies. Burial insurance is insurance whose terms specifically provide that the proceeds can be used only to pay the burial expenses, funeral expenses, or both of the insured.

#### 130 CMR 520.008: Noncountable Assets

Noncountable assets are those assets exempt from consideration when determining the value of assets. In addition to the noncountable assets described in 130 CMR 520.006 and 520.007, the following assets are noncountable.

....

(F) Funeral or Burial Arrangements.

(1) The following funeral or burial arrangements for the applicant, member, or spouse are considered noncountable assets:

- (a) any burial space, including any burial space for any immediate family member;
- (b) one of the following:
  - 1. a separately identifiable amount not to exceed \$1,500 expressly reserved for funeral and burial expenses; or
  - 2. life-insurance policies designated exclusively for funeral and burial expenses with a total face value not to exceed \$1,500;
- (c) the cash-surrender value of burial insurance; and
- (d) prepaid irrevocable burial contracts or irrevocable trust accounts designated for funeral and burial expense.

(2) Appreciated value or interest earned or accrued and left to accumulate on any contracts, accounts, or life insurance is also noncountable. If the applicant, member, or spouse uses any of these assets, including the interest accrued, for other than funeral or burial arrangements of the applicant, member, or spouse, the MassHealth agency considers the asset available and countable under the provisions of 130 CMR 520.007, 520.018, and 520.019.

(3) The applicant, member, or spouse has the right to establish a burial arrangement or change the designation of his or her funds to a burial arrangement described in 130 CMR 520.008(F). If such arrangement is made within 60 days after the date that the applicant or member was notified of his or her right to do so, then the MassHealth agency considers the arrangement to have been in existence on the first day of the third month before the application.

Here, based on MassHealth regulations, the Appellant may be eligible for an earlier MassHealth Standard coverage start date than June 1, 2025, based on her September 23, 2024 application for community benefits, and based on one or more of the following: the date when she reduced her assets; the date when she transferred her life insurance policy to an irrevocable funeral account; or the date when she incurred medical bills that exceeded the value of her excess assets. *See*, 130 CMR 516.006(A)(2); 130 CMR 520.004(A)(1)(a), (b), (C); 130 CMR 520.008(F)(3). However, based on information in the record before me, the Appellant has not provided sufficient evidence of when she reduced her assets, transferred her insurance policy to an irrevocable funeral trust, or incurred covered medical bills that exceeded her excess assets. Therefore, the appeal is denied.

The Appellant shall have 30 days from the date of this decision to submit proof of spend down of the excess assets to MassHealth. If the Appellant submits proof to MassHealth within 30 days of this decision, MassHealth shall reopen the Appellant's September 23, 2024 application and determine the Appellant's coverage start date in accordance with 130 CMR 516.006 and 130 CMR 520.001 *et*

*seq.*

## **Order for MassHealth**

If the Appellant submits proof of asset spenddown to MassHealth within 30 days of the date of this decision, MassHealth shall reopen the Appellant's September 23, 2024 application and determine the Appellant's coverage start date in accordance with 130 CMR 516.006 and 130 CMR 520.001 *et seq.*

With any new eligibility determination for the appellant, include appeal rights.

## **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.

## **Implementation of this Decision**

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.

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Emily Sabo

Hearing Officer  
Board of Hearings

cc:

[REDACTED]

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