

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2509273
<b>Decision Date:</b>	10/9/2025	<b>Hearing Date:</b>	07/25/2025
<b>Hearing Officer:</b>	Casey Groff	<b>Record Closed:</b>	08/22/2025

**Appearance for Appellant:**



**Appearance for MassHealth:**

Jenny Chan, Quincy MEC;  
Stephanie Mowles, Quincy 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>	Denied	<b>Issue:</b>	Long Term Care; Disqualifying Transfer
<b>Decision Date:</b>	10/9/2025	<b>Hearing Date:</b>	07/25/2025
<b>MassHealth's Rep.:</b>	Jenny Chan, Stephanie Mowles	<b>Appellant's Rep.:</b>	██████████
<b>Hearing Location:</b>	Board of Hearings, 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

Through a notice dated 5/21/25, MassHealth approved Appellant for long-term-care (LTC) benefits beginning on 1/12/25 with a 129-day period of ineligibility imposed between 9/4/24 and 1/11/25 based on a determination that Appellant made disqualifying resource transfers. Appellant filed this appeal in a timely manner on 6/18/25. *See* 130 CMR 610.015(B) and Exhibit 2. The MassHealth agency's decision to deny or reduce the amount of assistance is valid grounds for appeal. *See* 130 CMR 610.032. Following the hearing, the record was left open through 8/22/25 for the parties to submit, and respond to, additional evidence. *See* Exhs. 8-11.

### Action Taken by MassHealth

MassHealth approved Appellant for LTC benefits beginning 1/12/25 and imposed a 129-day period of ineligibility between 9/4/24 through 1/11/25 based on a determination that Appellant made disqualifying resource transfers.

## Issue(s)

The appeal issues are (1) whether MassHealth correctly determined that Appellant made disqualifying resource transfers, and if so, (2) whether MassHealth correctly imposed a 129-day period of ineligibility for LTC benefits.

## Summary of Evidence

A MassHealth benefits and eligibility specialist appeared at the hearing and testified as follows: Appellant is a single individual over the age of [REDACTED] and is a resident of a nursing facility. Appellant was admitted to the nursing facility on [REDACTED]. See Exh. 7, p. 27. On 10/6/24, MassHealth received an application for MassHealth long-term-care (LTC) benefits with a requested start date of 9/4/24. See *id.* On 5/21/25, MassHealth approved Appellant for LTC benefits with an effective start date of 1/12/25. See Exh. 1. In determining the start date, MassHealth imposed a 129-day period of ineligibility between 9/4/24 and 1/11/25 based on repeated unverified cash withdrawals taken from Appellant's checking account totaling \$55,900.00<sup>1</sup> The individual withdrawals that made up the total disqualifying transfer amount consist of the following 20 transactions:

1/13/23	\$3,500		5/12/23	\$3,000		2/1/24	\$1,100
2/7/23	\$2,000		6/14/23	\$3,000		2/12/24	\$2,000
2/10/23	\$2,500		7/17/23	\$4,300		2/16/24	\$3,000
3/9/23	\$2,400		8/14/23	\$3,000		3/18/24	\$1,900
3/21/23	\$1,500		9/18/23	\$3,500		4/29/24	\$2,500
3/31/23	\$6,200		10/16/23	\$3,500		6/17/24	\$1,500
4/14/23	\$2,500		11/10/23	\$3,000		<b>TOTAL</b>	<b>\$55,900</b>

Bank account records show that Appellant is the sole owner of the checking account. See Exh. 7, p. 26. To calculate the penalty period, MassHealth divided the resource transfer amount of \$55,900.00 by the average private daily nursing home rate of \$433 per day. The MassHealth representative testified that, to date, MassHealth had not received verification, such as receipts or invoices, to prove how Appellant spent the funds or if they were used to make purchases at fair market value.

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<sup>1</sup> At the hearing, the MassHealth representative testified that the length of the penalty period was 127 days, however, the actual disqualification period of 9/4/24 through 1/11/25 spans 129 calendar days. MassHealth also testified that that average daily nursing home rate, which it used to calculate the period of ineligibility, was \$441.00 – which is the rate for 2025. Because MassHealth's 5/21/25 eligibility determination appears to be based upon the 2024 rate of \$433 per day, which was in place as of the 10/6/24 application, this decision will refer to the 129-day penalty period duration and \$433 rate for clarity purposes.

