

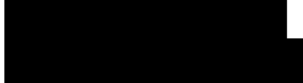
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:

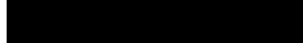


Appeal Decision:	Denied	Appeal Number:	2508933
Decision Date:	9/02/2025	Hearing Date:	07/15/2025
Hearing Officer:	Christine Therrien		

Appearances for Appellant:



Appearance for MassHealth:



*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:	LTC
Decision Date:	9/02/2025	Hearing Date:	07/15/2025
MassHealth's Rep.:	Riana Malik	Appellant's Reps.:	[REDACTED]
Hearing Location:	Tewksbury MassHealth Enrollment Center Telephonic		

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 6/5/25, MassHealth approved the appellant's application for MassHealth Long Term Care benefits beginning 3/14/25 with a patient-paid amount (PPA) of \$1,275,60 a month. (130 CMR 520.026 and Exhibit 1). The appellant filed this appeal in a timely manner on 6/12/25. (130 CMR 610.015(B) and Exhibit 2). Determination of a start date is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined a MassHealth start date of 3/14/25.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.006, in determining that the appellant's LTC benefits start date of 3/14/25.

Summary of Evidence

The appellant is ■ years old and was admitted to an LTC facility on ■. The MassHealth representative testified that on 8/1/2024, an LTC application was received with a requested 6/1/24 start date. The MassHealth representative testified that on 8/12/2024, MassHealth sent a request for information. The MassHealth representative testified that on 11/19/2024, MassHealth issued a denial for missing verifications. The MassHealth representative testified that on 1/29/2025, the application date was preserved through an appeal when missing verifications were submitted. The MassHealth representative testified that on 3/5/2025, MassHealth issued a denial notice for excess assets. The MassHealth representative testified that on 6/3/2025, the application date was preserved through appeal. The 6/3/25 appeal was withdrawn at the hearing because the “MassHealth representative confirmed that it received proof that assets have been reduced to below \$2,000 (*sic*) to proceed to render eligibility determination regarding start date preserving 8/1/24 application date. New notice will effectively replace [the] 3/5/25 notice under appeal.”¹

The MassHealth representative testified that on 6/5/2025, MassHealth issued an approval notice effective 3/14/2025. The MassHealth representative testified that MassHealth has verified that the appellant reduced assets by funding a valid, actuarially sound annuity dated 3/14/2025. The MassHealth representative testified that the source of funding for the annuity was a check dated 3/14/2025 in the amount of \$413,000.00 from the appellant’s bank account. The MassHealth representative testified that it is MassHealth’s position that the appellant had funds available to pay for her care until 3/14/25. The MassHealth representative testified that the application for LTC services was approved effective 3/14/2025 when her funds were reduced under the allowable limit.

The appellant’s attorney testified that the appellant and her spouse were both admitted to the facility on the same day. The appellant’s spouse died in February 2025. The appellant’s attorney testified that the appellant’s primary residence was in a revocable trust at the time the LTC application was submitted to MassHealth. The trust states: “Declaration of Trust, [Appellant’s] Family Realty Trust, Section 3. The Trust may be terminated at any time by the holders of fifty-one (51 %) percent of the beneficial interest herein by notice in writing to the Trustees; and the Trust shall terminate in any event, twenty (20) years from the date of death of the herein named Trustees.” The trust beneficiaries are the appellant and her spouse in equal parts. (Exhibit 2).

The appellant’s attorney testified that the house was put up for sale and was sold on 3/5/25, and the proceeds were used to purchase the annuity for the appellant. The appellant’s attorney testified that taking the house out of the trust would have violated the mortgage agreement and possibly led to foreclosure. The appellant’s attorney argued that the house was sold within the nine months allowed under the MassHealth regulations for principal residences; therefore, it

¹ Appeal #2507121, Appeals Processing System update from the Hearing Officer.

should not be considered an asset at the time.

The MassHealth representative testified that because the house was in a trust, MassHealth followed the trust regulations and not the regulations for the sale of a former home.

