

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2509732
<b>Decision Date:</b>	09/26/2025	<b>Hearing Date:</b>	07/28/2025
<b>Hearing Officer:</b>	Marc Tonaszuck	<b>Record Open to:</b>	08/08/2025

**Appearance for Appellant:**




**Appearance for MassHealth:**

Karen Redman



*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 – Hardship Waiver
<b>Decision Date:</b>	09/26/2025	<b>Hearing Date:</b>	07/28/2025
<b>MassHealth’s Rep.:</b>	Karen Redman	<b>Appellant’s Rep.:</b>	
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<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 05/01/2025, MassHealth denied the appellant's transfer of resources hardship waiver request because MassHealth determined that the appellant did not meet the requirements of 130 CMR 520.019(L) (Exhibit 1). The appellant filed this appeal in a timely manner on 06/30/2025 (see 130 CMR 610.015(8) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

A fair hearing was held before the Board of Hearings on 07/28/2025. The appellant's representative requested an opportunity to submit additional documentation to the hearing record. Her request was granted, and the record remained open in this matter until 08/01/2025 for the appellant's submission and until 08/08/2025 for MassHealth's response (Exhibit 5).

## **Action Taken by MassHealth**

MassHealth denied the appellant's transfer of resources hardship waiver request.

## **Issue**

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019(L), in determining that the appellant did not meet all criteria for the transfer of resources hardship waiver request.

## **Summary of Evidence**

The representatives for MassHealth and the appellant both appeared at hearing via telephone. The MassHealth representative testified as follows: an application for MassHealth Long Term Care (LTC) benefits was submitted on the appellant's behalf on 05/22/2024. On 06/17/2024, MassHealth was alerted to unreported bank accounts owned by the appellant, and it sent to the appellant a request for verifications of those accounts for the previous 60-months. The verifications were due by 08/26/2024. MassHealth denied the appellant's LTC application after the verifications were not received by the deadline. On 09/09/2024, some verifications were submitted to MassHealth, and the case was restamped with a reapplication date of 09/09/2024 but denied for disqualifying transfers of resources. There were two transfers at issue at that time: on 12/01/2019, the appellant transferred \$730,391.00; and on 01/01/2024, the appellant transferred \$58,741.00. MassHealth calculated a period of ineligibility from the date the appellant was seeking benefits, 11/28/2024 to 10/30/2029. The appellant appealed MassHealth's decision to impose a period of ineligibility and, during that appeal process, the appellant cured \$300,002.00 in transfers. The period of ineligibility was recalculated to be from 01/08/2024 to 12/16/2027.

On 03/26/2025, the appellant submitted a hardship waiver application to request that the period of disqualification be reduced or eliminated. On 05/01/2025, MassHealth informed the appellant that it denied her request for a transfer of resources hardship waiver because she did not meet the requirements of 130 CMR 520.019(L). This is the notice under appeal.

A fair hearing was held before the Board of Hearings on 07/28/2025. At that time, the MassHealth representative testified that to be approved for a hardship waiver of a period of ineligibility due to disqualifying transfer, a number of criteria must be met. At this time, the appellant has not provided adequate documentation to show that the criteria were met. As a result, the Hardship application was denied.

The appellant was represented by a Medicaid specialist who testified that the appellant lived in Manhattan with her late husband. The representative testified that the appellant never gifted any resources or had any intent to become eligible for benefits by disposing of the resources. The appellant's representative requested that the record remain open in this matter so she could provide additional documentation in support of the appellant's hardship waiver.

The appellant's request was granted, and the record remained open in this matter until 08/01/2025 for the appellant's submission and until 08/08/2025 for MassHealth's response (Exhibit 5). Both parties made submission during the record open period (Exhibit 6 is the appellant's submission and Exhibit 7, MassHealth's).

In support of her request for a hardship waiver, the appellant's representative submitted the following:

- Updated letter from facility stating she is not a safe discharge signed by the Director of Nursing for the facility
- Updated 30 day discharge
- Letter signed by her power of attorney regarding her situation
- [REDACTED] that reflect the statements (can provide statements necessary) from 2019 to 2024
- Letters to the aides;
- Appellant's LinkedIn
- Her Published books
- Obituary for [REDACTED]
- Proof of [REDACTED]

In addition to the above materials, the Appellant's representative argued that the transfers made by the appellant were not made with an intent to qualify for Medicaid, nor were they gifts. They reflected the appellant's lifestyle where she

lived the way she always had with the money her husband left her and had no problem paying people for services. [The appellant] would have a specific grocery store deliver high-quality food, she paid her dues to her elite clubs, paid her rent, paid for her storage unit and utilities, she paid for people to come in and assist her, and help her go to her events as she was in the beginning stages of Parkinsons.

