

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2510145
Decision Date:	9/17/2025	Hearing Date:	08/05/2025
Hearing Officer:	Radha Tilva		

Appearance for Appellant:



Appearance for MassHealth:

Rhiannon Wojick, Taunton MEC Rep.



*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:	LTC – disqualifying transfer
Decision Date:	9/17/2025	Hearing Date:	08/05/2025
MassHealth’s Rep.:	Rhiannon Wojick	Appellant’s Rep.:	██████████
Hearing Location:	Telephonic	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 22, 2025, MassHealth determined that appellant is eligible for MassHealth long-term care services with an eligibility start date of April 10, 2025 and patient-paid amount of \$0.00 (Exhibit 1). The appellant filed this appeal in a timely manner on July 9, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Challenging an eligibility start date is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth determined that appellant is eligible for MassHealth long-term care services with an eligibility start date of April 10, 2025 and patient-paid amount of \$0.00.

Issue

The appeal issue is whether MassHealth was correct in determining the eligibility start date of April 10, 2025.

Summary of Evidence

The MassHealth representative that appeared telephonically at the hearing testified to the following: appellant was admitted to the facility on [REDACTED] 2024 and applied for long-term care services on November 7, 2024 seeking an eligibility start date of December 26, 2024. On November 21, 2024 MassHealth issued a request for verifications followed by a second one on February 7, 2025. A final denial issued on March 17, 2025 and an appeal was filed. The appeal was eventually withdrawn and the application date was preserved resulting in the approval notice of May 22, 2025 at issue.

MassHealth found the following transactions to be disqualifying: \$18,296.76 of withdrawals from a checking account to Xfinity, Optimum, and Spectrum and cash withdrawals totaling \$27,766.55 also made from same account. The transfers totaled \$46,063.31 in all which was divided by the average nursing home rate of \$441.00 for a total disqualifying transfer period of 105 days. This made the appellant ineligible from December 26, 2024 to April 9, 2025 based on 130 CMR 520.018 and 520.019.

The appellant was represented by a partner from the Guardianship services who testified that he does not dispute MassHealth's testimony, however, contests that the transfers totaling \$18,296.76 made to various cable companies (Xfinity, Optimum, and Spectrum) are disqualifying transfers. The representative was not contesting the cash withdrawals totaling \$27,766.55. The representative, as the appellant's conservator, tried to obtain statements from the cable companies, but the companies were unable to provide statements going back to 2023 (the year in question). The representative stated that appellant was [REDACTED] at the time and was noted to leave for long periods of time. The bank statements reflected that he was in and out of motels and appellant's representative provided bank statements to demonstrate that (Exhibit 9). The representative stated that he was told by the appellant that the repetitive payments to the cable companies were all for adult mature audience films that the appellant was watching. A spreadsheet showing the breakdown of each payment to the various cable companies was provided by the MassHealth representative (Exhibit 8). The breakdown showed that in some months appellant's cable payments were over \$1,000.00. For example, in May 2023 appellant made over \$1,200.00 in payments to Comcast (*Id.*). The attorney was not aware of any of the payments being for anyone else and noted that appellant's family lived in Florida. The appellant is in the nursing home because he was noncompliant with his antipsychotic medications.

Findings of Fact

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

1. Appellant was admitted to the facility on [REDACTED] 2024 and applied for long-term care services on November 7, 2024 seeking an eligibility start date of December 26, 2024.

2. On November 21, 2024 MassHealth issued a request for verifications followed by a second one on February 7, 2025.
3. A final denial issued on March 17, 2025 and an appeal was filed which was withdrawn.
 - a. The application was preserved resulting in the approval notice of May 22, 2025.
4. The appellant was approved for MassHealth long-term care services with an eligibility start date of April 10, 2025 and patient-paid amount of \$0.00
5. The start date was calculated due to transfers totaling \$46,063.31.
6. Appellant made transfers including \$18,296.76 of withdrawals from a checking account to Xfinity, Optimum, and Spectrum and cash withdrawals totaling \$27,766.55 also made from same account.
7. The transfers totaled \$46,063.31 in all which was divided by the average nursing home rate of \$441.00 for a total disqualifying transfer period of 105 days.
 - a. This made the appellant ineligible from December 26, 2024 to April 9, 2025
8. The appellant's representative did not contest the cash withdrawals of \$27,766.55.
9. The transfers to the cable companies were made in 2023 which appellant's representative claimed were all for mature adult content.
10. The appellant was not able to produce bills from the cable companies.

Analysis and Conclusions of Law

To qualify for MassHealth long-term care coverage, the assets of the institutionalized applicant, cannot exceed \$2,000.00 (130 CMR 520.016(A)). If resources in excess of the program limit are available to the applicant, the regulations at 130 CMR 520.018(B) and 130 CMR 520.019 govern whether assets are transferred resulting in a period of ineligibility. 130 CMR 520.018(B) states:

The MassHealth agency will deny payment for nursing facility services to an otherwise eligible nursing-facility resident ... who transfers or whose spouse transfers countable resources for less than fair-market value during or after the period of time referred to as the look-back period.

The relevant parts of 130 CMR 520.019(B) and (C) ("Transfer of Resources Occurring on or after

August 11, 1993”) reads as follows:

(B) Look-Back Period. Transfers of resources are subject to a look-back period, beginning on the first date the individual is both a nursing-facility resident and has applied for or is receiving MassHealth Standard. This period generally extends back in time for 36 months. For transfers of resources occurring on or after February 8, 2006, the period extends back in time for 60 months. ...

(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 considers the specific circumstances involved. A disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available.

(Emphasis added)

The appellant’s representative did not contest the cash withdrawals of \$27,766.55 and thus the only issue in dispute are the transfers totaling \$18,296.76. The transfers amounting to \$18,296.76 clearly fall within the look-back period described above, as they all occurred in 2023. The appellant does not dispute that the transfers were made; however, contends that the resources were transferred for a purpose other than to qualify for MassHealth. The transfers here fail to fall under any of the categories listed as permissible under 130 CMR 520.019(D) or exempted under 130 CMR 520.019(J). The transfers are for less than fair market value, and the regulation that applies is 130 CMR 520.019(F) which states the following:

(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.

From the totality of evidence presented, MassHealth's determination was correct. The appellant failed to present convincing evidence to demonstrate that the monies were transferred for a purpose other than to qualify for MassHealth benefits or that appellant intended to dispose of the resource for fair-market value or other valuable consideration. The appellant, for instance, did not produce tangible, corroborative evidence to prove that the cable bills were under his name and that he was not paying another family member's cable bills. It seems implausible that a person could accumulate over \$1,200 of cable bills in a single month for himself.

There is also not enough convincing evidence to support that the appellant either intended to dispose of the money for valuable consideration or that he received fair market value for the transfers. Given that appellant was admitted to the nursing facility in 2024, a year after the transfers were made, there is insufficient convincing evidence to support that he was not anticipating having to pay for his future medical needs, which may have included nursing home care. MassHealth is a needs-based program, with asset limits and transfer of asset prohibitions. As the long-term care application was received on November 7, 2024, MassHealth correctly calculated a 105-day penalty period for the remaining \$46,063.31 of transfers based on a daily private pay rate of \$441 (Eligibility Operations Memorandum 24-07 (November 2024)).

Thus, this appeal is DENIED and MassHealth did not err in determining that appellant made disqualifying transfers resulting in a 105-day penalty period and eligibility start date of April 10, 2025.

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.

Radha Tilva
Hearing Officer

Board of Hearings



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