

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved, Remanded	Appeal Number:	2509469
Decision Date:	09/23/2025	Hearing Date:	7/22/2025
Hearing Officer:	Patrick Grogan	Record Open to:	8/15/25

Appearance for Appellant:



Appearance for MassHealth:

Anna Martinez, MassHealth Tewksbury

Interpreter:

N/A



*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, Remanded	Issue:	Eligibility over 65, Long Term Care, Assets
Decision Date:	09/23/2025	Hearing Date:	7/22/2025
MassHealth's Rep.:	Anna Martinez	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote (Tel)	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 June 9, 2025 MassHealth denied the Appellant's application for MassHealth Long-Term-Care Services in a Nursing Facility because MassHealth determined that the Appellant's assets exceeded the limit for MassHealth benefits. (Exhibit 1, 130 CMR 519.006, 130 CMR 520.003, 130 CMR 520.004). The Appellant filed this appeal in a timely manner on June 23, 2025 (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's application for MassHealth Long-Term-Care Services in a Nursing Facility because MassHealth determined that the Appellant's assets exceeded the limit for MassHealth benefits. (Exhibit 1, 130 CMR 519.006, 130 CMR 520.003, 130 CMR 520.004).

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 519 and 130 CMR 520 in determining that the Appellant's assets exceeded the limit for MassHealth benefits. (Exhibit

1, 130 CMR 519.006, 130 CMR 520.003, 130 CMR 520.004).

Summary of Evidence

MassHealth testified that the Appellant is an adult over the age 65, who filed an application for MassHealth Long-Term-Care Services in a Nursing Facility. (Testimony, Exhibit 1) MassHealth testified that the Appellant's assets totaled \$2,558.46 at the time Notice #68542195 issued, on June 9, 2025, exceeding the limit for MassHealth long-term-care services. (Testimony, Exhibit 1) At the time of issuance of the Notice, the Appellant had a bank account valued at \$2,351.54 and personal needs account in the amount of \$206.92. (Testimony, Exhibit 1) MassHealth testified that this exceeded the limit for MassHealth benefits resulting in the Notice under appeal. (Testimony, Exhibit 1)

The Appellant, through the Appeal Representative, inquired regarding a burial account. (Testimony) MassHealth responded that the limit for a burial account was \$1500. (Testimony, 130 CMR 520). The Appellant requested time to spend down the excess asset amount, to which MassHealth lodged no objection. (Testimony). The Record was left open for the Appellant until August 8, 2025, to provide proof of a spenddown, including any necessary adjustments to a burial account, and the Record was left open for MassHealth until August 15, 2025 to review any submissions from the Appellant. (Exhibit 5). Within the Record Open Form, the following instructions are included:

The record will remain open until August 15, 2025 for MassHealth/the Respondent to submit a written response by e-mail. Send copies of all submissions to both the hearing officer and the other party. Failure to do so will result in the documents not being admitted into the hearing record. (Exhibit 5)

On July 23, 2025, the Appellant submitted proof of a spenddown to the Board of Hearings via facsimile and emailed a copy to this Hearing Officer and MassHealth. (Exhibit 6, Exhibit 7). On August 15, 2025, the Record closed for the Parties. (Exhibit 5). MassHealth did not respond.

On August 22, 2025, inquiry was sent to the Parties regarding the status of the Appeal. (Exhibit 7) The Appellant, through the Appeal Representative, confirmed the submission that had been sent the previous month, and sought confirmation that the Appellant had complied with the spenddown. (Exhibit 7). MassHealth did not respond.

On September 3, 2025, the Appeal Representative sent a follow up inquiry. (Exhibit 8) Another inquiry was sent to MassHealth. (Exhibit 8) An Out of Office Automatic Reply issued, indicating the worker from MassHealth was out of the office vacation until September 8, 2025. (Exhibit 9). Within the inquiry to MassHealth, a request to provide a status update upon the

return to the office was sought. (Exhibit 8) MassHealth did not respond.

On September 10, 2025, yet another inquiry was sent to MassHealth. (Exhibit 10) Once again, MassHealth did not respond.