She was [REDACTED], living in [REDACTED] when the pandemic hit on the [REDACTED]. She did pay people she knew and trusted repeatedly to come over and help her and bring her items, due to the state of the city during that time frame, she had no choice essentially. The power of attorney did originally try to find accurate information on the help she had hired as [the appellant] could not remember. We did mail out letters to the last known addresses prior to the transfer penalty being in effect.

I am attaching the breakdown of all her banking transactions, the power of attorney put together to show exactly what her spending looked like outside the bank statements. When you really break it down, you can see she was not frivolous with her spending.

(Exhibit 6.)

In MassHealth's response, the MassHealth representative wrote:

The issue at appeal is whether all criteria to be approved for a hardship waiver of a period of ineligibility have been met or not. MassHealth's decision that led to this appeal was that the criteria had not been met. To approve a request for a waiver of a penalty period due to a disqualifying transfer, all elements of MassHealth regulation 130 CMR 520.019(L) must be met and verified with documentary evidence.

After reviewing the documentation submitted by [the appellant's] legal representatives during the Record Open period, it has been determined that the submission satisfies the requirements of 520.019(L)(a), (c), and (d). However, the requirements of 520.019(L)(b) have not been met.

Accordingly, MassHealth upholds the decision to deny the hardship waiver request [the appellant] and her legal representatives have not demonstrated compliance with all provisions outlined in 130 CMR 520.019(L).

Specifically:

b. The documentation submitted does not show any attempt to retrieve the funds or resources determined to be disqualifying transfers. Instead, the documents appear to address only the initial imposition of a disqualifying transfer penalty period and the determination of fair market value for "nursing services" rendered or to argue that the resources were transferred for a purpose other than to qualify for MassHealth. Neither of these arguments are related to whether or the not all necessary criteria to be approved for this hardship waiver have been met.

a. Documentation was provided to support that a discharge would pose a threat to [the appellant's] health and safety.

c. A current discharge notice was submitted.

d. Documentation was provided indicating that a less costly placement is not available for [the appellant].

(Exhibit 7.)

## Findings of Fact

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

1. On 05/01/2025, MassHealth informed the appellant that it denied her request for hardship waiver of a period of ineligibility due to a disqualifying transfer of resources because he did not meet the requirements of 130 CMR 520.019(L) (Testimony and Exhibit 1).
2. On 06/30/2025, the appellant timely appealed the denial notice (Exhibit 2).
3. The appellant is a resident of a nursing facility (Testimony).
4. There are disqualifying transfers in the aggregate amount of \$489,130.00 which resulted from failure to verify that certain transfers of resources were permissible transfers (Testimony and Exhibit 6).
5. On 09/09/2024, MassHealth denied the appellant's application for long-term care benefits due to the disqualifying transfers of resources. MassHealth calculated a period of ineligibility starting from 11/28/2024 to 10/30/2029 (Testimony).
6. The appellant appealed the 09/09/2024 denial notice. At the fair hearing concerning that appeal, MassHealth accepted documentation showing that the appellant cured \$300,002.00 of the disqualifying transfers (Testimony).
7. The period of ineligibility was decreased based on the cure. The updated period of ineligibility began on 01/08/2024 and will terminate on 12/16/2027 (Testimony).
8. On 03/26/2025, the appellant submitted a hardship waiver to reduce or eliminate the period of ineligibility for disqualifying transfers.
9. At the fair hearing held on 07/28/2025, appellant's representative requested additional time to submit documentation in support of the hardship waiver. Her request was granted, and the record remained open until 08/01/2025 for the appellant's submission and until 08/08/2025 for MassHealth's response (Exhibit 5).
10. During the record open period, the appellant's representative made a submission that included a cover letter, updated letter from facility stating she is not a safe discharge signed by the Director of Nursing for the facility; updated 30 day discharge; letter signed by her power of attorney regarding her situation; the [REDACTED] that reflect the statements (can provide statements if necessary) from 2019 to 2024; letters to the aides; the appellant's LinkedIn; Her Published books; obituary for the appellant's late husband; and

proof of [REDACTED] (Exhibit 6).

11. During the record open period, the MassHealth representative submitted the following response to the appellant's submission. The representative wrote:

- Documentation was provided to support that a discharge would pose a threat to [the appellant's] health and safety;
- A current discharge notice was submitted; and
- Documentation was provided indicating that a less costly placement is not available for [the appellant].

