

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2508283
Decision Date:	8/20/2025	Hearing Date:	06/24/2025
Hearing Officer:	Christopher Jones		

Appearances for Appellant:



Appearance for MassHealth:

Jamie Lapa – Springfield 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

Appeal Decision:	Approved	Issue:	LTC; Disqualifying transfer
Decision Date:	8/20/2025	Hearing Date:	06/24/2025
MassHealth's Rep.:	Jamie Lapa	Appellant's Rep.:	[REDACTED]
Hearing Location:	Telephonic	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 4, 2025, MassHealth approved the appellant's application for long-term care benefits as of January 30, 2025. (Exhibit 1.) The appellant filed this appeal in a timely manner on May 30, 2025. (Exhibit 1; 130 CMR 610.015(B).) Determinations regarding scope and amount of assistance, such as when assistance begins, are valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth imposed a 17-day period of ineligibility due to a disqualifying transfer of \$7,470.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.018 – 520.019, in determining that the appellant violated the transfer of resource provisions in order to qualify for Medicaid.

Summary of Evidence

MassHealth's representative testified that the appellant was admitted to a nursing facility in the fall of 2024. A long-term care application was filed on January 6, 2025, and long-term care benefits are requested as of January 13, 2025. On April 4, 2025, MassHealth approved long-term care benefits as of January 30, 2025. MassHealth's representative explained that \$7,470 was withdrawn from the appellant's investment account on October 17, 2024, and the money was used to purchase a used car in the appellant's daughter's name. MassHealth imposed a 17-day period of ineligibility based upon this disqualifying transfer.

The appellant was represented by her daughter and her granddaughter at the appeal, as well as the Medicaid application specialist who had helped file the appellant's application.¹ The appellant also filed a pre-hearing exhibit packet including sworn affidavits from the appellant's daughter and certain caregivers familiar with the appellant prior to her entering the nursing facility.

After she retired, the appellant's daughter moved into the same subsidized housing complex as the appellant. The appellant's daughter sold her car at that time because she did not like driving. The appellant's daughter started driving late in life and never enjoyed it. The appellant refused to give up her car and insisted on always having one. The appellant is over the age of [REDACTED]. At some point, she was required to retake a driver's test to keep her license due to her age. The appellant surrendered her license at this time, and the appellant's daughter took over the car and became the appellant's primary driver around this time. There are affidavits from the appellant's bank, the housing authority at which they resided, and medical providers that the appellant's daughter had been accompanying the appellant for the past 8.5 years. (Exhibit 4, pp. 10-14.)

In 2024, the appellant's car failed inspection and required significant repairs. On the advice of her mechanic, the appellant decided to replace her car. The appellant authorized the withdrawal of \$7,470 from her bank account. This withdrawal is documented through a checklist from the bank verifying that the appellant was making the decision to withdraw the money independently. (Exhibit 4, p. 8.) This money was given to the appellant's daughter because the appellant did not have a driver's license, and the vehicle needed to be in the appellant's daughter's name. In the early fall of 2024, the appellant's daughter purchased a [REDACTED] for \$6,900. The appellant's representatives testified that the remainder of the \$7,470 (\$570) was used to pay registration and insurance costs.

The appellant's daughter's affidavit states that the car was "purchased and used solely for [the appellant's] benefit, to drive her to and from all medical appointments, pick up prescriptions,

¹ After the appellant entered long-term care, she was deemed incompetent to make medical decisions due to cognitive impairment, and her Health Care Proxy was activated. (Exhibit 1.)

grocery shopping, facilitating everyday errands, etc.” (Exhibit 4, p. 3.) The appellant’s daughter testified that she has always used the household’s car for her own medical appointments, as well as driving her disabled brother to medical appointments. Shortly after purchasing the [REDACTED] the appellant fell and broke her hip. She was in and out of hospitals for less than 2 months before finally being discharged to the nursing facility for long-term care.

