

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2508195
Decision Date:	09/23/2025	Hearing Date:	06/30/2025
Hearing Officer:	Emily Sabo	Record Open to:	07/30/2025

Appearances for Appellant:




Appearance for MassHealth:

Kathleen Racine, MassHealth Eligibility Policy Unit



*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; Hardship Waiver of Ineligibility Period
Decision Date:	09/23/2025	Hearing Date:	06/30/2025
MassHealth's Rep.:	Kathleen Racine	Appellant's Reps.:	
Hearing Location:	Quincy Harbor South (Telephone)	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 April 29, 2025, MassHealth denied Appellant's request for a hardship waiver of the period of ineligibility.¹ See 130 CMR 520.019(L) and Exhibit 1.² The Appellant filed this appeal in a timely manner on May 29, 2025. See 130 CMR 610.015(B) and Exhibit 2. Denial of a hardship waiver request from a period of ineligibility is valid grounds for appeal. See 130 CMR 610.032.

¹ At the hearing, the MassHealth representative clarified that there was a 246-day penalty period imposed from May 23, 2024 to January 23, 2025 due to disqualifying transfers of resources.

² The April 29, 2025 notice specifies that the request is denied because all the provisions of 130 CMR 520.019(L)(1) and 130 CMR 520.19(L)(2) were not met and that the party who submitted the request did not have authority to do so. Exhibit 1.

Action Taken by MassHealth

MassHealth denied Appellant's request for a hardship waiver of a period of ineligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019(L), in denying Appellant's request for a hardship waiver for the period of ineligibility May 23, 2024, to January 23, 2025.

Summary of Evidence

The hearing was held by telephone. MassHealth was represented by a member of the MassHealth Eligibility Policy Unit. The Appellant is over the age of 65. The MassHealth representative testified that the Appellant was approved for MassHealth Long Term Care on April 11, 2025, with a 246-day penalty period from May 23, 2024, to January 23, 2025. The MassHealth representative testified that the Appellant was still active on MassHealth Long Term Care and has been eligible since January 24, 2025. The MassHealth representative stated that the Appellant had also filed an appeal related to the penalty period, which was pending before the Board of Hearings.³ The MassHealth representative testified that the Appellant had received MassHealth coverage for her stay at [REDACTED] facility on a short-term basis from her admission on [REDACTED] to May 22, 2024. The MassHealth representative testified that the request for a waiver of the ineligibility period for undue hardship was denied on April 29, 2025, for failure to meet the legal requirements of 130 CMR 520.019(L)(1) and (L)(2).

The Appellant was represented by a Medicaid consultant with Medicaid Done Right, who verified the Appellant's identity. Also appearing on behalf of the Appellant were two individuals who work for [REDACTED] facility where the Appellant currently resides and [REDACTED] law firm. On the day of the hearing, the Appellant's representatives submitted a binder to the Board of Hearings, which was entered into the record as Exhibit 5.⁴ The Appellant's representative testified that the Appellant is bedbound and requires 24/7 care. The Appellant's representative testified that prior to her admission to [REDACTED], the Appellant was homeless. The Appellant's representative testified that since April 2025, the facility has sought to recover approximately \$106,000, which was the basis of the transfer penalty and that the Appellant's daughter took the funds from the Appellant's bank accounts and has not been seen at the facility

³ The MassHealth representative stated that this appeal was docketed as Appeal # 2506609.

⁴ The submitted materials included a notice of an intent to discharge the Appellant from the facility by June 12, 2025, but the Appellant's representatives testified that she was still living at the facility as of the hearing on June 30, 2025. Exhibit 5 at Tab 8. If the facility seeks to discharge the Appellant in the future due to non-payment, they should follow the notice requirements of 130 CMR 610.028.

in six months. [REDACTED] explained that recovery of the funds is hampered by the transfer recipients not having real property in Massachusetts.

The record was held open for the Appellant to submit Exhibit 5 to MassHealth after the hearing and until July 30, 2025, for MassHealth's review and response. Exhibit 6. As relevant here, Exhibit 5 includes the following:

An April 25, 2025, letter from the Appellant's Medicaid consultant which states

We are requesting undue hardship for the penalty of \$106,000 for [Appellant]. We request that you consider waving a period of ineligibility due to a disqualifying transfer of resources as it would cause [Appellant] undue hardship by putting her at risk of serious deprivation. An imposed penalty would result in possible discharge into the community and/or inability to obtain the necessary medical services, possibly putting [Appellant's] life in danger.

