

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2510067
<b>Decision Date:</b>	11/7/2025	<b>Hearing Date:</b>	08/06/2025
<b>Hearing Officer:</b>	Marc Tonaszuck	<b>Record Open to:</b>	09/13/2025

**Appearance for Appellant:**



**Appearance for MassHealth:**

Elizabeth Kittiphane



*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 Transfers
<b>Decision Date:</b>	11/7/2025	<b>Hearing Date:</b>	08/06/2025
<b>MassHealth’s Rep.:</b>	Elizabeth Kittiphane	<b>Appellant’s Rep.:</b>	██████████, Business Office Manager, Skilled Nursing Facility
<b>Hearing Location:</b>	Quincy Harbor South	<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 05/09/2025, MassHealth approved the appellant's application for MassHealth long term care (LTC) benefits. Through the same notice, MassHealth informed the appellant that it calculated a period of ineligibility from 09/20/2024 to 12/18/2024 because of disqualifying transfers of resources. Appellant’s LTC benefits began on 12/19/2024 (130 CMR 520.018; 520.019 and Exhibit 1). Appellant filed a timely appeal to the above notice on 07/08/2025 (130 CMR 610.015(B) and Exhibit 2). MassHealth agency actions to suspend, reduce, terminate, or restrict a member's assistance are valid grounds for appeal (see 130 CMR 610.032).

At the fair hearing on 08/06/2025, the appellant’s representative requested that the record remain open to submit additional documentation in support of her position. The request was granted, and the record remained open in this matter until 09/05/2025 for Appellant’s submission and until 09/12/2025 for MassHealth’s response (Exhibit 5).

## Action Taken by MassHealth

MassHealth approved the appellant's application for LTC benefits but calculated a period of ineligibility from 09/20/2024 to 12/18/2024 because of disqualifying transfers of resources. Appellant's LTC benefits began on 12/19/2024.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.018 and 520.019, in determining that the appellant made disqualifying transfers of resources resulting in a period of ineligibility from 09/20/2024 to 12/18/2024.

## Summary of Evidence

The MassHealth representative testified that the appellant is a resident of a skilled nursing facility. On 07/26/2024, the appellant applied for MassHealth LTC benefits, seeking a benefit start date of 09/20/2024. In processing appellant's application for LTC benefits, MassHealth determined that there were several transfers during the 60-month look back period, each constituting a disqualifying transfer of resources. The following transactions were determined to be disqualifying transfers of resources from the appellant's [REDACTED] account ending in [REDACTED]

DATE	WITHDRAWALS	DEPOSITS	CURE	DESCRIPTION	NOTE
12.23.21	500.00				
1.3.22	500.00				
1.12.22	200.00				
2.3.22	500.00				
2.4.22	200.00				
3.3.22	500.00				
3.4.22	300.00				
3.16.22	4000.00				
4.1.22	500.00		500.00		
5.2.22	500.00		500.00		
6.1.22	500.00		500.00		
7.1.22	500.00		500.00		
7.8.22		10000.00			
8.2.22	500.00		500.00		
9.1.22	500.00		500.00		
10.3.22	500.00		500.00		

10.13.22	10000.00				
11.1.22	300.00		500.00		
11.2.22	300.00		500.00		
12.5.22	300.00		500.00		
12.5.22	300.00		500.00		
1.3.23	300.00		500.00		
1.3.23	300.00		500.00		
2.2.23	300.00		500.00		
2.3.23	300.00		500.00		
2.23.23	100.00		500.00		
3.2.23	300.00		500.00		
3.3.23	300.00		500.00		
3.27.23	498.00				
3.28.23	499.11				
3.29.23	498.00				
3.30.23	499.99				
3.30.23	198.00				
3.31.23	498.36				
3.31.23	198.00				
4.3.23	2171.00				
4.4.23	500.00		500.00		
4.4.23	198.00				
4.5.23	499.00				
4.6.23	499.00				
4.6.23	259.00				
4.7.23		2000.00			
4.7.23	499.00				
4.7.23	455.00				
4.10.23	499.00				
4.10.23	898.00				
4.11.23	499.00				
4.12.23	499.00				
4.12.23	545.00				

