

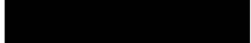
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; denied in part	<b>Appeal Number:</b>	2508093
<b>Decision Date:</b>	10/8/2025	<b>Hearing Date:</b>	6/24/2025
<b>Hearing Officer:</b>	Cynthia Kopka	<b>Record Open to:</b>	8/20/2025

**Appearance for Appellant:**



**Appearance for MassHealth:**

Alexsandra DeJesus, Taunton 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>	Approved in part; denied in part	<b>Issue:</b>	LTC eligibility, disqualifying transfers
<b>Decision Date:</b>	10/8/2025	<b>Hearing Date:</b>	6/24/2025
<b>MassHealth's Rep.:</b>	Alexsandra DeJesus	<b>Appellant's Rep.:</b>	Attorney
<b>Hearing Location:</b>	Taunton (remote)	<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

By notice dated May 14, 2025, MassHealth denied Appellant's application for long term care benefits because Appellant had recently given away or sold assets to become eligible for MassHealth. MassHealth calculated a period of ineligibility from August 22, 2024 to June 6, 2025. Exhibit 1. Appellant filed a timely appeal on May 27, 2025. Exhibit 2, 130 CMR 610.015(B). Denial of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open and extended through August 20, 2025 for the submission of additional evidence. Exhibits 5, 7.

By notice dated July 30, 2025, MassHealth approved Appellant for MassHealth long-term care services effective March 2, 2025. MassHealth calculated a period of ineligibility from August 22, 2024 to March 1, 2025 for making impermissible transfers of assets. Exhibit 1. Appellant filed a appeal in a timely manner on July 8, 2024. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032. Appellant's attorney agreed to consolidate the appeals of both notices in the present appeal.

## Action Taken by MassHealth

MassHealth determined that Appellant made impermissible transfers of assets resulting in a period of ineligibility.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019, in determining that Appellant made disqualifying transfers during the look-back period and in calculating the period of ineligibility.

## Summary of Evidence

The MassHealth representative appeared by phone and testified as follows. On July 15, 2024, MassHealth received Appellant's application for long term care benefits. Appellant admitted to the nursing facility on [REDACTED] and seeks MassHealth coverage effective August 22, 2024. Exhibit 4. On May 14, 2025, MassHealth denied Appellant's application for long term care benefits because Appellant had recently given away or sold assets to become eligible for MassHealth. MassHealth calculated a period of ineligibility from August 22, 2024 to June 6, 2025. Exhibit 1.

The MassHealth representative testified that according to a HUD statement, on August 31, 2025 Appellant and three other family members sold their deceased mother's home (hereinafter referred to as "the property") for \$499,660.70. Exhibit 4 at 4. MassHealth calculated Appellant's portion of the proceeds to be \$124,915. The disbursement of the funds to Appellant has not been verified. Using the daily rate of \$433, MassHealth calculated a period of ineligibility of 289 days. MassHealth could cure all or part of the transfer penalty with proof of where the funds were deposited and how the funds were spent down with copies of bills paid, cancelled checks, and receipts.

Appellant's attorney appeared at hearing and testified that she had been recently retained to assist with the application. Appellant's attorney received a spreadsheet from the family with details of how the money was spent on Appellant's behalf but requested additional time to compile necessary supporting records. The hearing record was held open and extended through July 23, 2025 for Appellant's attorney to provide additional evidence, and through July 30, 2025 for MassHealth to review and respond. Exhibit 5.

Appellant's attorney produced a list of expenditures with bills, invoices, and affidavits in support. Exhibit 6. Appellant and his brother attested that Appellant lived at the property with his mother until she passed away in [REDACTED] *Id.* at 4, 6. Due to Appellant's severe alcohol abuse and resulting medical conditions, he was unable to care for himself or be left alone. Appellant's mother was his primary caretaker. *Id.* Appellant did not contribute to any household expenses and Appellant's mother paid his bills. *Id.* After Appellant's mother passed away, Appellant's three siblings paid for all of the bills associated with the property, including real estate taxes, homeowner's insurance, and utility bills. Appellant's nephew moved into the home to care for Appellant. *Id.* Appellant did not contribute financially to the upkeep of the property. After the house was sold, Appellant's three siblings reimbursed themselves for the amount paid for Appellant's mother's

funeral and the expenditures to prepare the house for sale. *Id.* After selling the property, Appellant moved to an apartment and was unable to work, pay bills, or perform activities of daily living. *Id.* Appellant's brother attested that he paid Appellant's rent and gave Appellant \$500 a month to purchase cigarettes, candy, soda, and food. *Id.* Appellant lived in the apartment for approximately 18 months. *Id.* at 3.