Findings of Fact

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

1. The Appellant is an adult over the age 65, who filed an application for MassHealth Long-Term-Care Services in a Nursing Facility. (Testimony, Exhibit 1)
2. At the time of issuance of Notice #68542195, the Appellant's assets totaled \$2,558.46 (Testimony, Exhibit 1)
3. At the time of issuance of Notice #68542195, the Appellant had a bank account valued at \$2,351.54 and personal needs account in the amount of \$206.92. (Testimony, Exhibit 1)
4. The Record was left open for the Appellant until August 8, 2025, to provide proof of a spenddown, including any necessary adjustments to a burial account, and the Record was left open for MassHealth until August 15, 2025 to review any submissions from the Appellant. (Exhibit 5).
5. On July 23, 2025, the Appellant submitted proof of a spenddown to the Board of Hearings via facsimile and emailed a copy to this Hearing Officer and MassHealth. (Exhibit 6, Exhibit 7).
6. On August 15, 2025, the Record closed for the Parties. (Exhibit 5). MassHealth did not respond.
7. On August 22, 2025, inquiry was sent to the Parties regarding the status of the Appeal. (Exhibit 7) MassHealth did not respond.
8. On September 3, 2025, another inquiry was sent to MassHealth. (Exhibit 8) An Out of Office Automatic Reply issued, indicating the worker from MassHealth was out of the office until September 8, 2025. (Exhibit 9). Within the inquiry to MassHealth, a request to provide a status update upon the return to the office was sought. (Exhibit 8) MassHealth did not respond.
9. On September 10, 2025, yet another inquiry was sent to MassHealth. (Exhibit 10) MassHealth did not respond.

Analysis and Conclusions of Law

The Regulations promulgated at 130 CMR 515.000 through 520.000 provide the requirements for MassHealth eligibility for persons aged 65 and older. (130 CMR 515.002). A long-term-care resident aged 65 and older may establish eligibility for MassHealth Standard coverage for long-term-care nursing services provided that the resident's assets are \$2,000 or less for an individual pursuant to 130 CMR 519.006:

519.006: Long-term-care Residents

(A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must

- (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.

An applicant may reduce assets pursuant to the Regulations:

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.

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998)..

In the instant appeal, there is little factual dispute. At the time of issuance of Notice #68542195, the Appellant's assets totaled \$2,558.46, exceeding the limit of \$2,000, as codified within the Regulations. (Exhibit 1). Based upon this, the Appellant sought time to adhere to the Regulations. (Exhibit 5). The Appellant provided additional documentation to MassHealth to show the spenddown of excess assets. (Exhibit 6)

MassHealth did not respond upon expiration of the Record Open period, despite the instructions contained within the Record Open Form. (Exhibit 5). Additional inquiry was sent to MassHealth on August 22, 2025, yet MassHealth failed to respond. (Exhibit 7) Another inquiry was sent to MassHealth on September 3, 2025, and once again, MassHealth failed to respond. (Exhibit 8) An Out of Office Automatic Reply issued, indicating the worker from MassHealth was out of the office until September 8, 2025. (Exhibit 9). On September 10, 2025, yet another inquiry was sent to MassHealth, but MassHealth failed to respond. (Exhibit 10)

Accordingly, based upon this Record, I find that the Appellant has met the burden, by a preponderance of evidence, to show the invalidity of MassHealth's determination. Accordingly, this Appeal is APPROVED. The Appellant has tendered the requested financial information and receipts to show that the Appellant has reduced assets in accordance with MassHealth Regulations. (Exhibit 6) Additionally, since the verifications have been submitted, MassHealth now must determine the Appellant's eligibility. The enumerated verifications having been received; this case is REMANDED to MassHealth to determine the Appellant's eligibility for MassHealth coverage.

Order for MassHealth


Review the Appellant's submissions and determine the Appellant's eligibility in accordance with 130 CMR 520.003 and 130 CMR 520.004¹.

¹ The Appellant retains the right to appeal the new determination of MassHealth, if the Appellant chooses.

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.

Patrick Grogan
Hearing Officer
Board of Hearings


MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290