

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2509927
Decision Date:	11/10/2025	Hearing Date:	July 30, 2025
Hearing Officer:	Stanley M. Kallianidis	Record Open Date:	August 21, 2025

Appellant Representative:



MassHealth Representative:

Jernice Diaz, Taunton



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved	Issue:	Excess Assets
Decision Date:	11/10/2025	Hearing Date:	July 30, 2025
MassHealth Rep.:	Jernice Diaz	Appellant Rep.:	[REDACTED]
Hearing Location:	Telephonic		

Authority

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

Jurisdiction

Notice dated May 15, 2025 was sent to the appellant stating that MassHealth had approved his application for MassHealth benefits with a coverage start date of February 18, 2025 (Exhibit 1). The appellant filed this appeal on the start date on July 3, 2025 and, therefore, it is timely (see Exhibit 2 and 130 CMR 610.015). A dispute over the MassHealth start date is grounds for appeal (130 CMR 610.032).

On July 8, 2025 a hearing notice was sent out to the parties (Exhibit 3).

Action Taken by MassHealth

MassHealth approved the appellant's application for MassHealth benefits no earlier than February 18, 2025 due to excess assets.

Issue

Pursuant to 130 CMR 520.006, were the appellant's assets in question inaccessible?

Summary of Evidence

The MassHealth representative testified that the appellant applied for long-term care benefits on March 28, 2025 with a requested start date of December 9, 2024. The case was approved beginning February 18, 2025, but not earlier, due to excess assets in the retroactive period (Exhibits 1 & 4).

The MassHealth representative further testified that the approval date of February 18, 2025 was given because it was on this date the appellant and his spouse reduced their assets to the allowable limit with a payment of \$78,013.00 on that date to his nursing facility. Another payment to the nursing home in the amount of \$32,280.00 was made on May 5, 2025. Using the Haley calculation, the appellant would not have been eligible until July 5, 2025 (Exhibit 4).

The appellant's attorney contended that the excess assets of \$78,013.00 were not spent down earlier by the appellant because they were the subject of an administrative appeal with the Board of Hearings.

The attorney explained that the assets in question came from annuity payments that MassHealth considered to be an asset and the appellant considered to be income. The appellant initially applied for benefits in May 2024. A denial for excess assets was made on September 25, 2024 and a hearing was held on December 10, 2024. The decision was received on January 10, 2025. The appellant did not file a further appeal because he was under the impression if he spent down the assets his original application date would be honored. After the denied appeal, rather than honoring the original application that was filed, the appellant was required to file a new application.

The record was left open for the appellant's attorney to submit a memorandum and for MassHealth to issue a response (Exhibit 5).

In her memorandum, the appellant's attorney reiterated her position that she made at hearing that the appellant should be entitled to eligibility in December 2024 because he spent down the accumulated annuity income of \$78,013.00 once his appeal on the issue of excess assets was denied. She argued that the appellant had the right to appeal the September 24, 2024 denial and by denying him his requested retroactive eligibility date MassHealth would be penalizing him for exercising this right (Exhibit 6).

In her response, the MassHealth representative indicated that she would await a decision on the matter from the Board of Hearings (Exhibit 7).

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant applied for MassHealth on March 28, 2025 with a requested start date of December 9, 2024 (Exhibit 4).
2. The application was approved beginning February 18, 2025, but not earlier, due to excess assets in the retroactive period (Exhibits 1 & 4).
3. On February 18, 2025, the appellant and his spouse reduced their assets to the allowable limit with a payment of \$78,013.00 on that date to his nursing facility (Exhibit 4).
4. The appellant initially applied for benefits in May 2024 (Exhibit 6).
5. The initial application was denied for excess assets on September 25, 2024 (Exhibit 6).
6. The assets in question came from annuity payments that MassHealth considered to be an asset and the appellant considered to be income (Exhibit 6).
7. The appellant appealed the denial with the Board of Hearings. A hearing was held on December 10, 2024 (Exhibit 6).
8. The appellant received the decision upholding the denial on January 10, 2025 (Exhibit 6).

Analysis and Conclusions of Law

130 CMR 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.

130 CMR 520.006: Inaccessible Assets

(A) Definition. An inaccessible asset is an asset to which the applicant or member has no legal access. The MassHealth agency does not count an inaccessible asset when determining eligibility for MassHealth for the period that it is inaccessible or is deemed to be inaccessible under 130 CMR 520.006.

(B) Examples of Inaccessible Assets. Inaccessible assets include, but are not limited to (1) property, the ownership of which is the subject of legal proceedings (for example, probate and divorce suits); and (2) the cash-surrender value of life-insurance policies when the policy has been assigned to the issuing company for adjustment.

(C) Date of Accessibility. The MassHealth agency considers accessible to the applicant or member all assets to which the applicant or member is legally entitled (1) from the date of application or acquisition, whichever is later, if the applicant or member does not meet the conditions of 130 CMR 520.006(C)(2)(a) or (b); or

(2) from the period beginning six months after the date of application or acquisition, whichever is later, if (a) the applicant or member cannot competently represent his or her interests, has no guardian or conservator capable of representing his or her interests, and the authorized representative (which may include a provider) of such applicant or member is making a good-faith effort to secure the appointment of a competent guardian or conservator; or (b) the sole trustee of a Medicaid Qualifying Trust, under 130 CMR 520.022(B), is one whose whereabouts are unknown or who is incapable of competently fulfilling his or her fiduciary duties, and the applicant or member, directly or through an authorized representative (which may include a provider), is making a good-faith effort to contact the missing trustee or to secure the appointment of a competent trustee.

In the instant case, I have found that the appellant applied for MassHealth on March 28, 2025 with a requested start date of December 9, 2024. The application was approved beginning February 18, 2025 after the excess assets of \$78,013.00 were spent down after making a payment to the appellant's nursing facility.

I have also found that the appellant initially applied for benefits in May 2024. The initial application was denied for excess assets which came from annuity payments that MassHealth considered to be an asset and the appellant considered to be income.

Based upon the above regulations and findings, I conclude that the appellant's excess assets of \$78,013.00 should be considered inaccessible to him in December 2024 because they were the "subject of legal proceedings" after the appellant appealed the denial with the Board of Hearings with a hearing date being held that same month.

The appeal is therefore approved.

Order for MassHealth

Approve appellant's application as of requested December 2024 start date.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this notice, you should contact your local office. 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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings

cc:

Taunton MEC