Appellant's representative argued that Appellant should not be subject to a penalty period based on the transfers at issue. The representative testified that Appellant used the withdrawn funds to purchase everyday items, such as gas, groceries, food, entertainment and daily living expenses. According to the representative, the checking account at issue was Appellant's only account. The only significant source of income deposited into the account was from Appellant's monthly [REDACTED] and Social Security income. Aside from the large cash withdrawals, the only other routine deductions from the account were automated mortgage payments, insurance payments, and utility expenses – thereby suggesting that the cash withdrawals must have been used for all other daily living expenses and purchases.

Through a signed written statement, dated 6/11/25, Appellant provided the following explanation for the cash withdrawals:

As you will see, I, [Appellant], consistently withdraw monthly funds for my various personal expenses. These expenses include gasoline for my vehicle, groceries, entertainment, and other personal items. My bank statements clearly reflect this pattern of regular cash withdrawals, alongside a few recurring automated bill payments. This is not an isolated incident but a habitual practice of managing my finances. While I did provide my daughter with \$1,100 on February 1, 2024, I believe the remaining withdrawals should not be viewed negatively. I prefer to handle the majority of my transactions with cash...

See Exh. 7, p. 28.

Appellant also submitted the following written statement from his daughter, who is his appointed power of attorney:

The withdrawals was [sic] for bills and for everyday use like gas, food, going out and so forth. He didn't keep receipts. Don't know what else unless he got scammed again which he wasn't going to tell me anyway. There are no other bank accounts. No other source of income.

*Id.* at 29.

Appellant's representative testified that, prior to his nursing home admission, Appellant lived in the community with his son, who acted as his caretaker at the time the transactions took place. Appellant owned the home, although transferred it to his son in [REDACTED]. According to bank statements, Appellant continued to make mortgage payments on the property through the time he entered the facility. Appellant's representative was unsure whether Appellant and his son shared any household or routine living expenses. She explained that the son is difficult to reach due to his employment, and that he is not highly involved in Appellant's affairs at this time.

At Appellant's request, the record was left open for Appellant to obtain additional evidence of his expenditures, as well as evidence that could be used to support the contention that Appellant was not contemplating nursing facility care at the time he made the transfers and therefore had no intent to reduce his assets to qualify for Medicaid. See Exh. 8.

During the record open period, Appellant's representative submitted medical records from the hospitalization that immediately preceded Appellant's nursing home admission. See Exh. 9; 9(A). According to the records, Appellant presented to the hospital with complaints of increasing weakness, ambulatory dysfunction, recurrent falls, and confusion. He was treated for suspected acute encephalopathy / [REDACTED] low potassium levels, and alcohol withdrawal. See Exh. 9(A), pp. 1-18. Appellant's medical history was noted to include cerebral vascular accident, high cholesterol and daily alcohol intake. *Id.* at 2. Notes from a physical therapy evaluation indicate that, prior to the current episode, Appellant's live-in son assisted Appellant with ADLs and IADLs and that Appellant was independent with ambulation and transfers. *Id.* at 7. Pointing to these records, which document Appellant's history of alcohol abuse, Appellant's representative asserted that it was unsurprising that Appellant would constantly withdraw cash to purchase alcohol, which in his case, was mostly beer. See Exh. 9. The representative also asserted that Appellant was taken to the hospital via ambulance, showing that this was a sudden, and not planned, nursing home admission. *Id.*

In addition, Appellant submitted a written statement from his caretaker son, with whom he previously lived. See Exh. 10; 10(A). In the statement, the son indicated that he was unsure what the withdrawals were used for but believed they were likely spent on Appellant's regular living expenses such as food, gas, and other necessities. See Exh. 10(A). He explained that Appellant frequently ate out, purchased lottery tickets, and had spoken about taking a cruise, though he doubted money was spent on the cruise. *Id.* The son mentioned that Appellant had been scammed in the past and that he and his sister worried it may have happened again. *Id.* He stated that Appellant did not discuss his finances with him, preferred to manage his own affairs, and avoided questions when asked about expenditures such as the many scratch tickets left around the house. *Id.* The son wrote that Appellant is currently unable to provide any useful details about the transactions given his worsening memory. *Id.*

In response to the newly submitted evidence, MassHealth indicated that it had not changed its position regarding the penalty period, noting that the documentation did not constitute proper verification for the withdrawals in question. See Exh. 11.