Prior to April 2022, [Appellant] was living with her daughter in [REDACTED]. While living with [her daughter,] her family home, owned by her parents, was sold, and she received a lump sum inheritance of \$106,000. At some point [Appellant] moved to Massachusetts and ended up homeless and eventually ended up in the nursing facility. She was unable to provide the timeframes or how this happened.

After receiving the inheritance, [Appellant's daughter] stated she would take care of the money so [Appellant] would have it for the future. [Appellant's daughter] only asked her mother to pay her own portion of living expenses to which [Appellant] agreed. This amount was to be equivalent to roughly what [the Appellant] received from SSA, leaving her inheritance intact. [Appellant's daughter] was given access to the account and the debit card to use the funds sparingly for [Appellant's] needs. [Appellant] did not have any reason to think that her daughter would take advantage of her.

When discussing the transactions with [Appellant] she could not believe that the money was all gone and did not understand what was going on. We provided her with copies of the statements for her own review and she was shocked as she was not aware of these transactions. She attempted to report fraud but because she gave [her daughter] access, the bank denied processing the claim. I called the police department and inquired about filing a police report. The officer I spoke to said [Appellant] could come into the station and file a report. [Appellant] was approached with this information and she would not agree to filing a police report. Bank statements showing hundreds of withdrawals made by the daughter are all we have to go on.

[Appellant] confirmed that [redacted] was [daughter's] boyfriend at the time, and [redacted] was the father to [daughter's] child].

[Appellant's] bank accounts were used fraudulently by [daughter, [redacted] and [redacted] unbeknownst to [Appellant. Appellant's daughter] completely took advantage of using her funds and managed to use over \$106k in resources over a period of 1 ½ years that would have helped [Appellant] in her time of need now.

Exhibit 5 at Tab 3.⁵

A letter dated May 21, 2025 from the Medicaid consultant to the Appellant's daughter

I hope this message finds you well. I am reaching out regarding your mother, [Appellant], who is currently residing in a nursing facility and is no longer able to live independently.

I applied for Medicaid assistance on her behalf. As part of the review process, MassHealth has requested clarification on several transactions that appeared on her bank statements between May 2022 and October 2024.

Unfortunately, I have been unable to contact you directly, as your phone number appears to be restricted. At your earliest convenience, please contact me by phone . . . or by email at

It is very important that I hear from you by April 27, 2025,⁶ to ensure we meet the Medicaid requirements in a timely manner.

Thank you for your attention to this matter.

Id. at Tab 7.

A June 26, 2025, letter from [redacted] law firm to the Appellant, her daughter, [redacted] and [redacted] states in relevant part:

This office represents [redacted] (hereinafter [redacted]"), with regards to the above-captioned matter and this is an attempt to collect a debt.

A claim has been placed with this office by [redacted] to pursue payment for the

⁵ Initials are used to protect confidentiality.

⁶ No explanation was provided for why the response date is for a date before the Appellant representative dated and presumably sent the letter. *See also* Exhibit 8 at 2.

room, board, and skilled nursing care that [REDACTED] has provided and continues to provide to [Appellant]. [REDACTED] is owed \$38,420.00 for the room, board, and skilled nursing care provided to [Appellant] from October 31, 2024 to January 23, 2025. We have enclosed an invoice that details the accrual of the balance. We are sending this correspondence to each of you, in your individual capacities, to address the claims that [REDACTED] has against each of you pursuant to the Massachusetts General Law Chapter 109A, Uniform Fraudulent Transfer Act, which, will be discussed below in greater detail.

As a preliminary matter, [REDACTED] agreed to provide services to [Appellant] in exchange for payment. The failure to provide that payment constitutes a breach of that agreement and [Appellant] is obligated to render payment to our office on behalf of [REDACTED]. Failure to render payment is a breach of the promise and agreement and may result in legal action against [Appellant]. The liability of [Appellant], together with the applicable facts, gives rise to further and related claims against each of you in your individual capacities.