Appellant's attorney provided a spreadsheet listing expenses paid for the property, expenses for Appellant's mother's funeral, and expenses Appellant incurred when he was living on his own in an apartment. *Id.* at 2-3. Appellant's attorney provided invoices and/or copies of checks in support. *Id.* at 8-44. The following chart summarizes the expenses identified by Appellant's attorney and includes references to the page number in Exhibit 6 if proof of this expense and/or payment was provided:

Chart 1

Item	Amount	Bill	Check/payment
Title inspection	795.00	8	8
KOC Funeral with tip	1600.00	9	
Landscaping	6500.00	10	
Funeral - mother	11190.00	11	
Legal fees - mother	1786.00	12	
Water heater, trim work	1470.00	13	14
Homeowner's insurance	1206.60		15
Funeral flowers - mother	856.58	16-17	
Taxes 2023 - nephew paid	2002.00	18	18
Home care – nephew	3050.00		
Probate filing fee - mother	405.00		20
Check to cash for cleaning	4950.00		21
Flooring repairs	6500.00	22	
Attorney fee	375.00	23	
House cleaning	410.00		24
Catering bereavement	2057.00		
Painter	17500.00	30	
Dumpsters	3600.00	25-28	
Repair skylight roof	2800.00		
Construction	20475.00	29	
Taxes 2024	2002.00		
Homeowners insurance 2023	1206.60		
Homeowners insurance 2024	1206.60		
Utilities 2023	4200.00		
Utilities 2024	4200.00		

Total	102343.38		
Appellant's 1/4 share	25,585.85		

Appellant's attorney calculated that the total expense paid for the property and the mother's funeral was \$102,343.38. *Id.* at 2. Appellant's share of the expenses (one fourth) would be \$25,585.85. Appellant's attorney argued that Appellant was paid \$8,100 after the sale of the property. *Id.* at 34. Finally, Appellant's attorney argued that \$61,406 was paid for by Appellant's siblings for Appellant's care in the apartment after the property was sold. *Id.* at 2, 3. The following chart summarizes the expenses identified by Appellant's attorney and includes references to the page number in Exhibit 6 if proof of this expense and/or payment was provided:

Chart 2

Item	Amount	Bill	Check/payment
New couch	1455.61	31	
New bed	840.59	32	33
Facility PPA – 2 months	2073.30		39, 40
Rent - 18 months 2,100	37800.00	(14,700) 37	35, 36
Broker's commission	2100.00		
Facility PPA	1036.65		41
Mobile scooter	800.00	42	
Utilities - 18 months	6300.00		
Cigarettes et al, 18 months	9000.00		
Total	61406.15		

Appellant's attorney argued that after deducting Appellant's share of the property expenses, the \$8,100 he received from the proceeds, and the \$61,406.15 paid on Appellant's behalf for his care, the remaining balance would only be \$29,823.33.<sup>1</sup> Appellant's attorney argued that the remaining balance was spent on Appellant's care as set forth in affidavits by Appellant and his brother and should not be considered disqualifying. *Id.* at 1. Additionally, Appellant's attorney stated that the family was trying to set up a prepaid funeral contract for Appellant.

The MassHealth representative responded that of the expenses identified, MassHealth could cure \$42,205 of the transfer for the following transactions for which Appellant provided both a bill and a cancelled check proving payment:

---

<sup>1</sup> There was a small decimal error in Exhibit 6.

Chart 3

Item	Amount	Bill	Check/payment
<i>Funeral - mother</i>	11190.00	11	11
<i>Title inspection</i>	795.00	8	8
<i>Water heater, trim work</i>	1470.00	13	14
<i>Taxes 2023 - nephew paid<sup>2</sup></i>	2002.00	18	18
New bed	840.59	32	33
Facility PPA – 2 months	2073.30		39, 40
Rent	14700.00	37	35, 36
Facility PPA – 1 month	1036.00		41
Proceeds from sale	8100.00		
Total	42205.00		

Exhibit 7. On July 30, 2025, MassHealth notified Appellant that the penalty period was adjusted and eligibility would begin on March 2, 2025. Exhibit 1. Notably, MassHealth used the daily rate of \$441 to calculate the period of ineligibility. *Id.*

The MassHealth representative argued that some of the invoices provided were not accompanied by a copy of a canceled check or other proof of who paid the bill. MassHealth also identified other expenses identified for which there was no proof that the item was purchased for Appellant, such as the scooter. *See* Exhibit 6 at 42. However, the proof of the purchase of a bed for Appellant was established with the receipt showing the delivery address and a check. *See id.* at 32. Notably, of the house and funeral expenses MassHealth cured, MassHealth cured the full payment amount and not Appellant’s 1/4 share. The expenses MassHealth cured related to the property and/or the mother’s funeral, italicized in Chart 3 above, totaled \$15,457.

