


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2508710
Decision Date:	8/26/2025	Hearing Date:	07/10/2025
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:

 Appeal Representative

Appearance for MassHealth:

Karen Redman, Policy Implementation 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:	Eligibility; Over 65; Hardship Waiver
Decision Date:	8/26/2025	Hearing Date:	07/10/2025
MassHealth's Rep.:	Karen Redman	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South 1 (Remote)	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 22, 2025, MassHealth denied the appellant's request for a hardship waiver in whole because all provisions of the MassHealth regulation, 130 CMR 520.019(L)(1), were not met. (Exhibit 1). The appellant filed this appeal in a timely manner on June 4, 2025. (Exhibit 2). An agency determination regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's hardship waiver request.

Issue

The appeal issue is whether MassHealth was correct in denying the appellant's request for a hardship waiver.

Summary of Evidence

The MassHealth representative from the Policy Implementation Unit (PIU) appeared telephonically and testified as follows: The appellant is over the age of 65 and she was admitted to a nursing facility on [REDACTED] 2024. (Exhibit 6, p. 1). On or about December 4, 2024, MassHealth received the appellant's long-term care application and determined that she was eligible for long-term care coverage beginning on November 21, 2024. MassHealth's start date calculation included the application of a penalty period from October 19, 2024 through November 20, 2024, due to a disqualifying transfer of assets totaling \$14,256.

On March 23, 2025, MassHealth's PIU received the appellant's request for a hardship waiver. On April 22, 2025, MassHealth's PIU denied the appellant's request because her hardship waiver request did not meet all the requirements listed at 130 CMR 520.019(L)(1). (Exhibit 1). The PIU representative testified that the requirements are as follows:

- (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.

The PIU representative testified that the appellant did not provide any documentary evidence to satisfy any of the requirements set forth above. She explained that the appellant was discharged from the facility to a hospital on [REDACTED] 2025, for reasons other than nonpayment. The appellant was subsequently re-admitted to another facility following her hospitalization.

The appellant's representative appeared at the hearing telephonically and testified that although the appellant was ultimately discharged from the facility, the facility provided care to her throughout her admission, including throughout her period of ineligibility. She stated that according to the appellant's health care proxy, the appellant transferred funds to her son, who resides in another country. She stated that the appellant does not have any means to attempt to cure the transfer, because she is unable to communicate and cognitively impaired. She

acknowledged that the appellant was discharged to the hospital and therefore could not document that the appellant would be at risk because the discharge had already occurred. She asked if there was any other method to cure the transfer so that the appellant's period of ineligibility would be covered.

The PIU representative stated she understands that the appellant would have difficulty with attempting to retrieve the funds. She asked if there were any attempts made by the appellant's health care proxy or by her representative's facility to retrieve the funds. The appellant's representative explained that she attempted to contact the appellant's health care proxy, to no avail. Further, the appellant's representative does not have any contact information for the appellant's son, as he lives in another country. The PIU representative explained that she did not receive any documentation showing that attempts were made to retrieve the transferred resources. The appellant's representative asked if she should obtain, in writing, documentation showing that attempts were made to cure the transfer. The PIU representative explained that in addition, to submitting documentation to satisfy the regulatory requirement set forth in 130 CMR 520.019(L)(1)(b), the regulatory requirements set forth in 130 CMR 520.019(L)(1)(a)(c)(d) must also be met. Here, the appellant is currently being cared for in another facility and therefore does not currently appear to be at any risk. (See, 130 CMR 520.019(L)(1)(a)). The appellant's representative did not dispute this assertion. She stated that it was unfortunate that the appellant was unable to cure the transfer because she received care at her representative's facility during her period of ineligibility. The PIU representative suggested that the appellant's representative contact the MassHealth long-term care worker to ascertain if the transfer in question can be cured.

Findings of Fact

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

1. The appellant is over the age of 65 and she was admitted to a nursing facility on [REDACTED] 2024.
2. On or about December 4, 2024, MassHealth received the appellant's long-term care application and determined that she was eligible for long-term care coverage beginning on November 21, 2024.
3. MassHealth calculated a period of ineligibility from October 19, 2024, through November 20, 2024, due to disqualifying transfers of assets totaling \$14,256.
4. On [REDACTED] 2025, the appellant was discharged from the facility to a hospital. Following her hospitalization, she was re-admitted to another facility.
5. On March 23, 2025, MassHealth's PIU received the appellant's request for a hardship waiver.

6. On April 22, 2025, MassHealth's PIU denied the appellant's request because it did not receive any documentation to satisfy MassHealth's regulatory requirements.
7. The appellant is receiving care from another facility and is not currently at any risk.
8. The appellant did not submit any documentation showing that attempts were made to retrieve the transferred resources.
9. The appellant's [REDACTED] discharge from the facility was for reasons other than nonpayment.
10. The appellant timely appealed this MassHealth action.

Analysis and Conclusions of Law

At issue in this appeal is whether MassHealth erred in denying the appellant's request for a hardship waiver. The appellant's representative argues that the appellant received care from the facility in question throughout her period of ineligibility and, therefore, should be paid for the services rendered during that time. MassHealth maintains that the appellant did not submit any documentation to support that all the regulatory requirements set forth in 130 CMR 520.019(L)(1)(a)-(d) have been met.

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Pursuant to 130 CMR 520.019(L)(1), 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) MassHealth may waive a period of ineligibility due to a disqualifying transfer of resources if ineligibility would cause the nursing-facility resident undue hardship. MassHealth 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 MassHealth 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.

In this case, the appellant did not submit evidence that would satisfy any of the requirements listed above. While the appellant may have been able to obtain documentation showing that attempts were made to retrieve the transferred resource, thereby satisfying the regulatory requirements set forth in 130 CMR 520.019(L)(1)(b), the applicable regulation requires that all its sections be met. Here, the record confirms that the appellant is currently being cared for at another facility and is currently not at any risk. (See, 130 CMR 520.019(L)(1)(a)). Further, the appellant was discharged to a hospital for reasons other than nonpayment. Following her hospitalization, the appellant was re-admitted to another facility. (See, 130 CMR 520.019(L)(1)(c)-(d)). On this record, the appellant has failed to demonstrate that her request for a hardship waiver should be approved in whole or in part. This 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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc.

[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 Unit, 100 Hancock Street, 6th Floor, Quincy, MA 02171