

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2509720
<b>Decision Date:</b>	8/25/2025	<b>Hearing Date:</b>	07/28/2025
<b>Hearing Officer:</b>	Sharon Dehmand	<b>Record Open to:</b>	08/11/2025

**Appearance for Appellant:**



**Appearance for MassHealth:**

Donovan Sorhaindo, Taunton 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; Excess Assets
<b>Decision Date:</b>	8/25/2025	<b>Hearing Date:</b>	07/28/2025
<b>MassHealth's Rep.:</b>	Donavan Sorhaindo	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	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 June 6, 2025, MassHealth denied the appellant's application for MassHealth long-term benefits because MassHealth determined that the appellant was over the asset limit to qualify. The applicant was approved for Medicare Savings Program, QMB benefits starting on June 1, 2025. See 130 CMR 520.003 and Exhibit 1. The appellant filed this appeal in a timely manner on June 30, 2025. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal before the Board of Hearings. See 130 CMR 610.032(A)(1).

### Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits.

### Issue

Whether MassHealth was correct in determining that the appellant was over the asset limit to qualify for MassHealth benefits. See 130 CMR 520.003; 130 CMR 520.007; 130 CMR 520.008.

## Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Taunton MassHealth Enrollment Center. The appellant was represented by her daughter who was her appeal representative. The following is a summary of the testimony and evidence provided at the hearing:

The MassHealth representative testified that the appellant is over the age of [REDACTED]. She was admitted to a long-term care facility on [REDACTED]. A MassHealth long-term care application was submitted on the appellant's behalf on April 2, 2025, seeking coverage as of February 18, 2025. MassHealth found that the appellant owned a home in the state of [REDACTED]. In January 2012, the appellant conveyed her remainder interest in her primary residence to her son granting a life estate to herself. She lived in her home with her son until she moved to [REDACTED] over 6 years ago. The MassHealth representative testified that since the appellant did not reside in her home prior to admission to the nursing facility and her son has not been deemed disabled, the home is a countable asset. He stated that since the appellant only holds a life estate in the home, she is unable to sell the property. He added that because the home is located outside of [REDACTED] MassHealth is unable to place a lien against the property. As such, MassHealth valued the appellant's life estate as \$64,200.77 using the [REDACTED]. Through a notice on June 6, 2025, MassHealth notified that appellant that she is not eligible for MassHealth benefits because her assets exceeded the program limits by that amount.<sup>1</sup>

The appellant's daughter agreed with the testimony of the MassHealth representative regarding the history of the case. She stated that although her brother has behavioral issues, he has not been deemed disabled. She explained that she cannot ask her brother to sell the home because it is his home. She also stated that according to the conveyance attorney, the state of [REDACTED] does not allow the sale of property with a reserved life estate. The MassHealth representative reiterated that MassHealth is not requesting the sale of the property which is valued at \$225,100.00 by the assessor's office because the appellant does not have the right to sell. MassHealth is only considering the value of the life estate.

The appellant's daughter confirmed that her brother had the property informally appraised and the result matched the assessor's office valuation. She also expressed confusion about the calculation of the value of the life estate despite MassHealth's explaining the same to her.

The record was held open until August 4, 2025, for the appellant to submit a copy of the conveyance deed and until August 11, 2025, for MassHealth to submit the methodology by which it calculated the value of the life estate. See Exhibit 5. On July 29, 2025, both parties submitted the

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<sup>1</sup> This testimony was incorrect. According to the notice, the total excess asset amount was \$62,491.20. This figure includes the value of the appellant's bank account and the value of the life estate minus \$2,000.00 that the appellant is allowed to keep (\$290.43 + \$64,200.77 - \$2,000.00).

requested documents which were entered into the record as Exhibit 6 and Exhibit 7, respectively.

## Findings of Fact

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

1. The appellant is over the age of [REDACTED] and was admitted to a long-term care facility on [REDACTED] [REDACTED] (Testimony and Exhibit 4).
2. A MassHealth long-term care application was submitted on the appellant's behalf on April 2, 2025, seeking coverage as of February 18, 2025. (Testimony).
3. In January 2012, the appellant conveyed her remainder interest in her primary residence located in [REDACTED] to her son granting a life estate to herself. (Testimony and Exhibit 6).
4. The appellant lived in her home with her son until she moved to [REDACTED] over 6 years ago. (Testimony).
5. The appellant's son has not been deemed disabled. (Testimony).
6. MassHealth is unable to place a lien against the property because it is not located in [REDACTED] As such, the home is a countable asset. (Testimony).
7. On June 6, 2025, MassHealth determined that the appellant was not eligible for MassHealth benefits due to assets that exceeded the program limits. (Testimony and Exhibit 1).
8. The appellant filed this appeal in a timely manner on June 30, 2025. (Exhibit 2).
9. The home is valued at \$225,100.00 by the assessor's office and the appellant's informal appraisal. (Testimony and Exhibit 7).
10. The appellant's life estate interest in the home is valued at \$64,200.77. (Testimony and Exhibit 1).
11. The appellant is over the allowed asset limit by \$62,491.20. (Exhibit 1).

