

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2509903
Decision Date:	09/26/2025	Hearing Date:	07/29/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Victoria Ragbir, Charlestown 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

Appeal Decision:	Denied	Issue:	Long Term Care - Disqualifying Transfer
Decision Date:	09/26/2025	Hearing Date:	07/29/2025
MassHealth's Rep.:	Victoria Ragbir	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote (phone)	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 May 23, 2025, MassHealth found appellant "gave away or sold assets for less than fair market value" and calculated a period of ineligibility from May 23, 2025, to May 6, 2027. (Ex. 1; 130 CMR 520.019).¹ The appellant filed this appeal in a timely manner on June 30, 2025. (Ex. 2). Denial of assistance due to a disqualifying transfer is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant's application for long term care benefits for the period November 1, 2024, to October 16, 2026.

Issue

¹ This was the period of ineligibility written in the notice sent to appellant. I asked the MassHealth worker at hearing how those dates were calculated and she testified the beginning date was the date of admission to the facility. When it was pointed out that her evidence, Ex. 5 and Ex. 6, p. 22, stated the admission date was [REDACTED] she corrected the error in the notice and gave an updated period of ineligibility as November 1, 2024, to October 16, 2026.

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019, in determining that appellant transferred \$314,666.66 for less than fair market value resulting in an ineligibility period from November 1, 2024, to October 16, 2026.

Summary of Evidence

The MassHealth representative (worker) and the appeal representative appeared by phone and were sworn. The record reflects the following: In [REDACTED] appellant and her two brothers inherited a property in [REDACTED] from their mother (property). The three siblings took the property as tenants in common. Appellant resided in the property all her life and shared the residence with one of her brothers, who has also lived on the property his entire life. (Appeal Representative Testimony; Ex. 7). Appellant, who is in her [REDACTED], relocated to Massachusetts in July 2024 following a [REDACTED] diagnosis and subsequent treatment. (Id.). MassHealth received an application for long term care on February 27, 2025, seeking a MassHealth start date of November 1, 2024. (Ex. 1, p. 1; Ex. 6, p. 22) MassHealth denied the application on May 23, 2025, due to a disqualifying transfer of assets. (Ex. 1). The asset was the property in [REDACTED] valued at \$944,000.00, (Ex. 6, p. 7), which appellant owned one third, totaling \$314,666.66, as a joint tenant with right of survivorship with her two brothers. The worker stated MassHealth determined a disqualifying transfer because the deed of ownership was changed from tenants in common to joint tenants with right of survivorship on December 17, 2024. (Ex. 6, p. 12). This change of deed occurred after appellant was admitted to a nursing facility in Massachusetts on [REDACTED]. (Testimony; Ex. 6, p. 22). The worker stated that the reason MassHealth counted appellant's portion of the property was because with the survivorship rights in the newly executed deed, the Commonwealth of Massachusetts would not have probate rights if appellant passed away. (Testimony).

The appeal representative argued that appellant's one third ownership in the property should be a noncountable asset. She stated that changing the deed was unrelated to MassHealth because the property is a non-countable asset. She stated that the siblings changed the ownership of the property from tenants in common to joint tenants to avoid probate and to protect one of appellant's brothers who uses the property as his primary residence. The appeal representative argues that 130 CMR 520.019 (D) (6) (c), permissible transfers, is applicable in this case. It states: (6) The nursing facility resident transferred the home he or she used as the principal residence at the time of transfer and the title to the home to one of the following persons: (c) the nursing facility resident's sibling who has a legal interest in the nursing facility resident's home and was living in the nursing facility resident's home for at least one year immediately before the date of the nursing-facility resident's admission to the nursing facility;

The appeal representative also argued that, in different places, MassHealth regulations protect the homes of siblings. The regulation at 520.007(G)(8)(b)(3) does not allow MassHealth to count the property if it is the primary residence of a sibling who also holds a legal interest; 520.007(G)(11)

which states: Undue Hardship: Jointly Owned Assets (a) The MassHealth agency will continue to exclude otherwise countable property, including a former home, when it is jointly owned and the sale of the property by an individual would cause the other owners to lose housing. (b) Loss of housing would result when the property serves as the principal place of residence for one (or more) of the other owners, and sale of the property would result in loss of that residence, and no other housing would be readily available for the displaced other owner; and 515.012 which bars MassHealth from placing a lien on the property if a sibling with a legal interest resides in the property.

The appeal representative stated that each of these regulations applies to appellant's brother who lives in the property and further supports the position that the property is a non-countable asset as a result of appellant's brother's legal interest. The appeal representative stated that MassHealth's position that appellant made a disqualifying transfer of her entire one-third interest in the property to her brothers when they collectively changed the deed from tenants in common to joint tenants, one of whom meets all the requirements of a permissible transfer, is incorrect. Lastly, the appeal representative cited 130 CMR 520.019(F), intent of appellant. She stated it never occurred to appellant that changing the deed would impact her MassHealth. The appeal representative concluded her argument by stating that the deed was changed because appellant was not going back to the property, the siblings wanted to ensure the brother residing in the property could remain there as his primary residence, and to avoid probate issues that could arise.