## Findings of Fact

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

1. Appellant is a single individual over the age of [REDACTED] and is a resident of a nursing facility.
2. On 10/6/24, MassHealth received an LTC application from Appellant with a requested start date of 9/4/24.
3. On 5/21/25, MassHealth approved Appellant for LTC benefits with an effective start date of 1/12/25.
4. In determining the start date, MassHealth imposed a 129-day period of ineligibility between 9/4/24 and 1/11/25 based on its determination that Appellant made \$55,900.00 in disqualifying resource transfers.
5. From 1/13/23 to 6/17/24, Appellant made 20 separate cash withdrawals from his bank account of amounts ranging between \$1,100 to \$6,200, and which totaled \$55,900.00.
6. During the time that Appellant made the transfers, he lived at home in the community with his caretaker son.

## Analysis and Conclusions of Law

To qualify for MassHealth long-term-care (LTC) coverage, the assets of the institutionalized applicant cannot exceed \$2,000.00. *See* 130 CMR 520.016(A). In determining eligibility, MassHealth will assess whether the applicant or their spouse has transferred any resources for less than fair market value (FMV). If transfers for less than FMV are identified, the applicant, even if “otherwise eligible,” may be subject to a period of disqualification in accordance with its transfer rules at 130 CMR §§ 520.018 520.019. The relevant provision states, in part, the following:

The MassHealth agency denies 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.

*See* 130 CMR 520.018(B)

The “look back period” referred to in § 520.018(B), above, is sixty months, or 5 years, before the first date the individual is both a nursing facility resident *and* has applied for, or is receiving, MassHealth Standard. *See* 130 CMR 520.019(B). In the present case, the look back period spans back 5 years from [REDACTED] – the date that Appellant was both a nursing facility resident *and* had

applied for MassHealth benefits.

A disqualifying transfer of resources is described as follows:

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

130 CMR 520.019(C)

MassHealth's "strict limitations on asset transfers," which were adopted pursuant to federal law, are intended to "prevent individuals from giving away their assets to their family and friends and forcing the government to pay for the cost of nursing home care." *See Gauthier v. Dir. of the Office of Medicaid.*, 80 Mass. App. Ct. 777, 779 (2011) (citing *Andrews v. Division of Med. Assistance*, 68 Mass. App. Ct. 228, 229, (2007)).

In determining Appellant's eligibility for MassHealth LTC benefits, MassHealth imposed a 129-day period of ineligibility between 9/4/24 and 1/11/25 based on a series of unverified large cash withdrawals totaling \$55,900.00. The transfers, which were made from 1/13/23 through 6/17/24, fall within the 5-year lookback period. *See* 130 CMR 520.018(B). Appellant does not dispute having made the withdrawals. Rather, Appellant argues that he used the funds to pay for everyday expenses, such as gas, groceries, lottery tickets, entertainment, and personal items. Appellant, through his written statement, asserted that the repeated nature of the withdrawals reflects his long-standing habit and preference of paying for routine expenses with cash.

As the moving party, the appellant bears the burden of demonstrating that the administrative agency's determination was invalid. *See Andrews*, 68 Mass. App. Ct. at 231. Despite offering a plausible explanation for the large cash withdrawals, Appellant failed to provide any receipts, invoices, or other objective evidence to substantiate that all, or any portion, of the transferred

funds were used to make purchases at fair market value. The affidavits submitted by Appellant's son and daughter contain only general and speculative statements regarding how Appellant spent his cash. Notably, Appellant's son, who lived with him and served as his caretaker prior to his nursing facility admission, expressly stated that he did not know how the funds were used and that Appellant would not discuss financial matters with him. Absent tangible evidence or a precise itemization of Appellant's routine cash purchases, it cannot be determined that the withdrawals were used for fair market value expenditures.