In terms of the applicable facts, [Appellant] was rendered ineligible for MassHealth benefits based on MassHealth imposing a “penalty period of ineligibility” for long term care benefits from May 23, 2024 to January 23, 2025. MassHealth imposed the penalty period based on the misappropriation of \$106,310.55 of [Appellant’s] assets. Based on our receipt and review of the applicable record, said \$106,310.55 was transferred/misappropriated over the span of approximately 1.5 years by [daughter, [REDACTED] and [REDACTED] each of whom misappropriated varying amounts of money from [Appellant] during that timeframe.

The transfer and misappropriation of [Appellant’s] funds constitute fraudulent transfers that give rise to claims against each of you pursuant to M.G.L. Chapter 109A. The transfer and use of [Appellant’s] money by each of you for your own personal benefit is actionable within the meaning of Chapter 109A because the transfers were made without receiving a reasonably equivalent value in exchange. Further, based on her age and health, [Appellant] reasonably should have anticipated debts for her care that would be beyond her ability to pay based on the transfers. Furthermore, the transfers were made by [Appellant’s daughter, [REDACTED] and [REDACTED] who would be considered “insiders” based [on their relationships to the Appellant—as the Appellant daughter, daughter’s boyfriend, and daughter’s ex-boyfriend, who is the father of Appellant’s grandchild].

We are writing to provide you with notice of [REDACTED] claims as well as to provide you with an opportunity to contact our office to discuss the issue of the misappropriated funds and possible options for a reasonably and mutually agreeable resolution of the matter. We ask that you please contact our office to

resolve this matter by **August 1, 2025.**

If we are not able to reach an agreement or otherwise resolve the issue of the overdue balance owed to [REDACTED] by **August 1, 2025** [REDACTED] reserves all rights and remedies available at law including the possible assertion of claims to pursue payment through litigation.

It is our preference to work to resolve the matter by agreement and ask that you please contact us to work towards that end.

We appreciate your anticipated courtesy and response.

Id. (bolded in original)

The Appellant's Medicaid consultant submitted into evidence a letter dated June 30, 2025:

I am not able to obtain the information needed to explain the transactions from May 2022 to February 2024. [The Appellant] did receive \$106,000 as an inheritance in May 2022. Her daughter [and daughter's boyfriend] had access to [Appellant's] bank account. They used it to buy what they wanted and to run winnings or some type of business through it. I do not believe [Appellant] had any idea of what was going on with her bank account. When I spoke to [Appellant], I asked her about a \$6,000 deposit on 7/12/2023 from [daughter to Appellant's] account. She said [daughter] never had that kind of money. She told me I was lying. I showed [Appellant] the bank statement and she was shocked. She asked me what Venmo, Square and Cash App were, she had no idea what those transactions were or why they were going in and out of her account. She asked me how this could happen. I explained that I felt [daughter] set up an online bank account so that she could use it without a debit card or without going to the bank. She asked why [REDACTED] and [REDACTED] names were on some of the transactions. I explained that I didn't have any concrete evidence, but I felt that [daughter] gave [REDACTED] and [REDACTED] access to the online banking account, and they used that information to set up accounts with Square, Venmo and Cash App. I explained Cash App, Venmo and Square were apps you could have on your phone and when you want to move money, you could attach a bank account number to these apps, and it allowed you to spend money and receive money through the app right to or from the bank account. She asked if this really happened or was I making it up. I told her I wasn't making it up as the bank account transactions on the bank account showed this activity. After some talking [Appellant] agreed to talk to the fraud department at the bank. When we spoke to the bank, the woman asked [Appellant] if she had allowed her daughter to use her debit card. [Appellant] said yes. This ended the conversation with the bank as they could not accept a fraud case when the owner of the account allowed someone to

use her debit card and account.

The next step was to file a police report. I called the [REDACTED] Police Dept. They told me due to the fact that the transactions happened while she was living in [REDACTED] I would have to call the [REDACTED] Police Dept. The Police Officer I spoke to said [Appellant] would have to come into the station to file a report. When presented with this option, she said she wouldn't. I asked her why, she said no matter what, [daughter] was her daughter, and she couldn't have her arrested and potentially end up in jail.

I called [daughter] three times. The first time she answered the phone but hung up as soon as I asked a question about her mother. I called again and left a message for [daughter] to call me. At the third attempt I received a message stating the number was restricted. The number I found for [REDACTED] was for a woman [. . . who] said she didn't know a [REDACTED]. [Appellant had said [REDACTED] had passed away in [REDACTED] or [REDACTED].