The [REDACTED] never worked well. The appellant’s daughter testified that it was very stressful that the car would keep breaking down while she was managing the appellant’s hospitalization. The appellant’s daughter decided to rescind the car’s purchase to get something more reliable. The appellant’s daughter received \$6,900 from the rescission, and she used the money to lease a new [REDACTED] for 2 years. The appellant’s daughter testified that she leased the cheapest car she could find, but she leased a new car so she could be certain that it would work during a very stressful time. The appellant’s daughter put \$3,500 down toward the lease of the [REDACTED]. The appellant’s daughter testified that she has been paying the monthly lease payment, insurance, and other expenses out of the remainder. The appellant was admitted to the nursing facility as a permanent resident a week before the [REDACTED] purchase was rescinded.

The appellant’s representatives testified that the appellant’s daughter’s only income is her Social Security benefits, and she could not have acquired either car on her own. Furthermore, she would not have acquired either car for herself because of her dislike of driving. The appellant’s daughter’s plan regarding the leased vehicle is to return it at the end of the lease and not have a car at all.

MassHealth’s representative testified that there was likely no intention of qualifying for Medicaid benefits at the time of the first car’s purchase. However, the timeline of events makes it impossible for the agency to completely exclude the possibility. It was noted that there was less than a month between the initial car purchase and the appellant’s entering the hospital, and the car sale was rescinded after the appellant became a permanent resident at a long-term care facility.

The appellant’s representatives testified that the timeline of events felt like everything happened at the same time. Even after the appellant entered the hospital, the appellant’s family was trying to figure out how to get her home to the community. The car sale was rescinded after the appellant became a long-term care resident, but the appellant’s daughter testified that she felt she needed a reliable car to visit the appellant and help manage the transition into the long-term care facility.

The appellant’s daughter testified that the household car was mostly used for the appellant’s medical appointments and shopping needs. Currently, she uses the car to visit the appellant every day at the nursing facility. The appellant’s daughter noted that she had provided care for her mother for about 8.5 years, for which she received no compensation. Without that care, the appellant’s representatives believe the appellant would have required nursing facility care much earlier. The appellant’s representatives argued that the decision to purchase the car was entirely the appellant’s, and they supported this with their testimony and the withdrawal certificate from the bank, which showed that the appellant had discussed the large withdrawal with a bank representative before it was taken out. The appellant’s representatives argued that the decision to

lease a car after the appellant became a long-term care resident was made in order to facilitate the appellant's care.

Findings of Fact

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

- 1) The appellant is over the age of [REDACTED] and she is currently residing in a long-term care facility. (Exhibit 5.)
- 2) The appellant applied for long-term care benefits on January 6, 2025, requesting that coverage begin as of January 13, 2025. (Exhibit 5, testimony by MassHealth's representative.)
- 3) The appellant had been living in the community with her daughter. The appellant surrendered her driver's license, and her daughter drove her car from then. (Exhibit 4, p. 2; testimony by the appellant's representatives.)
- 4) In 2024, the appellant's car failed inspection, and the appellant decided to replace her car instead of fixing it. (Exhibit 4, p. 2; testimony by the appellant's representatives.)
- 5) In the early fall of 2024, the appellant authorized the withdrawal of \$7,470 to be used to purchase a vehicle. (Exhibit 4, pp. 2-3, 8.)
- 6) The appellant's daughter purchased a used car in her name because the appellant could not register a car in her own name. The car cost \$6,900, and \$570 was used to pay registration and insurance costs. (Exhibit 4, pp. 2-3, 16; testimony by the appellant's representatives.)
- 7) The appellant's daughter learned to drive late in life and would prefer not to own a car. (Testimony by the appellant's representatives; Exhibit 4; p. 2.)
- 8) The decision to own a car was the appellant's. (Testimony by the appellant's representatives; Exhibit 4, pp. 2-4, 8.)
- 9) Shortly after the car was purchased, the appellant fell and broke her hip. The appellant was in and out of hospitals for less than 2 months before being discharged to a long-term care facility. (Testimony by the appellant's representatives; Exhibit 4, pp. 3-4.)
- 10) After the appellant was discharged to a long-term care facility as a permanent resident, the appellant's daughter rescinded the car sale and received \$6,900. To ensure she had reliable transportation to manage the appellant's care and to visit the appellant in the facility, the appellant's daughter used the money to lease a new vehicle. The appellant's daughter put

\$3,500 down toward the cost of the lease, and she has used the remainder to pay the monthly car payment and insurance costs for the car. (Exhibit 4, pp. 4-5, 18-21.)