Findings of Fact

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

1. The appellant is [REDACTED] years old and was admitted to an LTC facility on [REDACTED].
2. On 8/1/2024, an LTC application was received with a requested 6/1/24 start date.
3. On 8/12/2024, MassHealth sent a request for information.
4. On 11/19/2024, MassHealth issued a denial for missing verifications.
5. On 1/29/2025, the application date was preserved through an appeal when missing verifications were submitted.
6. On 3/5/2025, MassHealth issued a denial notice for excess assets.
7. On 6/3/2025, the 8/1/2024 application date was preserved through appeal.
8. The 6/3/25 appeal was withdrawn at the hearing because the “MassHealth representative confirmed that it received proof that assets have been reduced to below \$2,000 to proceed to render eligibility determination regarding start date preserving 8/1/24 application date. New notice will effectively replace [the] 3/5/25 notice under appeal.”
9. On 6/5/2025, MassHealth issued an approval notice effective 3/14/2025.
10. MassHealth has verified that the appellant reduced assets by funding a valid, actuarially sound annuity dated 3/14/2025.
11. The source of funding for the annuity was a check dated 3/14/2025 in the amount of \$413,000.00 from the appellant’s bank account.
12. It is MassHealth’s position that the appellant had funds available to pay for her care until 3/14/25. The application for LTC services was approved effective 3/14/2025 when her funds were reduced to \$2,000.00 or less.

13. The appellant and her spouse were both admitted to the facility on the same day.
14. The appellant's spouse died in February 2025.
15. The appellant's house was in a revocable trust at the time the LTC application was submitted to MassHealth.
16. Declaration of Trust, [Appellant's] Family Realty Trust, Section 3, states in relevant part: The Trust may be terminated at any time by the holders of fifty-one (51 %) percent of the beneficial interest herein by notice in writing to the Trustees; and the Trust shall terminate in any event, twenty (20) years from the date of death of the herein named Trustees. The trust beneficiaries are the appellant and her spouse in equal parts. (Exhibit 2).
17. The house was put up for sale and was sold on 3/5/25, and the proceeds were used to purchase the annuity for the appellant.

Analysis and Conclusions of Law

"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" \$2,000 for an individual. (130 CMR 520.003(A)(1)). MassHealth regulation, 130 CMR 520.007, lists the assets that MassHealth deems countable. While 130 CMR 520.007(G)(2) lists an exception to countable assets that includes the applicant's principal place of residence, and provides for a period of time to dispose of a principle place of residence, regulations at 130 CMR 520.008 state that if the home of an applicant is placed in a trust or in a similar arrangement, MassHealth must apply the trust rules at 130 CMR 520.021 through 520.024. There is no dispute that the appellant's home was in a revocable trust; therefore, regulations at 130 CMR 520.023 are controlling. 130 CMR 520.023(B)(4) states that "the home or former home of a nursing-facility resident or spouse held in a revocable trust is a countable asset. Where the home or former home is an asset of the trust, it is not subject to the exemptions of 130 CMR 520.007(G)(2) or 520.007(G)(8)."²

² 130 CMR 520.007(G)(8) states the following: Former Home of an Institutionalized Individual. If an applicant or member moves out of his or her home to enter a medical institution, the MassHealth agency considers the former home a countable asset that is subject to 130 CMR 520.007(G)(2), provided all of the following conditions are met. If the former home of a nursing-facility resident as defined in 130 CMR 515.001: Definition of Terms is placed in a trust, the MassHealth agency will apply the trust rules in accordance with 130 CMR 520.021 through 520.024. (a) The individual is institutionalized as defined in 130 CMR 515.001: Definition of Terms. (b) None of the following relatives of the individual is living in the property: 1. a spouse; 2. a child who is younger than 21 years old or who is blind or permanently and totally disabled; 3. a sibling who has a legal interest in the home and who was living there for a period of at least one year immediately before the applicant's or member's admission to the medical institution; 4. a son or daughter who was living in the applicant's or member's home for a period of at least two years immediately before the date of the applicant's or member's admission to the medical institution, and who establishes to the satisfaction of the MassHealth agency that he or she provided care to the applicant or member

If an applicant for LTC benefits has more than \$2,000 in assets, they may reduce their assets and achieve eligibility per 130 CMR 520.004. 130 CMR 520.004(A) reads in part as follows:

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.