4.14.23	499.00		
4.14.23		5091.59	
4.18.23		2557.65	
4.18.23	402.00		
4.19.23	419.00		
4.25.23	1539.00		
4.26.23	626.00		
4.27.23		2890.00	
5.2.23	500.00		500.00
9.7.23	1000.00		
10.11.23	1500.00		
11.6.23	1000.00		500.00
12.12.23	1334.00		
1.12.24	1000.00		
2.12.24	1000.00		
3.22.24	1200.00		
4.15.24	1000.00		
	<b>47228.46</b>		<b>8600.00</b>



The MassHealth representative testified that the above transactions were made during the 60-month look-back period. There was no information provided to show that the money transferred was for the appellant's benefit. MassHealth determined that the disqualifying transfers totaled \$38,628.46, then the transfer amount was divided by the average private daily rate for a skilled nursing facility (\$433.00) to calculate an 89-day period of ineligibility, beginning on the date otherwise eligible, 09/20/2024 and ending on 12/18/2024. The appellant's MassHealth LTC benefits began on 12/19/2024 (Exhibit 4).

The appellant was represented at the fair hearing by the business officer manager from the skilled nursing facility. He testified that the appellant was financially exploited by others who instructed the appellant to make transfers and withdrawals to people she does not know. The appellant submitted an affidavit during the record open that states she had no knowledge of [REDACTED] and that she never authorized any transfers to him.

The appellant representative requested an opportunity to provide documentation to show that the appellant's transfers were permissible transfers. His request was granted, and the record remained

open until 09/05/2025 for his submission and until 09/13/2025 for MassHealth's response (Exhibit 5).

The appellant submitted a letter from attorney [REDACTED], representing the skilled nursing facility in this matter. In addition to the cover letter, the appellant submitted information regarding the automobile and an affidavit from the appellant and a letter from [REDACTED] (Exhibit 6). The letter from the bank states:

Per our Corporate Security Investigations section:

- the fraud in question appears to have been the result of the customer being deceived and conducting the debits herself;
- the National Financial Services payments do not appear to be related to said debits.

(Exhibit 6.)

The appellant's representative testified that the police contacted the appellant regarding this matter; however, the appellant told them she "got all the money back."

On 09/16/2025, the MassHealth representative informed the hearing officer that:

MassHealth cured the \$4,000.00 made to [REDACTED]. No other verification or documentation has been submitted. MassHealth did not accept the affidavit from the member. The new penalty period will be 9/20/24 – 12/08/2024 with the start date of 12/09/2024.

Penalty  $\$34628.46/\$433.00 = 79$  days  
Ineligibility period 9/20/24-12/08/24

(Exhibit 7.)

## Findings of Fact

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

1. The appellant is a resident of a long-term care nursing facility.
2. An application for long-term-care (LTC) benefits was submitted to MassHealth on appellant's behalf on 07/26/2024 seeking a benefit start date of 09/20/2024.
3. MassHealth received information about the following transfers that were made during the 60-month look-back period:

DATE	WITHDRAWALS	DEPOSITS	CURE	DESCRIPTION	NOTE
12.23.21	500.00				
1.3.22	500.00				
1.12.22	200.00				
2.3.22	500.00				
2.4.22	200.00				
3.3.22	500.00				
3.4.22	300.00				
3.16.22	4000.00				
4.1.22	500.00		500.00		
5.2.22	500.00		500.00		
6.1.22	500.00		500.00		
7.1.22	500.00		500.00		
7.8.22		10000.00			
8.2.22	500.00		500.00		
9.1.22	500.00		500.00		
10.3.22	500.00		500.00		
10.13.22	10000.00				
11.1.22	300.00		500.00		
11.2.22	300.00		500.00		
12.5.22	300.00		500.00		
12.5.22	300.00		500.00		
1.3.23	300.00		500.00		

1.3.23	300.00		500.00
2.2.23	300.00		500.00
2.3.23	300.00		500.00
2.23.23	100.00		500.00
3.2.23	300.00		500.00
3.3.23	300.00		500.00
3.27.23	498.00		
3.28.23	499.11		
3.29.23	498.00		
3.30.23	499.99		
3.30.23	198.00		
3.31.23	498.36		
3.31.23	198.00		
4.3.23	2171.00		
4.4.23	500.00		500.00
4.4.23	198.00		
4.5.23	499.00		
4.6.23	499.00		
4.6.23	259.00		
4.7.23		2000.00	
4.7.23	499.00		
4.7.23	455.00		
4.10.23	499.00		
4.10.23	898.00		