Furthermore, Appellant failed to demonstrate that the transfers fell within any of the recognized exceptions to the disqualifying transfer rules referenced in 130 CMR 520.019(C), above, including the "intent" exception identified in 130 CMR 520.019(F).<sup>2</sup> Under this provision, MassHealth will not consider a transfer of assets for less than FMV to be "disqualifying," if the individual "...demonstrates to the MassHealth agency's satisfaction that: **(1) the resources were transferred exclusively for a purpose other than to qualify for MassHealth; ...**" 130 CMR 520.019(F) (emphasis added). Federal CMS guidance states that "verbal assurances that the individual was not considering Medicaid when the asset was disposed of are not sufficient [proof to meet this exception]." *See State Medicaid Manual*, Dept. of Health and Human Services HCFA, Transmittal No. 64, § 3258.10(C).<sup>3</sup> Rather, "**convincing evidence must be presented as to the specific purpose for which the asset was transferred.**" *Id.* (emphasis added). Citing this guidance, the Massachusetts Appeals Court has recognized that "federal law mandates a heightened evidentiary showing [to satisfy the intent exception under § (F)(1), above]. *See Gauthier*, 80 Mass. App. Ct. at 785-786.

In support of Appellant's assertion that he was not seeking to reduce his assets to become MassHealth-eligible at the time he made the transfers, Appellant offered medical records to show that his nursing facility admission was brought on by an unexpected medical event and therefore not planned. While the records show that Appellant had a decline in health directly preceding his nursing facility admission, the records do not sufficiently detail his state of health prior to this episode. Neither the medical records nor the written statements touch upon whether Appellant had been planning for long-term care at the time he made the transfers. The element of "exclusivity" under § 520.019(F), means that the possibility of needing public assistance for medical care must not have weighed at all upon the applicant's mind at the time the decision was made. Based on the foregoing, Appellant has not presented "convincing evidence" to demonstrate the transfers were made "**exclusively** for a purpose other than to qualify for MassHealth." 130 CMR 520.019(F)(1) (emphasis added). Because Appellant did not demonstrate

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<sup>2</sup> Appellant's representative did not argue that that the transfer was either "permissible" under 130 CMR 520.019(D) or "exempted" under 130 CMR 520.019(J), nor was any evidence presented to suggest these exceptions would apply to the transfer at issue in this appeal.

<sup>3</sup> The *State Medicaid Manual* is a compilation of federal resources and procedural material needed by States to administer the Medicaid Program. The instructions provided therein are CMS's "official interpretations of the law and regulations, and, as such, are binding on Medicaid State agencies." *See SMM*, Foreword § B(1); *see also* 130 CMR § 515.002(B).

that he used the funds to make fair market value purchases, and because none of the exceptions apply, MassHealth did not err in determining Appellant made disqualifying resource transfers.

Once it is established that a disqualifying transfer is made, MassHealth calculates a period of ineligibility by adding “the value of all the resources transferred during the look-back period and divid[ing] 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, as determined by the MassHealth agency.” See 130 CMR 520.019(G)(2). MassHealth then applies the period of ineligibility “beginning on the first day of the month in which the first transfer was made or the date on which the individual is otherwise eligible for long-term-care services, whichever is later.” *Id.* Using this formula, a disqualifying transfer amount of \$55,900.00 divided by the average daily nursing home rate at the time of application ██████████ of \$433.00,<sup>4</sup> results in a 129-day period of ineligibility (\$55,900.00/433) beginning on Appellant’s otherwise eligible date of 9/4/24 and lasting through 1/11/25. Through its 5/21/25 notice, MassHealth correctly approved Appellant for LTC benefits with a start date of 1/12/25.

Based on the foregoing, 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.

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Casey Groff  
Hearing Officer  
Board of Hearings

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<sup>4</sup> See MassHealth Eligibility Operations Memo 23-25 (Nov. 2023).

CC:

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