Appellant’s attorney requested an extension of the record open period to provide additional proof and a legal memorandum in support of Appellant’s position. The hearing record was reopened through August 13, 2025 for Appellant and through August 20, 2025 for MassHealth’s response. Exhibit 8.

Appellant’s attorney argued in her legal memorandum that expenses incurred were properly verified and provided affidavits from contractors stating that they were paid by Appellant’s brother. The receipts for the construction, landscaping, and flooring costs included invoices referencing the property’s address and affidavits from individuals attesting to being paid in full by Appellant’s brother. Exhibit 8 at 14-19. Appellant’s attorney argued that for Appellant’s rent, Appellant’s brother provided evidence of cashier’s checks withdrawn from the brother’s account in July 2023 to pay the landlord and broker, and a payment receipt from the landlord confirming receipt of \$14,700 on August 1, 2023. Exhibit 8 at 5, 12-13; Exhibit 6 at 35, 37. Appellant’s attorney also provided a copy

---

<sup>2</sup> MassHealth labeled this line item as “labor.”

of a check dated January 30, 2024 from Appellant's brother to the same landlord for \$12,600 for six months of rent beginning February 1, 2024. Exhibit 6 at 36. Appellant's attorney provided a copy of an irrevocable funeral contract with a statement of goods and services and check for \$11,385 paid to the funeral home by Appellant's brother on Appellant's behalf. *Id.* at 20-22. The MassHealth representative responded that there was not sufficient evidence to cure any other expenses. Exhibit 9.

Appellant's attorney argued that Appellant did not make a disqualifying transfer of resources by not receiving \$116,815.18 (\$124,915 minus the verified \$8,100 Appellant received) of the proceeds from the sale of the property, arguing that he received fair market value for this amount by living in the property and having his expenses paid for by his siblings, including taxes and utilities. Appellant's attorney also argued that Appellant told his siblings to keep the proceeds of the sale for a reason exclusively for a purpose other than for Appellant to qualify for MassHealth and therefore a penalty should not be calculated pursuant to 130 CMR 520.019(F)(1). The reason for the transfer offered by Appellant was that Appellant did not contribute financially to his own care or the care of the property due to his alcoholism and associated ailments impacting his functional capacity. Appellant's attorney argued that Appellant asked his siblings to cover the costs of these items and that he would reimburse them for all the money they spent on his mother's funeral and the costs to fix up the home for sale. Exhibit 8 at 7. Furthermore, Appellant received fair market value for the amount transferred after the sale of the home because his rent and necessary expenses were paid for by his siblings out of the proceeds for the sale. *Id.*

## Findings of Fact

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

1. On July 15, 2024, MassHealth received Appellant's application for long term care benefits. Appellant admitted to the nursing facility on [REDACTED] and seeks MassHealth coverage effective August 22, 2024. Exhibit 4.
2. On May 14, 2025, MassHealth denied Appellant's application for long term care benefits because Appellant had recently given away or sold assets to become eligible for MassHealth.
3. Using the daily rate of \$433, MassHealth calculated a period of ineligibility of 289 days, from August 22, 2024 to June 6, 2025. Exhibit 1.
4. Appellant filed a timely appeal on May 27, 2025. Exhibit 2.
5. On August 31, 2023, Appellant and three siblings sold the property for \$499,660.70. Exhibit 4 at 4.

