

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2509965
<b>Decision Date:</b>	09/26/2025	<b>Hearing Date:</b>	08/19/2025
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kelly Souza



*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 – Lien
<b>Decision Date:</b>	09/26/2025	<b>Hearing Date:</b>	08/19/2025
<b>MassHealth’s Rep.:</b>	Kelly Souza	<b>Appellant’s Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center	<b>Aid Pending:</b>	No

## Jurisdiction

Through a notice dated 05/20/2025, MassHealth informed the appellant of its intention to place a lien on her property located at [REDACTED] (“subject property”) (130 CMR 515.012(A); Exhibit 1). The appellant appealed this action timely on 07/01/2025 (130 CMR 610.015(B); Exhibit 2). Issuing a notice of intent to place a lien constitutes valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth issued a notice of intent to place a lien on the appellant’s subject property, real estate located at [REDACTED].

## Issue

Is MassHealth correct, pursuant to 130 CMR 515.012(A) that a lien may be placed on her real estate located at [REDACTED].

## Summary of Evidence

The MassHealth representative testified the appellant is a resident of a skilled nursing facility and has been approved for long term care (“LTC”) benefits. During the review of the appellant’s application and supporting materials, MassHealth recognized that the appellant has a legal interest in real property located at [REDACTED]. According to a quitclaim deed filed

with the registry of deeds, the subject property was transferred to the appellant, her son and her daughter-in-law in August 2013. They are all co-owners of the real estate as tenants in common. The lien must be placed unless there is a spouse living in the home, a child younger than 21 years old, or a blind or permanently and totally disabled child; or a sibling who has a legal interest in the property and has been living in the house for at least one year before the member's admission to the medical institution. In this case, none of those situations apply. Once a lien is placed, if the property is sold while the appellant is a resident of the skilled nursing facility, MassHealth has the right to recover the cost of her care up to the point of her financial interest in the subject property (Exhibits 1 and 5).

The appellant was represented by her legal guardian/son, who appeared by telephone. He confirmed that that the appellant is a co-owner of the real estate. He explained that when he and his wife bought the real estate, the appellant requested that her name be placed on the deed so that she could continue to live in the home and because she feared being evicted by her daughter-in-law, with whom she does not "get along." The son testified that the appellant has made no financial contribution to the purchase of the real estate or the mortgage. She contributes to monthly expenses. The son concluded that it was not fair to put a lien on his property because the appellant is a co-owner.

## **Findings of Fact**

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

1. The appellant, a nursing home resident, applied for, and was approved for, MassHealth LTC benefits (Testimony).
2. The appellant is a owns real estate located at [REDACTED] with her son and daughter-in-law, as tenants in common ("subject property") (Testimony; Exhibit 5).
3. The appellant continues to reside in the skilled nursing facility (Testimony).
4. There is no court order or judgment preventing MassHealth from placing a lien on the appellant's interest in the subject property (Testimony).
5. The appellant does not have a spouse living in the subject property (Testimony).
6. The appellant does not have a child under 21 who lives in the subject property (Testimony).
7. The appellant does not have a disabled or blind child who lives in the subject property (Testimony).

8. The appellant does not have a sibling who lives in the subject property (Testimony).

## Analysis and Conclusions of Law

The MassHealth notified the appellant of its intention to place a lien on her property. The regulation regarding real estate liens is found at 130 CMR 515.012, which states:

**(A) Liens.** A real estate lien enables the MassHealth agency to recover the cost of medical benefits paid or to be paid on behalf of a member. ***Before the death of a member, the MassHealth agency will place a lien against any property in which the member has a legal interest, subject to the following conditions:***

- (1) per court order or judgment; or
- (2) without a court order or judgment, if all of the following requirements are met:
  - (a) the member is an inpatient receiving long-term or chronic care in a nursing facility or other medical institution;
  - (b) none of the following relatives lives in the property:
    1. a spouse;
    2. a child younger than 21 years old, or a blind or permanently and totally disabled child; or
    3. a sibling who has a legal interest in the property and has been living in the house for at least one year before the member's admission to the medical institution;
  - (c) the MassHealth agency determines that the member cannot reasonably be expected to be discharged from the medical institution and return home; and
  - (d) the member has received notice of the MassHealth determination that the above conditions have been met and that a lien will be placed. The notice includes the member's right to a fair hearing.

(B) Recovery. If property against which the MassHealth agency has placed a lien under 130 CMR 515.012(A) is sold during the member's lifetime, the MassHealth agency may recover all payment for services provided on or after April 1, 1995. This provision does not limit the MassHealth agency's ability to recover from the member's estate in accordance with 130 CMR 515.011.

(C) Exception. No recovery for nursing-facility or other long-term-care services may be made under 130 CMR 515.012(B) if the member

- (1) was institutionalized;
  - (2) notified the MassHealth agency that he or she had no intention of returning home;
- and

(3) on the date of admission to a long-term-care institution had long-term-care insurance whose coverage met the requirements of 130 CMR 515.014 and the Division of Insurance regulations at 211 CMR 65.09(1)(e)(2).

(D) Repayment Deferred.

(1) In the case of a lien on a member's home, repayment under 130 CMR 515.012 is not required while any of the following relatives are still lawfully living in the property:

(a) a sibling who has been living in the property for at least one year before the member's admission to the nursing facility or other medical institution; or

(b) a son or daughter who

(i) has been living in the property for at least two years immediately before the member was admitted to a nursing facility or other medical institution;

(ii) establishes to the satisfaction of the MassHealth agency that he or she provided care that permitted the parent to live at home during the two-year period before institutionalization; and

(iii) has lived lawfully in the property on a continual basis while the parent has been in the institution.

(2) Repayment from the estate of a member that would otherwise be recoverable under any regulation is still required even if the relatives described in 130 CMR 515.012(D) are still living in the property.

(E) Dissolution. The MassHealth agency will discharge a lien placed against property under 130 CMR 515.012(A) if the member is released from the medical institution and returns home.

The appellant resides in a skilled nursing facility and was approved for MassHealth long term care benefits. The appellant is co-owner of the subject property with her son and daughter-in-law, as tenants in common. MassHealth seeks to place a lien on the appellant's real property. There was no assertion by the appellant's representative that any of the above situations exist which would prevent the placement of the lien. No information was received from the appellant's representative to show that MassHealth's placement of the lien was unsupported by the regulations or the facts in the hearing record. Accordingly, this appeal is denied.

## **Order for MassHealth**

Proceed with placement of the intended lien.

## **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: [REDACTED]

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