

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2509528
<b>Decision Date:</b>	8/18/2025	<b>Hearing Date:</b>	7/23/2025
<b>Hearing Officer:</b>	David Jacobs		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Stacy Kirby, Taunton MEC



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Long-term care eligibility
<b>Decision Date:</b>	8/18/2025	<b>Hearing Date:</b>	7/23/2025
<b>MassHealth's Rep.:</b>	Stacy Kirby	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (Remote)		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through notice dated 5/15/2025, MassHealth notified the appellant that her long-term care application was denied with a 618-day penalty that runs from 3/13/2025 to 11/20/2026 due to the transfer of real property valued at \$544,900 with the appellant share being \$272,450. (Exhibit 1). MassHealth will redetermine the appellant's potential eligibility when the penalty period ends on 11/20/2026 (Exhibit 1). The appellant filed this appeal in a timely manner on 6/25/2025 (130 CMR 610.015(B) and Exhibit 2). Determination of a penalty period is a valid ground for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth notified the appellant that her application was denied with a 618-day penalty period which runs from 3/13/2025 to 11/20/2026, due to the transfer of real property valued at \$544,900 with the appellant's share being \$272,450.

### Issue

The appeal issue is whether MassHealth was correct in the application of the 618-day penalty period.

## Summary of Evidence

A MassHealth worker appeared telephonically at hearing and testified as follows: A MassHealth long-term care application was filed on the appellant's behalf on 3/24/2025 with a requested start date of 3/13/2025 (Exhibit 5, pg. 1). The application was denied on 5/15/2025 with a 618-day penalty period which runs from 3/13/2025 to 11/20/2026 due to the transfer of real property to her son for \$1.00 on 3/20/2021 valued at \$544,900 of which her share is \$272,450 *id.* The 618-day penalty period was calculated using the current average nursing home daily rate of \$441.00 ( $\$272,450/\$441 = 618$ ) *id.*

The appellant's daughter and two facility representatives appeared at the hearing telephonically and testified to the following: The appellant concedes the facts laid out by MassHealth. She explained that the appellant and her husband were placed on the deed to the property at issue to allow them to co-sign for a favorable mortgage for their son. The house, which was purchased in [REDACTED] was intended for their son and his wife to live in, and at no time did the appellant or her husband reside in the home, nor did they ever make any payments on the mortgage or for upkeep of the home. On 3/20/2021, the appellant and her husband were removed from the deed for consideration of \$1.00. When the hearing officer asked the daughter why the appellant and her husband were removed from the deed that day, the daughter responded that the son "felt that he didn't need them there anymore." When asked if the son could transfer the property back to the appellant and spouse, the daughter testified that he refused because the appellant's spouse is violent and they do not want to have anything to do with him anymore. The appellant submitted photos of injuries allegedly caused by the spouse in the past (Exhibit 7, pgs. 29-30).

The daughter and the facility representatives make two arguments for why the appellant should not be penalized for the transfer. First, they argue that they heard from someone that the property should not be a countable asset by MassHealth because the appellant never resided there. Second, they argue that per 130 CMR 520.019(D) it was transferred for purposes other than to qualify for MassHealth. The daughter testified that the appellant was diagnosed with Parkinson's disease 10 years ago and is currently bedridden. The transfer on 3/20/2021 was not done in expectation that the appellant may enter a facility and qualify for MassHealth. The appellant was transferred to the facility due to an unforeseen circumstance of a wound the appellant suffered that needed treatment at the hospital. The appellant was then subsequently transferred to the facility.

MassHealth responded that the property is an asset regardless of whether the appellant ever lived there as her name is on the deed. As for the second argument, there is no documentation of any deal or understanding held between the appellant, her spouse, and their son's family for purchase or transfer of the property.

The hearing officer allowed for a record open period for the appellant to support the arguments made at hearing (Exhibit 6, pg. 1). First, he requested a legal brief to support the appellant's assertion that the property at issue is not an asset because the appellant never lived there *id.* Second, he requested any documentation showing why the appellant's name was on the deed or

why it was transferred on 3/20/2021 *id.* Lastly, any other medical documentation that tends to support the appellant's arguments *id.* The record was held open until 8/6/2025 for the appellant to submit documents and until 8/13/2025 for MassHealth to review the submissions *id.*

On 7/25/2025, the appellant's daughter informed MassHealth and the hearing officer that she was dissatisfied with the representation offered by the facility reps and fired them (Exhibit 6, pg. 2). The daughter then submitted a response to MassHealth within the record open period that was then sent to the hearing officer on 8/8/2025 (Exhibit 7). The submission contains an affidavit from the son and daughter supporting the arguments made at hearing, the 2018 purchase and sale agreement of the property showing the son, appellant's spouse, and son's wife as the buyers, mortgage documents for the property, and mortgage checks from the son intended to show that he was the one paying for it, not the appellant *id.* The affidavits assert that the appellant was only on the deed because MA law required her to be along with her spouse to obtain the favorable mortgage (Exhibit 7 pg. 1 and pg. 41) The MA law they are referring to was not referenced. The submission also contained an affidavit from the attorney who performed the transfer on 3/20/2021 who affirms that the facts given during the hearing were told to him during the transfer *id.* Moreover, he adds that he was told that the son was planning to refinance his home and did not require his parents as co-signers to do so anymore *id.*