4.11.23	499.00		
4.12.23	499.00		
4.12.23	545.00		
4.14.23	499.00		
4.14.23		5091.59	
4.18.23		2557.65	
4.18.23	402.00		
4.19.23	419.00		
4.25.23	1539.00		
4.26.23	626.00		
4.27.23		2890.00	
5.2.23	500.00		500.00
9.7.23	1000.00		
10.11.23	1500.00		
11.6.23	1000.00		500.00
12.12.23	1334.00		
1.12.24	1000.00		
2.12.24	1000.00		
3.22.24	1200.00		
4.15.24	1000.00		
	<b>47228.46</b>		<b>8600.00</b>

4. MassHealth did not receive any information regarding the above transactions to show that the transfers were made for the appellant's benefit.
5. There is no evidence that a police report was filed regarding these transfers or that an investigative complaint was made with Elder Services regarding any alleged financial

exploitation.

6. There is no evidence that the appellant has taken legal action against any of the known transferees for financial exploitation.
7. The appellant's representative testified that the appellant told the police that "all the money had been returned to her."
8. MassHealth determined that the appellant did not receive fair market value in exchange for the above transactions, and they were determined to be disqualifying transfers of resources totaling \$38,628.46.
9. The average daily private rate for a skilled nursing facility in Massachusetts is \$433.00.
10. MassHealth calculated a period of ineligibility of 89 days (\$38,628.46 divided by \$433.00), beginning on the date appellant was otherwise eligible for MassHealth payment of benefits, 09/20/2024, and ending on 12/18/2024.
11. At the fair hearing on 08/06/2025, the appellant's representative requested an opportunity to provide documentation to show that the above transfers were made for the appellant's benefit.
12. The appellant representative's request was granted, and the record remained open in this matter until 09/05/2025 for the appellant's submission and until 09/13/2025 for MassHealth's response.
13. During the record open period, on 08/29/2025 the appellant submitted a letter from [REDACTED] that states:

Per our Corporate Security Investigations section:

- the fraud in question appears to have been the result of the customer being deceived and conducting the debits herself;
- the National Financial Services payments do not appear to be related to said debits.

(Exhibit 6.)

14. On 08/29/2025, MassHealth responded to the appellant's submission with the following statement:

MassHealth cured the \$4,000.00 made to [REDACTED]. No other verification or documentation has been submitted. MassHealth did not accept the affidavit

from the member. The new penalty period will be 9/20/24 – 12/08/2024 with the start date of 12/09/2024.

Penalty  $\$34628.46/\$433.00 = 79$  days

Ineligibility period 9/20/24-12/08/24

(Exhibit 7.)

## Analysis and Conclusions of Law

A disqualifying transfer of resources is defined at 130 CMR 520.019:

(C) Disqualifying Transfer of Resources. The MassHealth agency considers any transfer during the appropriate look-back period by the nursing-facility resident or spouse of a resource, or interest in a resource, owned by or available to the nursing-facility resident or the spouse (including the home or former home of the nursing-facility resident or the spouse) for less than fair-market value a disqualifying transfer unless listed as permissible in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019(J). The MassHealth agency may consider as a disqualifying transfer any action taken to avoid receiving a resource to which the nursing-facility resident or spouse is or would be entitled if such action had not been taken. Action taken to avoid receiving a resource may include, but is not limited to, waiving the right to receive a resource, not accepting a resource, agreeing to the diversion of a resource, or failure to take legal action to obtain a resource. In determining whether or not failure to take legal action to receive a resource is reasonably considered a transfer by the individual, the MassHealth agency will consider the specific circumstances involved. A disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available.

