

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed in Part; Denied in Part	Appeal Number:	2509300
Decision Date:	9/8/2025	Hearing Date:	08/01/2025
Hearing Officer:	Mariah Burns	Record Open to:	08/22/2025

Appearance for Appellant:



Appearance for MassHealth:

Rhiannon Wojick, Taunton MassHealth
Enrollment Center



*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:	Dismissed in Part; Denied in Part	Issue:	Long-Term Care; Eligibility; Start Date
Decision Date:	9/8/2025	Hearing Date:	08/01/2025
MassHealth's Rep.:	Rhiannon Wojick	Appellant's Rep.:	[REDACTED]
Hearing Location:	Telephone (Charlestown)	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

MassHealth issued a notice on April 1, 2025, approving the appellant for the Medicare Savings Plan – Qualified Medicare Beneficiary and included an asset calculation. *See* Exhibit 1 at 1, 5. The appellant submitted a fair hearing request for that notice on June 18, 2025. Exhibit 2 at 1-3. On June 20, 2025, the Board of Hearings dismissed the requested appeal because it was not filed timely in accordance with 130 CMR 610.015(B)(1). *See* Exhibit 5 at 1. On June 26, 2025, the appellant, through her attorney, requested that the dismissal be vacated and submitted an affidavit in support of the request. *See* Exhibit 5 at 3-6. The Board of Hearings Director granted that request on June 30, 2025, and the appeal was set for a hearing. Agency decisions regarding scope and amount of assistance are valid grounds for appeal. *See* 130 CMR 610.032(A)(5).

On July 15, 2025, the appellant's attorney requested that an additional notice be considered at the scheduled hearing. *See* Exhibit 2 at 4-6. That notice was issued on February 26, 2025, and denied the appellant's MassHealth long-term care application on the grounds that she was over the asset limit to qualify for those benefits. *See* Exhibit 1 at 6-10. The appellant requested to dispute this notice on the grounds that she never received it at the time that it issued. *See* 130 CMR 610.015(B)(2)(c) and Exhibit 2 at 6.¹ The Board of Hearings determined that the February 26

¹ The affidavit and supporting documents submitted by the appellant's attorney initially

notice could be addressed at the hearing, as the appellant's fair hearing request was made within 120 days of the notice. Whether I will take substantive jurisdiction of that notice will be discussed, *infra*.

Action Taken by MassHealth

On April 1, 2025, MassHealth approved the appellant for community benefits but determined that the appellant is over the asset limit to qualify for long-term care benefits. That notice was deemed timely appealed. MassHealth previously denied the appellant's long-term care benefit application on February 26, 2025.

Issues

The appeal issues are whether MassHealth correctly determined that the appellant is over the asset limit to qualify for benefits, and whether the appellant has established that MassHealth did not comply with 130 CMR 610.015(A) with respect to the February 26, 2025 notice.

Summary of Evidence

The appellant is an adult over the age of 65 who currently resides at a skilled nursing facility. She was represented at the hearing by her attorney. MassHealth was represented by a worker from the Charlestown MassHealth Enrollment Center. The following is a summary of the evidence and testimony provided at the hearing:

On February 26, 2025, MassHealth denied the appellant's October 25, 2024, application for MassHealth long-term care benefits on the grounds that the appellant was over the asset limit to qualify. The MassHealth representative reported that copies of the notice were sent to the appellant, the appellant's family member, the appellant's attorney, and the facility at which the appellant resides. The appellant did not raise an appeal issue pertaining to that notice until June 18, 2025.² Her attorney testified that she did not receive a copy of that notice.

requested a hearing on the February 26 notice based on 130 CMR 610.015(B)(2)(d), which alleges improper or coercive conduct by the assigned worker. On August 22, 2025, the Hearing Officer asked the appellant's attorney whether she intended to pursue that allegation. The appellant's attorney reported that she did not wish to allege improper conduct and take punitive action against the worker. See Exhibit 9 at 1. For those reasons, this decision will only determine whether the appellant has established sufficient facts to warrant a hearing pursuant to 130 CMR 610.015(B)(2)(c), and will not address any allegations of improper conduct by the worker.

² Technically, the February notice was not raised until July 15, 2025, but the Board of Hearings

On April 1, 2025, MassHealth generated a notice approving the appellant for community benefits, specifically the Medicare Savings Plan – Qualified Medicare Beneficiary, and provided a calculation that indicated that the appellant had excess assets. The appellant’s attorney agreed that she did receive that notice, but testified that she only discovered it in her client file on June 18, 2025. She reported that her office receives incorrect MassHealth notices all the time, but that it is not necessarily her practice to act on such a notice if she believes that a client is active. She testified that she believed that her client was eligible for long-term care benefits and active at the time she received the April notice.

The appellant’s attorney argued that MassHealth did not send the February 26 notice, and her reported inability to appeal that notice within 60 days resulted in the loss of her October 24, 2024, application date. She contends that, having filed this appeal within 120 days, she has effectively preserved that application date and her ability to receive retroactive coverage of her nursing home admission.

During the record open period following the hearing, the MassHealth representative reported that the appellant has now been approved for long-term care benefits with an effective date of March 1, 2025.