6. MassHealth calculated Appellant's portion of the proceeds of the sale to be \$124,915.
7. After the property sold, \$8,100 was deposited into Appellant's bank account. Exhibit 6 at 34.
8. By affidavit, Appellant and his brother attested that Appellant has been in and out of the hospital for over [REDACTED] due to alcohol abuse. Appellant is not able to work or care for himself due to the alcoholism and associated disabilities. Appellant's mother was Appellant's caretaker before her death in [REDACTED]. Appellant's nephew took care of Appellant for a period after Appellant's mother died and before Appellant moved to an apartment. Exhibit 6 at 4, 6.
9. By affidavit, Appellant and his brother attested that after the house sold, Appellant's brother and other siblings reimbursed themselves for the money spent on their mother's funeral and the expenditures to sell the house at Appellant's behest. Exhibit 6 at 4, 6.
10. As set forth in Chart 1, Appellant provided MassHealth with documents showing property expenses and funeral expenses totaling \$102,343.38. Appellant's one-fourth share of these expenses would be \$25,585.85.
11. As set forth in Chart 2, Appellant provided documentation of expenses as well as estimations of monthly expenses incurred by Appellant and paid for by Appellant's siblings totaling \$61,406.15.
12. The MassHealth representative found sufficient verification to cure \$42,205 of the \$124,915 transfer as set forth in Chart 3 above.
13. The expenses MassHealth cured related to the property and/or the mother's funeral, italicized in Chart 3, totaled \$15,457.
14. By notice dated July 30, 2025, MassHealth approved Appellant for MassHealth long-term care services effective March 2, 2025. MassHealth calculated a period of ineligibility from August 22, 2024 to March 1, 2025 for making impermissible transfers of assets, using a daily rate of \$441 to calculate the penalty period. Exhibit 1.
15. Appellant filed a timely appeal on July 8, 2024. This appeal was consolidated with the present appeal. Exhibit 2.
16. The receipts for the construction, landscaping, and flooring costs included invoices referencing the property's address and affidavits from individuals attesting to being paid in full by Appellant's brother. Exhibit 8 at 14-19.

17. Appellant provided evidence of cashier's checks withdrawn from Appellant's brother's account in July 2023 to pay the landlord and broker, and a payment receipt from the landlord confirming receipt of \$14,700 on August 1, 2023. Exhibit 8 at 5, 12-13; Exhibit 6 at 35, 37.
18. Appellant provided a copy of a check dated January 30, 2024 from Appellant's brother to the same landlord for \$12,600 for six months of rent beginning February 1, 2024. Exhibit 6 at 36.
19. Appellant's brother paid \$11,385 for an irrevocable funeral contract with a statement of goods and services on Appellant's behalf. Exhibit 8 at 20-22.

## **Analysis and Conclusions of Law**

To qualify for MassHealth Standard coverage as a resident of a long term care facility, an individual must have countable assets of \$2,000 or less. 130 CMR 519.006(A)(4). MassHealth considers any transfer of a resource owned by a nursing facility resident for less than fair market value during the appropriate look-back period to be a disqualifying transfer unless the transfer in question is permitted or exempted under the regulations. Specifically, 130 CMR 520.018(B) states that MassHealth "will deny payment for nursing facility services to an otherwise eligible nursing-facility resident ... who transfers or whose spouse transfers countable resources for less than fair-market value during or after the period of time referred to as the look-back period." The look-back period for transfers of resources occurring on or after February 8, 2006 is 60 months. 130 CMR 520.019(B)(2).

According to 130 CMR 520.019(C), set forth in pertinent part,

The MassHealth agency considers 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). 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.

Per 130 CMR 520.0019(G),

Where the MassHealth has determined that a disqualifying transfer of resources has occurred, the MassHealth will calculate a period of ineligibility. The number of months in the period of ineligibility is equal to the total, cumulative, uncompensated value as defined in 130 CMR 515.001 of all resources transferred by the nursing-facility resident

or the spouse, divided by the average monthly cost to a private patient receiving nursing-facility services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency.

A transfer may be cured if the full value or a portion of the full value of the transferred resources is returned to the applicant. 130 CMR 520.019(K)(2)(b).

Here, the parties do not dispute that Appellant had a one-fourth interest in the property and did not receive the \$124,915 to which he was entitled, a disqualifying transfer as defined by 130 CMR 520.019(C). Appellant's attorney argued that Appellant received fair market value for this transfer, as Appellant had not paid any expenses and received personal care from his mother and nephew. Appellant's siblings kept his share of the home sale for the money they contributed to the property expenses and funeral for their mother. Appellant's attorney asserted that Appellant received fair market value for the entire transfer but was not able to specifically account for \$29,823.33.

After reviewing Appellant's charts and supporting documentation, MassHealth determined that expenses that were supported by both an invoice and proof of payment would be considered cured pursuant to 130 CMR 520.019(K)(2)(b). However, MassHealth did not calculate Appellant's one-fourth share of the expenses related to the property and mother's funeral.