The appeal representative also requested a chance to cure any disqualifying transfer if appellant is not successful in her appeal. She stated she believes the regulation at 130 CMR 520.019 (K) (2) would be applicable and would essentially freeze the proceedings and offer appellant a chance to cure. (Appeal Representative Testimony).

Findings of Fact

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

1. In [REDACTED] appellant and her two brothers inherited a property in [REDACTED] from their mother and took ownership as tenants in common. (Ex. 7).
2. Appellant relocated to Massachusetts in [REDACTED] following a [REDACTED] diagnosis and subsequent treatment. (Ex. 7).
3. Appellant, who is in her [REDACTED], was admitted to a nursing facility in Massachusetts on [REDACTED] (Testimony; Ex. 6, p. 22).
4. The deed of the property in [REDACTED] was changed by appellant and her two siblings from tenants in common to joint tenants with right of survivorship on December 17, 2024. (Ex. 6,

p. 12). [REDACTED] property is valued at \$944,000.00. (Ex. 6, p. 7).

5. MassHealth received an application for long term care on February 27, 2025, with a requested start date for MassHealth payment of November 1, 2024. (Ex. 1; Ex. 6, p. 22).
6. MassHealth denied the application for long term care on May 23, 2025, because appellant recently gave away or sold assets for less than fair market value. (Testimony; Ex. 1).
7. Appellant owns a one third interest valued at \$314,666.66 as a joint tenant with her brothers on the property in New York. (Testimony; Ex. 6, pp. 6, 7, 12).
8. MassHealth imposed a period of ineligibility of 714 days for long-term care benefits running from November 1, 2024, to October 16, 2026 based upon a \$314,666.66 disqualifying transfer and an average daily rate for skilled-nursing facility services of \$441. (Testimony; Ex. 1).

Analysis and Conclusions of Law

An applicant for MassHealth benefits has the burden to prove his or her eligibility, including that a transfer of resources was legitimate, not gratuitous, or for less than fair market value within the “look-back” period. (130 CMR 515.001, 520.007; 520.019; and MGL Ch. 118E, § 20). If an applicant or member has transferred resources for less than fair-market value during the look-back period, MassHealth long-term-care benefits may not be paid until a period of ineligibility has been imposed and expires. (See 42 USC §1396p(c)(1)(A); MGL Ch. 118E, § 28.) The look-back period is 60 months, or 5 years. (130 CMR 520.019(B)).

The federal law is reflected in MassHealth regulations 130 CMR 520.018 and 520.019, which provide that a disqualifying transfer exists where an applicant transfers an interest during the appropriate look-back period for less than fair-market value. “A disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available,” unless the transfer is “listed as permissible in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019([K]).” (130 CMR 520.019(C).) Permissible transfers are made to benefit a community spouse or a disabled person. Exempted transfers are cured in some manner after the fact.

The applicant’s intent can affect whether a transfer of resources results in a period of ineligibility:

(F) Determination of Intent. 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) (emphasis added).) Federal guidance requires an applicant to make a heightened evidentiary showing on this issue: “Verbal assurances that the individual was not considering Medicaid when the asset was disposed of are not sufficient. Rather, convincing evidence must be presented as to the specific purpose for which the asset was transferred.” Gauthier v. Dir., Office of Medicaid, 80 Mass. App. Ct. 777, 785 (2011) (citing State Medicaid Manual, Health Care Financing Administration Transmittal No. 64, § 3258.10(C)(2)).) Essentially, there is a presumption that transfers made within the look-back period were intended to preserve assets from being used to pay for an individual’s care.

Appellant failed to meet this heightened evidentiary burden. Appellant lived her entire life in the [REDACTED] property and only moved to Massachusetts due to medical issues. The appeal representative stated that it never occurred to appellant that changing the deed to the property would impact her MassHealth. I do not find this statement to be credible. Appellant, in her [REDACTED], was already facing medical issues when she moved to Massachusetts and was admitted to a nursing facility on [REDACTED]. Appellant and her siblings changed the deed to the property from tenants in common to joint tenants with right of survivorship on December 17, 2024, ensuring that if appellant passed away, her interest in the property would go to her family. Appellant then filed an application for MassHealth long term care on February 27, 2025, requesting a start date of November 1, 2024. These actions by appellant support the conclusion that the appellant acted with the intention of preserving her assets for her family instead of using them to pay for her own medical care.

MassHealth correctly determined the disqualifying transfer to be \$314,666.66. For these reasons, this appeal is denied.

Because the appellant disputed MassHealth’s determination that this transaction resulted in a disqualifying transfer, the appellant shall be allowed 60 days to cure the transfer. (See 130 CMR 520.019(K).)

Order for MassHealth

Allow the appellant 60 days from the date of this decision to cure the \$314,666.66 disqualifying transfer.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

[REDACTED]

MassHealth Representative: Thelma Lizano, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129