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 who currently resides in a skilled nursing facility and applied for MassHealth long-term care benefits. Exhibit 4, Testimony.
2. On February 26, 2025, MassHealth denied the appellant’s application for long-term care benefits on the basis that she is over the asset limit to qualify. MassHealth generated and mailed a notice to that effect. Exhibit 1 at 6-10.
3. The appellant did not raise that notice on appeal until June 18, 2025. Exhibit 2.
4. On April 1, 2025, MassHealth issued a notice approving the appellant for the Medicare Savings Program – Qualified Medicare Beneficiary. Exhibit 1 at 1. That notice also included an asset calculation that determined that the appellant was, at the time, over the asset limit. *Id.* at 5. The appellant’s attorney received a copy of this notice. Testimony.

allowed the appellant to include this notice as part of her June 18, 2025, request for hearing. This determination was based on the appellant’s allegation that she never received this notice and the provisions of 130 CMR 610.015(B)(2)(c).

5. The appellant filed an appeal of the April 1 notice on June 18, 2025. Exhibit 2 at 1-3. The Board of Hearings initially dismissed the appeal for a lack of timeliness on June 20, 2025. Exhibit 5 at 1. On June 26, 2025, the appellant requested the dismissal be vacated and provided supporting documents. *Id.* at 2-22. On June 30, 2025, the Board of Hearings Director vacated the dismissal and found the appeal to be timely filed. *Id.* at 23.

6. On August 6, 2025, MassHealth issued a notice approving the appellant for long-term care benefits with an effective start date of March 1, 2025. Exhibit 7.

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. *See* 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, she is subject to the requirements of the provisions of Volume II. 130 CMR 515.002.

April 1 Medicare Savings Program Approval and Assets Notice

Long-term care residents are eligible for MassHealth Standard coverage if they meet the following requirements:

- (1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;
- (4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets When One Spouse Is Institutionalized; and
- (5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

130 CMR 519.006(A). Applicants have an opportunity to show a reduction of assets to the allowable limit to establish eligibility. *See generally* 130 CMR 520.004. In such instances, “MassHealth...requires the applicant to verify that...[their] excess assets were reduced to the allowable asset limit within the required timeframes.” *Id.* at 520.004(D). This reduction of assets is colloquially known as a “spend-down,” and must be done without violating the transfer of resource provisions for nursing facility residents at 130 CMR 520.019(F), or risk incurring a period of ineligibility in accordance with that regulation. *Id.* at 520.004(A)(1).

In this case, the parties agree that the appellant demonstrated that she is currently under the asset limit. Because a long-term care approval notice has issued as of August 6, 2025, any dispute over the April 1, 2025, notice has now resolved. The portion of the notice related to community benefits is not applicable, because the appellant is a long-term care resident. For those reasons, the appeal is hereby DISMISSED as it pertains to that notice.

February 26 Long-Term Care Denial Notice (Assets)

Before taking an intended appealable action, MassHealth “must send a written timely notice to the member...at least ten days before the action. Such notice must include a statement of the right of appeal and time limit for appealing” to the Board of Hearings. 130 CMR 610.015(A). A request for fair hearing must generally, with some irrelevant exceptions, be made either within 60 days “after an applicant or member receives written notice from...MassHealth...of the intended action,” or “120 days from...the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action.” 130 CMR 610.015(B)(1) and (2)(c). An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.”

In this case, the appellant’s attorney argues that, because she never received the February 26 denial notice, that she is entitled to 120 days to appeal that notice. This argument is without merit. The MassHealth representative credibly testified, under oath, that notices were generated on February 26, 2025, and mailed to the appellant, the appellant’s family, the attorney, and the facility. MassHealth is not obligated to ensure that a member receives a notice, only that a notice is sent. I find that the notice was sent in this case.³

³ I note that the appellant’s attorney is not claiming that she did not receive the April 1, 2025, notice, which not only approved the appellant for community benefits, but included an asset determination that clearly stated that the appellant is over the asset limit. Rather, her testimony is that she was seemingly unaware of the notice until June 18, 2025, when she went through her client file. By her own testimony, the notice was in the file, which means that someone

As I find that MassHealth properly complied with 130 CMR 610.015(A) and sent the appellant the February 26, 2025 over-assets long-term care denial, and because the appellant did not file an appeal within 60 days of the issuance of that notice, I find that the Board of Hearings lacks jurisdiction substantively review any dispute related to the February 26, 2025, notice.

For the foregoing reasons, the appeal as it pertains to the February 26 notice is hereby denied and dismissed pursuant to 130 CMR 610.035(A)(1).


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.

Mariah Burns
Hearing Officer
Board of Hearings


cc: MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center

from her office received it and placed it there. The attorney's argument that notices are received in error "all the time," and that it is her practice to ignore notices she believes to be sent in error, is neither credible nor persuasive. Had the attorney protected the record by filing an appeal with the Board of Hearings by April 28, 2025, several weeks after the April notice was received, that appeal also would have been filed within 60 days of the February 26 notice, and the dispute over that notice could have been addressed substantively.