I wrote a letter and had it sent Federal Express to her home. I have attached the letter⁷ and the receipt for the delivery of the letter.

Exhibit 8 at 1.

On July 17, 2025, the MassHealth representative responded by email that

MassHealth has received and reviewed several submissions in support of this appeal since the June 30th hearing date. With the exception of provision (b) of 520.019(L)[(1)], all other provisions have been met and proven through these submissions.

Provision (b) states "Documentary evidence has been provided that demonstrates to the satisfaction of the MassHealth agency that all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained to provide payment, in whole or part, to the nursing-facility resident or the nursing facility." To date, no documentation has been received to show that any attempts to retrieve or seek payment of these transferred funds. The two letters attached were received in the recent Record Open submissions, presumably as documentary evidence in support of (b), but neither letter requests the return of the funds or repayment nor indicates any other attempts to seek repayment. 'Letter 1' (attached) from [the Medicaid consultant] to one recipient, dated 5/21/2025, seeks clarification on

⁷ See May 21, 2025 letter quoted above.

various transactions. 'Letter 2' (attached) from Attorney Cleary to all three recipients makes a similar request, giving the recipients until 8/1/2025 to respond, which extends beyond the end of this Record Open period.

Exhibit 12 at 2.

On July 18, 2025, [REDACTED] responded by email to MassHealth and stated

You indicate th[at] neither letter requests the return of the funds or repayment nor indicates any other attempts to seek repayment. In [REDACTED] letter, we indicated that there was a \$106,310.55 period of ineligibility imposed by MassHealth based on the fact that "said \$106,310.55 was transferred/misappropriated over the span of approximately 1.5 years by [transfer recipients], each of whom misappropriated varying amounts of money from [Appellant] during that timeframe." Thereafter, we indicated that the transfer and misappropriation of those assets constitute fraudulent transfers within the meaning of G.L. c. 109A, claims through which [REDACTED] may seek judgment and an order for repayment of those monies. Our letter does not make a "similar request" to [Medicaid consultant]'s letter, it is distinct insofar as it asserts claims pursuant to G.L. c. 109A against the transfer recipients, demands contact to coordinate resolution of the issue of the misappropriated funds (i.e., to negotiate a return of the monies), and most importantly, makes note that all rights and remedies were reserved, including the assertion of claims for payment through litigation. For all intents and purposes, this was a demand for return of the misappropriated funds.

It is crucial to note that [Appellant] is indigent with below \$2,000.00 in aggregate assets. She has no money or resources of her own with which she may retain counsel to pursue return of the funds. Her limited income goes toward providing for her own health, safety, and wellbeing, which are of paramount importance. Payment for all legal services being provided for the benefit of [Appellant] is being made by [REDACTED], as otherwise, [Appellant] has no means by which she can attempt to retrieve the transferred resource(s). When a nursing home resident is insolvent, they genuinely lack the financial resources necessary to pursue legal action to recover transferred assets. Insolvency represents a fundamental inability to fund litigation or other costly recovery efforts. The MassHealth regulations require that an applicant demonstrate that "all appropriate attempts to retrieve the transferred resource have been exhausted." For an insolvent individual, such as [Appellant], the financial impossibility of pursuing legal action together with [REDACTED] voluntary payment for the legal services rendered on [Appellant]'s behalf thus far constitute [Appellant] having made "all appropriate attempts" to retrieve the transferred resource. Certainly, MassHealth cannot require that [Appellant] file

litigation where she has no financial resources to do so, and furthermore [REDACTED] cannot be expected/required by MassHealth to fund that endeavor.

It is also relevant that we have not received any response to our letter nor our subsequent efforts to reach the transfer recipients to date. Certainly, the recipients are under no legal obligation to respond to [REDACTED] letter, and the lack of response from the recipients should function to demonstrate their unwillingness to return the transferred resource or even have a discussion with counsel regarding the same. While it is unclear whether the recipients have the ability to return the monies, [Appellant] need only demonstrate that the recipients are unwilling to return the resource(s).