I agree that Appellant has sufficiently shown receiving fair market value of the italicized expenses in Chart 3 **when dividing those expenses by four**. Additionally, the invoices for the construction, flooring, and landscaping provided in Exhibit 8 all referenced the specific address of the property. The contractors also provided affidavits that Appellant's brother paid these bills in full. Therefore, I find that Appellant has established receiving fair market value for these verified expenses when dividing by four. The other expenses identified in Chart 1 did not contain sufficient evidence to verify the fair market value or payment. The cured expenses related to the property and mother's funeral are:

Item	Amount
Funeral - mother	11190.00
Title inspection	795.00
Water heater, trim work	1470.00
Taxes 2023 nephew paid	2002.00
Construction	20475.00
Flooring	6500.00
Landscaping	6500.00
Total	48932.00
Divided by 1/4 share	12233.00

Regarding the personal expenses MassHealth determined to be cured, Appellant also provided sufficient verification of the \$12,600 rent payment for 2024 and the \$2,100 broker fee for

Appellant's apartment paid out of Appellant's brother's account. In summary, based on the evidence presented, I find the following expenses have been cured from Appellant's disqualifying transfer:

Item	Amount
1/4 share	12233.00
New bed	840.00
Rent paid for Appellant 2023	14700.00
Facility PPA	1036.00
Facility PPA	1036.00
Facility PPA	1036.00
Proceeds from sale	8100.00
Rent paid for Appellant 2024	12600.00
Prepaid funeral for Appellant	11385.00
Broker fee	2100.00
<b>Total cure</b>	<b>65066.00</b>

Accordingly, Appellant has successfully demonstrated that of the \$124,915 disqualifying transfer, \$65,066.00 was returned to the Appellant in the form of covering his share of the property expenses and verified personal expenses paid for by his brother. Therefore, this appeal is approved in part. The penalty period will be reduced to 136 days ( $\$124,915 - \$65,066 = \$59,849 / 441 = 136$ ).

To the extent that part of the transfer was not sufficiently verified as cured, Appellant's attorney asserted that the transfer should not be considered disqualifying because Appellant transferred the funds exclusively for a purpose other than qualifying for MassHealth pursuant to 130 CMR 520.019(F). MassHealth will not impose a period of ineligibility for transferring resources at less than fair market value if the resident demonstrates to MassHealth'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).

Appellant's attorney argued that MassHealth erred in disqualifying the amount from the property sale that was used to reimburse Appellant's siblings for expenses they incurred because this was done exclusively for a purpose other than to qualify for MassHealth pursuant to 130 CMR 520.019(F)(1). HCFA Transmittal 64 § 3258.10 sets forth the following guidance to transfers exclusively for a purpose other than qualifying for Medicaid:

Transfers Exclusively for a Purpose Other Than to Qualify for Medicaid.--Require the individual to establish, to your satisfaction, that the asset was transferred for a purpose other than to qualify for Medicaid. **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.

(Emphasis added).

Citing the above provision, the Massachusetts Appeals Court has recognized that “federal law mandates a heightened evidentiary showing” on the issue of exclusive intent. *See Gauthier v. Director of the Office of Medicaid*, 80 Mass. App. Ct. 777, 785-786 (2011). The element of “exclusivity” under this provision means that the possibility of needing public assistance for medical care must not have weighed at all upon Appellant’s mind at the time the decision was made.

Appellant’s evidence of the intent of the transfer were the two affidavits provided by Appellant and his brother. These affidavits alone are insufficient to establish intent pursuant to HCFA Transmittal 64 § 3258.10, as they are self-serving assurances. The affidavits do not establish credible or convincing evidence that Appellant and his family did not contemplate that Appellant would require public medical assistance at the time the transfer was made. Conversely, the affidavits make clear that Appellant had been suffering medically for 20 years and was incapable of caring for himself at the time the property was sold. To the extent Appellant seeks relief from the remaining transfer amount, this appeal is denied in part.

## **Order for MassHealth**

As the May 14, 2025 notice was superseded by the July 30, 2025 notice, MassHealth is ordered to adjust the penalty period identified in the July 30, 2025 notice to 136 days, from August 22, 2024 through January 5, 2025, with eligibility for MassHealth long-term care beginning January 6, 2025.

## **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 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.

---

Cynthia Kopka  
Hearing Officer  
Board of Hearings

CC: [REDACTED]

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616