Regulation 130 CMR 520.019(G)(3), effective February 8, 2006, provides in pertinent part:

(1) Begin Date. For transfers occurring before February 8, 2006, the period of ineligibility will begin on the first day of the month in which resources have been transferred for less than fair-market value. For transfers occurring on or after February 8, 2006, the period of ineligibility will begin on the first day of the month in which resources were transferred for less than fair-market value or the date on which the individual is otherwise eligible for MassHealth payment of long-term-care services, whichever is later. For transfers involving revocable trusts, the date of transfer is the date the payment to someone other than the nursing-facility resident or the spouse is made.

Regulation 130 CMR 520.019(F) follows:

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.

The State Medicaid Manual (HCFA Transmittal letter 64) at Section 3258.10 sets forth the following guidance to address transfers exclusively for a purpose other than qualifying for Medicaid:

The State Medicaid Manual reads, in pertinent part, the following:

The following definitions apply to transfers of assets.

1. Fair Market Value. Fair market value is an estimate of the value of an asset, if sold at the prevailing price at the time it was actually transferred. Value is based on criteria you use in appraising the value of assets for the purpose of determining Medicaid eligibility.

Note: For an asset to be considered transferred for fair market value or to be considered to be transferred for valuable consideration, the compensation received for the asset must be in tangible form with intrinsic value. A transfer for love and consideration, for example is not considered a transfer for fair market value. Also, while relatives and family members legitimately can be paid for care they provide to the individual, HCFA presumes that services provided for free at the time were intended to be provided without compensation. Thus, a transfer to a relative for care provided for free in the past is a transfer of assets for less than fair market value. However an individual can rebut this presumption with tangible evidence that is acceptable to the State. For example, you may require that a payback arrangement had been agreed to in writing at the time services were provided.

2. Transfers Exclusively for a Purpose Other Than to Qualify for Medicaid.--Require the individual to establish, to your satisfaction, that the asset was transferred for a

purpose other than to qualify for Medicaid. 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.

*(Department of Health and Human Services Health Care Financing Administration Transmittal No. 64. November, 94.)*

The intent of any transfer within the look back period is always subject to review and within MassHealth's purview in an eligibility determination. Appellant is a resident of a skilled nursing facility. An application for MassHealth LTC benefits was submitted on appellant's behalf on 07/26/2024, seeking a coverage start date of 09/20/2024. At issue in this appeal are transfers made from the appellant's bank accounts and cash withdrawals made during the 60-month look back period. They total \$38,628.46 and the amounts and dates of the transfers were not challenged by the appellant.

At hearing the appellant representative testified that the appellant was financially exploited and her funds were "misappropriated" by others. In support of her argument, the appellant's representative submitted an affidavit from the appellant, and a letter from the bank. At hearing, the representative testified that when the appellant was contacted by the local police department regarding the transfers, she told them that the money had been returned to her. Noticeably absent from the hearing record is a letter from the police department regarding the transfers, and documentation from the Elder Services Department that the appellant was a "victim" of "financial exploitation."

The letter from the bank does not shed light on the details of the transactions. Instead, it states, that "the fraud in question appears to have been the result of the customer being deceived and conducting the debits herself." There is no evidence that any of the above instances where the appellant claims she was financially exploited were reported to the police, or to Elder Services. Neither is there any evidence that the appellant has taken any legal action against the recipients of the transfers. Without further information, or proof that crime or civil infraction may have occurred, there is no evidence that they are not disqualifying transfers, within the meaning of the above MassHealth regulations.

During the record open period, MassHealth responded to the appellant's submission with the following statement:

[REDACTED]

Penalty  $\$34628.46/\$433.00 = 79$  days  
Ineligibility period 9/20/24-12/08/24

The appellant has not met her burden of showing that the transfers were for a purpose other than to qualify for MassHealth benefits. Accordingly, MassHealth's decision that the \$34,628.46 (after the \$4,000.00 cure) in total transfers were disqualifying transfers is supported by the evidence and the regulations. There was no dispute of the average private daily rate of \$433.00, or the date appellant was otherwise eligible, 09/20/2024. Therefore, MassHealth's approval date of 12/08/2024 is supported by the facts in the hearing record, as well as the MassHealth regulations.

MassHealth's determination that the transfers were disqualifying transfers is supported by the evidence in the hearing file, as are the dates and the amounts of the transfers. Accordingly, MassHealth's decision is supported by the facts, as well as the relevant regulations. This appeal is therefore 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

  
MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171