(emphasis added)

The appellant used the proceeds from the sale of her principal residence held in a revocable trust to purchase an actuarially sound annuity, which is a permissible way to reduce assets under MassHealth regulations 130 CMR 520.007(J).³

that permitted him or her to live in the home rather than in a medical institution; or 5. a dependent relative. A dependent relative is any of the following who has any kind of medical, financial, or other dependency: a child, stepchild, or grandchild; a parent, stepparent, or grandparent; an aunt, uncle, niece, or nephew; a brother, sister, stepbrother, or stepsister; a half brother or half sister; a cousin; or an in-law. (c) The applicant or member (and spouse, if any) moves out of his or her home without the intent to return. (d) The applicant or member does not own long-term-care insurance with coverage that meets the requirements of 130 CMR 515.014: Long-term-care Insurance Minimum Coverage Requirements for MassHealth Exemptions and the Division of Insurance regulations at 211 CMR 65.09(1)(e)(2).

³ (1) Treatment of Annuities Established Before February 8, 2006. Payments from an annuity are countable income in accordance with 130 CMR 520.009. If the annuity can be converted to a lump sum, the lump sum, less any penalties or costs of converting to a lump sum, is a countable asset. Purchase of an annuity is a disqualifying transfer of assets for nursing facility residents as defined at 130 CMR 515.001: Definition of Terms in the following situations: (a) when the beneficiary is other than the applicant, member, or spouse; (b) when the beneficiary is the applicant, member, or spouse and when the total present value of projected payments from the annuity is less than the value of the transferred asset (purchase price). In this case, the MassHealth agency determines the amount of the disqualifying transfer based on the actuarial value of the annuity compared to the beneficiary's life expectancy using the life-expectancy tables as determined by the MassHealth agency, giving due weight to the life-expectancy tables of institutions in the business of providing annuities; (c) when the terms of the annuity postpone payment beyond 60 days, the MassHealth agency will treat the annuity as a disqualifying transfer of assets until the payment start date; or (d) when the terms of the annuity provide for unequal payments, the MassHealth agency may treat the annuity as a disqualifying transfer of assets. Commercial annuity payments that vary solely as a result of a variable rate of interest are not considered unequal payments under 130 CMR 520.007(J)(1)(d).

(2) Treatment of Annuities Established on or after February 8, 2006. In addition to the requirements in 130 CMR 520.007(J)(1), the following conditions must be met. (a) The purchase of an annuity will be considered a

The appellant's assets were reduced to the \$2,000 limit on 3/14/25 when she purchased the annuity; therefore, 3/14/25 is her date of eligibility.

The appellant's attorney's argument that removing the house from the trust would have violated the mortgage is unavailing and is irrelevant to the issue of whether the principal residence was a countable asset.

For this reason, 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

disqualifying transfer of assets unless 1. the Commonwealth of Massachusetts is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the institutionalized individual; 2. the Commonwealth of Massachusetts is named as such a remainder beneficiary in the second position after the community spouse, or minor or disabled children; or 3. the Commonwealth of Massachusetts is named as such a remainder beneficiary in the first position if the community spouse or the representative of any minor or disabled children in 130 CMR 520.007(J)(2)(a)2 disposes of any such remainder for less than fair-market value. (b) The purchase of an annuity is considered a disqualifying transfer of assets unless the annuity satisfies 130 CMR 520.007(J)(1) and (J)(2)(a) and is irrevocable and nonassignable, or unless the annuity satisfies 130 CMR 520.007(J)(2)(c).

receipt of this decision.

Christine Therrien
Hearing Officer
Board of Hearings

cc: [REDACTED]

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center