Analysis and Conclusions of Law

The purpose of Medicaid is to provide medical assistance to those “whose income and resources are insufficient to meet the costs of necessary medical services.” (42 USC § 1396-1 (2014).) To limit benefits only to those who truly do not have the resources to provide for their care, MassHealth requires an individual over the age of sixty-five to have less than \$2,000 in assets to qualify for benefits. (130 CMR 520.003.)

The applicant becomes eligible for long-term care benefits “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 ... or ... as of the date ... the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit.” (130 CMR 520.004(A)(1)(a)-(b).)

The transfer of resource provisions allow MassHealth to see whether an applicant has given away assets within the previous five years in order to qualify – this is referred to as the “lookback period.” (See 130 CMR 520.019(B); 130 CMR 520.023(A).) A disqualifying transfer may include

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).^[2] 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. Action taken to avoid receiving a resource may include, but is not limited to, waiving the right to receive a resource, not accepting a resource, agreeing to the diversion of a resource, or failure to take legal action to obtain a resource. In determining whether or not failure to take legal action to receive a resource is reasonably considered a transfer by the individual, the MassHealth agency considers the specific circumstances involved. A disqualifying transfer may

² As published, the last cross-reference is to subsection (J) and is a typographical error. Subsection (J) specifically **includes** as disqualifying transfers of home equity loans and reverse mortgages if transferred for less than fair market value. Subsection (K), however, **exempts** listed transactions from the period of ineligibility.

include any action taken that would result in making a formerly available asset no longer available.

(130 CMR 520.019(C) (emphasis added.)) Permissible transfers are made to benefit a community spouse or a disabled relative. Exempted transfers are cured in some manner after the fact.

The applicant's intent can affect whether a transfer of resources results in a period of ineligibility:

(F) Determination of Intent. In addition to the permissible transfers described in 130 CMR 520.019(D), the MassHealth agency 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. Valuable consideration is a tangible benefit equal to at least the fair-market value of the transferred resource.

(130 CMR 520.019(F) (emphasis added.)) Federal guidance requires an applicant to make a heightened evidentiary showing on this issue: "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." (Gauthier v. Dir., Office of Medicaid, 80 Mass. App. Ct. 777, 785 (2011) (citing State Medicaid Manual, Health Care Financing Administration Transmittal No. 64, § 3258.10(C)(2)).) Essentially, there is a presumption that transfers made within the look-back period were intended to preserve assets from being used to pay for an individual's care.

If a disqualifying transfer is found, MassHealth "adds the value of all the resources transferred during the look-back period and divides the total by the average monthly cost to a private patient receiving long-term-care services in the Commonwealth of Massachusetts at the time of application" (130 CMR 520.019(G)(i).)

The timeline of this appeal is troubling. The used car was purchased less than 2 months before the appellant entered a long-term care facility with no expectation of returning to the community. The only way to purchase this used car was for the car to be purchased for the appellant's daughter to own, as the appellant could not register the car in her own name without a driver's license. This act was the transfer of resources from the appellant to her daughter, but I am convinced that it was not done with the least intention of qualifying for Medicaid benefits. The appellant wanted access to a car, and the only way for her to have that was for her to buy one for her daughter who drove her everywhere.

Were there a disqualifying transfer, it occurred at the moment the money was withdrawn from the appellant's account and given to her daughter to purchase a car. The anticipated value of this transaction was that the appellant would have access to a car and a driver to take her places. The fact that the appellant was only able to receive the anticipated benefit for a short duration does not change the intent behind the transaction. Ultimately, the rescission of the [REDACTED] after the appellant entered long-term care is irrelevant. The appellant's daughter was under no obligation to return the money because the appellant had not realized the full value of the transfer. The fact that she chose to convert the money into a temporary vehicle rather than keep it as cash or pursue another permanent replacement supports her testimony that she wanted a car for the sake of caring for the appellant, and that she does not wish to own a vehicle for her own sake.

For these reasons, I find that the appellant did not intend to qualify for MassHealth when she gave her daughter \$7,470 to purchase a car. This appeal is APPROVED.

Order for MassHealth

Approve the appellant's long-term care benefits as of January 13, 2025.

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc:

[REDACTED]

MassHealth Rep: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104