## 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 [REDACTED] or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. See 130 CMR 515.002(B). Since the appellant was an institutionalized person, she is subject to the requirements of the provisions of Volume II. See 130 CMR 515.002.

Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements:

- (1) be younger than [REDACTED] years of age or older or, for individuals [REDACTED] 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.

See 130 CMR 519.006(A).

Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf. In determining whether or not failure to receive such assets is reasonably considered to result from such action or inaction, the MassHealth agency considers the specific circumstances involved. See 130 CMR 520.007.

The assets that the MassHealth agency considers as countable assets include, but are not limited to, cash, bank account balances, IRAs, Keough plans, pension funds, securities, cash surrender value of life-insurance policies, certain vehicles, real estate with the exception of the principal place of residence, certain SSI and RSDI benefits, trusts, and annuities, promissory notes, loans, mortgages, and similar transactions. See 130 CMR 520.007(A)-(J).

Noncountable assets are those assets exempt from consideration when determining the value of assets. See 130 CMR 520.008. The home of the applicant or member and the spouse and any

land appertaining to the home, as determined by the MassHealth agency, if located in Massachusetts and used as the principal place of residence, are considered noncountable assets, except when the equity interest in the home exceeds the amount described in 130 CMR 520.007(G)(3). The home is subject to the lien rules at 130 CMR 515.012: Real Estate Liens. See 130 CMR 520.008(A)(Emphasis added).

Here, both parties agree that the appellant established a life estate when she conveyed her legal interest in her primary residence, which is located outside of [REDACTED] to her son in January 2012, while retaining the legal interest for life for herself. See 130 CMR 515.001(a life estate is established when all of the remainder legal interest in a property is transferred to another, while the legal interest for life rights to use, occupy, or obtain income or profits from the property is retained). Because the appellant's primary residence is not located in [REDACTED] and cannot be subject to the lien rules, it is treated as a countable asset for eligibility purposes. Accordingly, the appellant's life estate interest in that primary residence is likewise considered a countable asset. The only question remaining is the valuation of the appellant's life estate.

The MassHealth agency will calculate the values of the life estate in accordance with the life-estate tables, as determined by the MassHealth agency. See 130 CMR 520.019(I)(1). MassHealth has determined that in order to calculate the value of life estates, it will use the Section 7520 Interest Rate Tables referenced in the Federal Regulations, 26 CFR 20.2031-7. The Tables use actuarial factors to determine present values based on publications by the Internal Revenue Service (IRS). The Social Security Administration (SSA) Life Estate and Remainder Interest Table in Section SI 01140.120 of the Program Operations Manual System (POMS), referenced by the Centers for Medicare & Medicaid Services (CMS) State Medicaid Manual, also cites to the Federal Regulations, 26 CFR 20.2031-7. See Eligibility Operations Memo (EOM) 23-12 (April 2023).

Following the procedural steps as set forth in the same EOM, MassHealth calculates the value of the life estate by considering the following: 1) the applicable interest rate; 2) obtaining the life estate factor from the IRS actuarial tables; and 3) multiplying the appropriate life estate factor by the fair market value. Id.

In this case, the MassHealth representative testified, and the appellant's daughter agreed that the value of the home was \$225,100.00. See Exhibit 7, pp. 2-3. The MassHealth representative stated that the calculation is done using the Tigers Tables<sup>2</sup> interest rate which was 5% for the applicable month and year. According to the EOM 23-12, Section 7520 Interest Rate Tables referenced in the Federal Regulations, 26 CFR 20.2031-7, is utilized for the determination of the applicable interest rate. The applicable interest rate utilizing this table is also 5% and is consistent with the interest rate used by MassHealth. As such, the applicable interest is 5%. Next, utilizing the IRS actuarial tables in Section SI 01140.120 of the POMS, the life estate factor is determined at the point where

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<sup>2</sup> As per EOM 19-12 (August 2019), MassHealth stopped using the Tiger Tables.

the individual's age and the applicable interest rate of 5% intersect on the table. MassHealth correctly determined the factor to be .28521. See Exhibit 7, p. 5. Last, multiplying the life estate factor obtained from the IRS actuarial tables by the fair market value of the home, the value of the appellant's life estate is correctly determined to be \$64,200.77 ( $\$225,100.00 \times .28521 = \$64,200.77$ ).

Although the appellant's daughter expressed confusion regarding the calculation of the value of the life estate, she did not offer any evidence challenging MassHealth's calculation. The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy." See Massachusetts Inst. of Tech. v. Department of Pub. Utils., 425 Mass. 856, 867 (1997); see also Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983)(proof by a preponderance of the evidence is the standard generally applicable to administrative proceedings). The appellant has failed her burden to provide any proof that MassHealth calculation was erroneous.

For the foregoing reasons, I find that the appellant's life estate interest in the property located outside of Massachusetts is a countable asset in accordance with the regulations. Additionally, I find that MassHealth correctly calculated the value of the appellant's life estate interest in the property. As such, MassHealth correctly denied the appellant's application on the basis that her assets exceeded regulatory limits by \$62,491.20. Accordingly, 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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Sharon Dehmand, Esq.  
Hearing Officer  
Board of Hearings

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616