12. The MassHealth representative wrote that the documentation submitted does not show any attempt to retrieve the funds or resources determined to be disqualifying transfers. Instead, the documents appear to address only the initial imposition of a disqualifying transfer penalty period and the determination of fair market value for "nursing services" rendered or to argue that the resources were transferred for a purpose other than to qualify for MassHealth. Neither of these arguments are related to whether or the not all necessary criteria to be approved for this hardship waiver have been met.  
(Exhibit 7.)

## Analysis and Conclusions of Law

The MassHealth regulations state the following regarding a hardship the waiver of the period of ineligibility due to undue hardship:

In addition to revising a trust and curing a transfer, the nursing-facility resident may claim undue hardship in order to eliminate the period of ineligibility.

(1) The MassHealth agency may waive a period of ineligibility due to a disqualifying transfer of resources if ineligibility would cause the nursing-facility resident undue hardship. **The MassHealth agency may waive the entire period of ineligibility or only a portion when all of the following circumstances exist:**

(a) The denial of MassHealth would deprive the nursing-facility resident of medical care such that his or her health or life would be endangered, or the nursing-facility resident would be deprived of food, shelter, clothing, or other necessities such that he or she would be at risk of serious deprivation.

***(b) Documentary evidence has been provided that demonstrates to the satisfaction of the MassHealth agency that all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained to provide payment, in whole or part, to the***

***nursing-facility resident or the nursing facility.***

(c) The institution has notified the nursing-facility resident of its intent to initiate a discharge of the resident because the resident has not paid for his or her institutionalization.

(d) There is no less costly noninstitutional alternative available to meet the nursing facility resident's needs.

(2) Undue hardship does not exist when imposition of the period of ineligibility would merely inconvenience or restrict the nursing-facility resident without putting the nursing facility resident at risk of serious deprivation.

(3) Where the MassHealth agency has issued a notice of the period of ineligibility due to a disqualifying transfer of resources, the nursing-facility resident may request a hardship waiver. For transfers occurring on or after February 8, 2006, nursing facilities may apply for a hardship waiver on behalf of a resident, with the consent of the nursing-facility resident or the resident's authorized representative.

(4) If the nursing-facility resident feels the imposition of a period of ineligibility would result in undue hardship, the nursing-facility resident must submit a written request for consideration of undue hardship and any supporting documentation to the MassHealth Enrollment Center listed on the notice of the period of ineligibility within 15 days after the date on the notice. Within 30 days after the date of the nursing-facility resident's request, the MassHealth agency will inform the nursing-facility resident in writing of the undue-hardship decision and of the right to a fair hearing. The MassHealth agency will extend this 30-day period if the MassHealth agency requests additional documentation or if extenuating circumstances as determined by the MassHealth agency require additional time.

(5) The nursing-facility resident may appeal the MassHealth agency's undue-hardship decision and the imposition of a period of ineligibility by submitting a request for a fair hearing to the Office of Medicaid Board of Hearings within 30 days after the nursing-facility resident's receipt of the MassHealth agency's written undue-hardship notice, in accordance with 130 CMR 610.000: MassHealth: Fair Hearing Rules.

(6) The nursing-facility resident's request for consideration of undue hardship does not limit his or her right to request a fair hearing for reasons other than undue hardship.

130 CMR 520.019(L) (***Emphasis added***).

The MassHealth representative argued that after all submission were made, the appellant meets subparts (1)(a), 1(c), and 1(d) of the above regulation; however, she did not provide documentation that she met subpart (1)b, which reads:

Documentary evidence has been provided that demonstrates to the satisfaction of the MassHealth agency that all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained

to provide payment, in whole or part, to the nursing-facility resident or the nursing facility.

The appellant provided information that her representatives have tried to reach out to the appellant's caregivers who worked for her while she was in the community prior to her admission to the skilled nursing facility. Presumably none of the recipients provided responses (or those responses were not provided to the hearing record). However, without verification that those caregivers were paid what amounts to be some or all of the disqualifying transfer amount of \$489,130.00, or any other information about the circumstances under which the disqualifying amounts were transferred, the appellant has not met her burden of showing that she and/or her representative have made all appropriate attempts to retrieve the transferred resources. Additionally, there is no evidence that the transferred resources cannot be obtained to provide payment to the nursing facility. Because the appellant has not met her burden of showing that the above efforts were made, the criteria (1)(b) of the above regulation have not been met. MassHealth correctly denied the Hardship waiver. 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:



Respondent Representative: Karen Redman, MassHealth Member Policy Implementation Unit, 100 Hancock Street, 6th Floor, Quincy, MA 02171

Respondent Representative: Kathleen Racine, MassHealth Member Policy Implementation Unit, 100 Hancock Street, 6th Floor, Quincy, MA 02171

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104