Based on [REDACTED] demand letter dated June 26, 2025, the lack of assets with which [Appellant] may otherwise take any action to recover the transferred resource, [REDACTED] voluntary funding of the counsel's efforts to retrieve the transferred resource(s) on behalf of [Appellant], and the apparent unwillingness of the recipients to return the transferred resource(s), we submit that all elements of provision (b) of 520.019(L) have been met and [Appellant's] hardship waiver request should be GRANTED.

Id. at 1.

On July 30, 2025, the MassHealth representative sent the following response

As of today, 7/30/2025, MassHealth has not received any additional document in support of the request for a hardship waiver since the 7/17/2025 email so this is a response to Attorney Texiera's email included within this email chain and does not include any new or supplemental information provided since 7/17/2025.

According to the applicable MassHealth regulation, 520.019(L) and specifically in reference to (b) whose language I have included below, the two letters sent to the individuals who received the funds included in the disqualifying transfer do not satisfy the requirement that all appropriate attempts to retrieve the transferred funds have been exhausted. It is not necessarily required that an applicant or member file litigation in order to prove that all appropriate attempts to retrieve the transferred funds have been exhausted but appropriate and reasonable attempts must be taken. It is MassHealth's position that neither of the letters provided in support of (b) request or demand the return of the funds. Both letters request responses from the addressees to discuss the misappropriated funds or clarification on several transactions. The second letter mentions discussing a mutually agreeable resolution and that there are legal avenues that could be pursued. Neither letter clearly and plainly requests or demands the return or repayment of

the funds in question.

(b) Documentary evidence has been provided that demonstrates to the satisfaction of the MassHealth agency that all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained to provide payment, in whole or part, to the nursing-facility resident or the nursing facility.

Exhibit 13 at 1.

Findings of Fact

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

1. The Appellant is an adult over the age of 65. Exhibit 4.
2. In 2022, the Appellant inherited a lump sum of approximately \$106,000. Exhibits 5 and 8.
3. The Appellant was admitted to [REDACTED] facility on [REDACTED]. Testimony.
4. On April 11, 2025, MassHealth approved the Appellant for MassHealth Long Term benefits with a start date of January 24, 2025, and a penalty period of ineligibility from May 23, 2024 to January 23, 2025 due to disqualifying transfers of resources. Testimony, Exhibit 5.
5. The penalty period was based on a transfer of approximately \$106,000 during the look back period. Testimony, Exhibits 5 and 8.
6. On April 25, 2025, the Medicaid consultant submitted a request for a hardship waiver of a period of ineligibility. Exhibit 5.
7. On April 29, 2025, MassHealth denied the waiver request on the grounds that the party who submitted the request does not have the authority to do so, and that the provisions of 130 CMR 520.019(L)(1)(a), (b), (c), and (d), and (L)(2) were not met. Exhibit 1.
8. On May 29, 2025, the Appellant filed a timely appeal of the waiver request denial with the Board of Hearings. Exhibit 2.
9. Following the appeal hearing, the record was kept open for the Appellant's submission of materials to MassHealth and until July 30, 2025 for MassHealth's review and response. Exhibit 6.

10. On July 17, 2025, the MassHealth representative responded that Appellant's submissions resolved all aspects of the hardship waiver denial with the exception of 130 CMR 520.019(L)(1)(b). Exhibit 12.
11. I take administrative notice of the correspondence quoted on pages 3-10 of this decision. Exhibits 5, 8, 12, and 13.

Analysis and Conclusions of Law

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2007). See also *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

"MassHealth is a cooperative Federal and State undertaking that provides payment for medical services to eligible individuals and families who are unable to pay for their own medical care." *Shelales v. Dir. of the Office of Medicaid*, 75 Mass. App. Ct. 636, 637 (2009). MassHealth is "a needs-based program aimed at maximizing the use of personal funds for long-term care before relying on public funds. Medicaid is, and always has been, a program to provide basic health coverage to people who do not have sufficient income or resources to provide for themselves." *Id.* at 641.

Regulation 130 CMR 520.019 provides in relevant part with emphasis added:

(L) Waiver of the Period of Ineligibility Due to Undue Hardship. In addition to revising a trust and curing a transfer, the nursing-facility resident may claim undue hardship in order to eliminate the period of ineligibility.

(1) The MassHealth agency may waive a period of ineligibility due to a disqualifying transfer of resources if ineligibility would cause the nursing-facility resident undue hardship. The MassHealth agency may waive the entire period of ineligibility or only a portion when all of the following circumstances exist.