## Findings of Fact

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

1. The appellant, her spouse, their son, and the son's wife were on a deed and co-signers on a mortgage for real property purchased in [REDACTED]
2. The real property was valued at \$544,900 in 2021, with the appellant and her spouse's share being half of that, or \$272,450.
3. The appellant and her spouse were added to the deed at the time of purchase in [REDACTED] to help the son secure a favorable mortgage for the property.
4. There is no evidence that the appellant or her spouse contributed to the purchase of the property.
5. The appellant and her spouse never made any payments on the mortgage or for the upkeep of the property.
6. The appellant's name is not on the [REDACTED] purchase and sale agreement.
7. On 3/20/2021, the son removed the appellant and the spouse from the deed for the consideration of \$1.00 as he no longer needed their assistance for refinancing.
8. On 3/24/2025, the appellant applied for MassHealth long-term care benefits with a

requested start date of 3/13/2025.

9. On 5/15/2025, MassHealth informed the appellant that her application was denied due to the transfer of real property with a penalty period running from 3/13/2025 to 11/20/2026. MassHealth would redetermine the appellant's eligibility at the end of the penalty period.
10. The penalty rate was calculated at a daily nursing rate of \$441.00.
11. On 6/25/2025, the appellant appealed the 5/15/2025 notice.

## **Analysis and Conclusions of Law**

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 (including the home or former home of 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) (130 CMR 520.019(C)). A disqualifying transfer may include any action taken which would result in making a formerly available asset no longer available (130 CMR 520.019(C)).

In addition to the permissible transfers described in 130 CMR 520.019(D), the MassHealth agency will not impose a period of ineligibility for transferring resources at less than fair-market value if the nursing-facility resident or the spouse demonstrates to the MassHealth agency's satisfaction that (1) the resources were transferred exclusively for a purpose other than to qualify for MassHealth; or (2) the nursing-facility resident or spouse intended to dispose of the resource at either fair-market value or for other valuable consideration. Valuable consideration is a tangible benefit equal to at least the fair-market value of the transferred resource (130 CMR 520.019(F)).

Here it is undisputed that the appellant and her spouse were on a deed for real property that was transferred to their son on 3/20/2021 for \$1.00. It is also undisputed that the property was worth \$544,900 in 2021 with the appellant's share being \$272,450. However, the appellant makes two arguments for why the transfer of that property should not be penalized by MassHealth.

First, one of the representatives at hearing argued that the property at issue should not be considered an asset because the appellant never resided there and never made any payments on the mortgage or to maintain the home. The hearing officer left the record open to give the appellant representatives time to support this argument with a legal brief. No legal brief was submitted to support this argument and indeed 130 CMR 520.007(G) has no such requirement that the appellant resides in or makes payments on the property for it to be considered an asset. The appellant concedes that her name was on the deed. Therefore, the property is a countable asset.

Second, per 130 CMR 520.019(D), the appellant argues that the property at issue was transferred for purpose exclusively other than to qualify for MassHealth. Here, the appellant's daughter argues the appellant and her spouse were placed on the deed so that the son could obtain a favorable mortgage. Then on 3/20/2021, the son intending to refinance the property, no longer needed his parents as cosigners, and removed them from the deed for the nominal consideration of \$1.00. The appellant has met her burden to show that the property was transferred for purposes exclusively other than to qualify for MassHealth.

The affidavits supplied submitted by the appellant's son and daughter are credible. Their assertion that the appellant did not intend to have an ownership interest in the property and was only on the deed for financing purposes is credible (Exhibit 7 pg. 1 and pg. 41). The appellant submitted checks from the son show that he was regularly paying the property's mortgage (Exhibit 7, pgs. 2-8). This supports the appellant's argument that the family never intended for her to take an ownership interest in the property as she was not involved in paying for it. The [REDACTED] purchase and sale agreement similarly does not contain the appellant's name, which shows again that the family did not intend to have an ownership interest in the home (Exhibit 7, pg. 15). All together this evidence makes the daughter's and son's argument that the transfer on 3/20/2021 was only to remove the appellant after her purposes for financing was complete, credible. This is further supported by the attorney's affidavit who confirms that all of this is what he was told at the time (Exhibit 7, pg. 1).

As all the evidence submitted credibly supports that the appellant was put on the deed for financing purposes only and then later taken off the deed three years later when the son no longer needed these services from her, I determined that the property was transferred to the son for purposes other than to qualify for MassHealth benefits.

As such, the appeal is APPROVED

## **Order for MassHealth**

Determine there is no disqualifying transfer of \$272,450 transfer resulting in a 618-day penalty period and redetermine the appellant's MassHealth eligibility as of March 13, 2025.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

---

David Jacobs  
Hearing Officer  
Board of Hearings

cc:

Taunton MEC