(a) The denial of MassHealth would deprive the nursing-facility resident of medical care such that his or her health or life would be endangered, or the nursing-facility resident would be deprived of food, shelter, clothing, or other necessities such that he or she would be at risk of serious deprivation.

(b) *Documentary evidence has been provided that demonstrates to the satisfaction of the MassHealth agency that all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained to provide payment, in*

whole or part, to the nursing-facility resident or the nursing facility.

(c) The institution has notified the nursing-facility resident of its intent to initiate a discharge of the resident because the resident has not paid for his or her institutionalization.

(d) There is no less costly noninstitutional alternative available to meet the nursing-facility resident's needs.

(2) Undue hardship does not exist when imposition of the period of ineligibility would merely inconvenience or restrict the nursing-facility resident without putting the nursing-facility resident at risk of serious deprivation.

(3) Where the MassHealth agency has issued a notice of the period of ineligibility due to a disqualifying transfer of resources, the nursing-facility resident may request a hardship waiver. For transfers occurring on or after February 8, 2006, nursing facilities may apply for a hardship waiver on behalf of a resident, with the consent of the nursing-facility resident or the resident's authorized representative.

(4) If the nursing-facility resident feels the imposition of a period of ineligibility would result in undue hardship, the nursing-facility resident must submit a written request for consideration of undue hardship and any supporting documentation to the MassHealth Enrollment Center listed on the notice of the period of ineligibility within 15 days after the date on the notice. Within 30 days after the date of the nursing-facility resident's request, the MassHealth agency will inform the nursing-facility resident in writing of the undue-hardship decision and of the right to a fair hearing. The MassHealth agency will extend this 30-day period if the MassHealth agency requests additional documentation or if extenuating circumstances as determined by the MassHealth agency require additional time.

(5) The nursing-facility resident may appeal the MassHealth agency's undue-hardship decision and the imposition of a period of ineligibility by submitting a request for a fair hearing to the Office of Medicaid Board of Hearings within 30 days after the nursing-facility resident's receipt of the MassHealth agency's written undue-hardship notice, in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*.

(6) The nursing-facility resident's request for consideration of undue hardship does not limit his or her right to request a fair hearing for reasons other than undue hardship.

130 CMR 520.019(L) (italics added)

Here, based on MassHealth's review of the Appellant's submission during the record open period, the issue has narrowed to whether the Appellant has demonstrated that she has met 130 CMR 520.019(L)(1)(b). Exhibit 12 at 2. MassHealth's final review found that neither the May 21, 2025 letter nor the June 26, 2025 letter "clearly and plainly requests or demands the return or repayment of the funds in question." Exhibit 13 at 1.

I have carefully reviewed the record and considered the quoted regulation and find that MassHealth did not err when it denied the Appellant's request for a waiver of the period of ineligibility due to undue hardship. The Appellant has not established that MassHealth erred in determining the documentation submitted did not show that "all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained to provide payment, in whole or part, to the nursing-facility resident or the nursing facility." 130 CMR 520.019(L)(1)(b).

Based on the record before me, it is not clear that the Appellant has had any discussion with her daughter about the \$106,000, and what happened to it, or asked that the money be returned. While I understand the challenges that the Appellant's representatives have outlined regarding communicating with the Appellant's daughter, ■ and ■ the Appellant has not provided testimony or a written statement explaining what steps she has taken to try and retrieve the funds. In the absence of that, I find that MassHealth did not err in denying the request. All the prongs of 130 CMR 520.019(L)(1)(a)-(d) must be satisfied in order for a hardship waiver to be granted to an applicant. Here, the evidence shows that the Appellant has failed to satisfy this requirement.

MassHealth correctly determined that the Appellant has not met all the requirements of 130 CMR 520.019(L)(1) to qualify for a hardship waiver of the period of ineligibility. Accordingly, the 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.

Emily Sabo

Hearing Officer
Board of Hearings

[REDACTED]

[REDACTED]

Respondent Representative: Karen Redman, MassHealth Member Policy Implementation Unit,
100 Hancock Street, 6th Floor, Quincy, MA 02171

Respondent Representative: Kathleen Racine, MassHealth Member Policy Implementation
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