

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2511204
Decision Date:	10/20/2025	Hearing Date:	09/03/2025
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
[Redacted] Appeal Representative

Appearance for MassHealth:
Stephanie Mowles, Quincy 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:	Approved	Issue:	Eligibility; Over 65; Resource Transfer
Decision Date:	10/20/2025	Hearing Date:	09/03/2025
MassHealth's Rep.:	Stephanie Mowles	Appellant's Rep.:	[REDACTED]
Hearing Location:	Quincy Harbor South 6 (Remote)	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 July 3, 2025, MassHealth notified the appellant that he is eligible for long-term care coverage beginning on April 30, 2025, with a monthly patient paid amount (PPA) assessed. (Exhibit 1). The notice further stated that the appellant had a period of ineligibility from February 17, 2025 to April 29, 2025 because MassHealth determined that he had given away or sold assets. *Id.* The appellant filed this appeal in a timely manner on or about July 31, 2025. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth notified the appellant that he is eligible for long-term care coverage beginning on April 30, 2025, with a period of ineligibility assessed from February 17, 2025 to August 29, 2025.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant was eligible for long-term care coverage beginning on April 30, 2025, with a period of ineligibility assessed from February 17, 2025 to April 29, 2025.

Summary of Evidence

The MassHealth representative and the appellant's representative appeared at the hearing telephonically. The record establishes the following: the appellant is a male in his [REDACTED] who was admitted to a nursing facility on [REDACTED] 2024. On February 28, 2025, MassHealth received the appellant's long-term care application, with a requested start date of February 17, 2025. On July 3, 2025, MassHealth notified the appellant that he is eligible for long-term care coverage beginning on April 30, 2025, with a monthly patient paid amount (PPA) assessed beginning on April 1, 2025. (Exhibit 1). The notice further stated that the appellant had a period of ineligibility from February 17, 2025 to April 29, 2025, because MassHealth determined that the appellant had given away or sold assets. *Id.*

The MassHealth representative testified that 5 disqualifying resource transfers were identified from the appellant's bank statements, as follows:

7/27/2022	\$5,000 (cash withdrawal)
7/21/2022	\$5,000 (check)
2/26/2023	\$7,273.35 (check)
2/27/2023	\$7,273 (check)
6/23/2023	<u>\$7,000</u> (check)
	\$31,546.35 (total transfer amount)

(Exhibit 5).

The MassHealth representative testified that the \$5,000 cash withdrawal was unverified, meaning that MassHealth has no information regarding on what happened to the funds. Further, the checks were written to family members, specifically, the appellant's daughter, his son, and his granddaughter. *Id.* The MassHealth representative explained that the appellant's period of ineligibility was calculated by taking the amount that was transferred as described above (\$31,546.35) and dividing it by the average nursing home daily rate of \$441, which resulted in a 71-day penalty period. *Id.*

The appellant's representative testified that, in support of this appeal, she submitted, *inter alia*, a copy of the appellant's signed letter dated July 18, 2025; a copy of this letter was previously submitted to MassHealth. The appellant's July 18th letter states, in pertinent part, as follows:

Back in 2022 and 2023, I was living completely independently and alone. I was in relatively good health for my age. I drove myself around and handled my own financial affairs. I had no intention of entering a nursing home at that time and only had to do so after I fell in late [REDACTED] 2024 and broke my right femur. Due to the fall, I

had to be hospitalized and then sent to rehab. Further medical issues and complications ensued after my admission...With regard to the checks written to my children and grandchild and the withdrawal of cash in July 2022, please know this: I had a life insurance policy that was up for renewal in 2023. Instead of filling out the paperwork I decided to cancel the policy. I had some money in the bank and didn't really need the life insurance, so I decided to cash it in back in January/February 2023. I intended for my 2 children to benefit from my life insurance when I died, so it only seemed right to split the proceeds and share it with my son and daughter when I cashed it in. It was never thought about going into a nursing home a year and a half later or applying for MassHealth. I just wanted to give/leave something for my kids.

Regarding the money I gave my daughter in July 2022 and to my granddaughter in July 2023...My granddaughter was in a relationship and had a child (my great-granddaughter) with a man who turned out to be abusive to their child. My daughter and I needed to help my granddaughter pay for an attorney to get a restraining order as well as file charges against this man for abuse...My granddaughter was young and could not afford to pay the attorney's costs herself, and as a family we helped with the costs...In fact, pretty much all the money taken out in 2022 was to help with the legal costs to protect [my granddaughter] and her child. I understand that there is a 5 year-look back period under MassHealth but I had no intention to enter a nursing home when I helped my family out. I was independent...who only started having health issues and decline in the middle of 2024....There was never an intent to transfer assets to qualify for MassHealth limits. (Exhibit 6).

The appellant's representative explained that she has been working with the appellant's daughter, primarily, and had several conversations with her and with the appellant regarding the resource transfers, which are spelled out in the July 18th letter. As noted in the letter, she testified that the appellant was in relatively good health and lived independently until [REDACTED] 2024, when his health started to decline. Following his hospitalization in [REDACTED] 2024, the appellant was transferred to a nursing facility for potentially short-term care, though it resulted in long-term care.

The appellant's representative testified that the appellant does not dispute that he made the transfers described above. He disputes that he made those transfers to qualify for MassHealth. She stated that she was hoping to have the appellant's physician in the community write a letter stating that he was in good health during the time in question. However, the physician is no longer around, and the appellant was living alone at the time, so she was unable to submit additional documentation. The MassHealth representative explained that while she can empathize with the granddaughter's situation, MassHealth determined that the transfers made were disqualifying because the checks/cash were written/withdrawn to his family members. The appellant's representative stated that while she is not an attorney, she is aware of the regulation set forth in

130 CMR 520.019 which discussed determination of intent. (130 CMR 520.019(F)). (Exhibit 6, p. 4). She argued that this regulation is applicable because the appellant never intended to reduce his assets. Rather, he made the transfers to assist his family.

Findings of Fact

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

1. The appellant is a male in his [REDACTED] who was admitted to a nursing facility on [REDACTED] 2024.
2. An application for long-term care benefits was submitted on February 28, 2025 seeking eligibility effective February 17, 2025.
3. On July 3, 2025, MassHealth approved the appellant for long-term care services, beginning on April 30, 2025, with a monthly PPA amount assessed. MassHealth imposed a period of ineligibility from February 17, 2025 through April 29, 2025 because it determined that the appellant had given away or sold assets.
4. MassHealth calculated that the appellant's disqualifying transfers totaled \$31,546.35.
5. Between July 2022 and June 2023, the appellant transferred \$31,546.35 to his children and grandchild.
6. Of the transferred funds, approximately half (\$7,273 x 2) was gifted to the appellant's children after the appellant cashed out a life insurance policy.
7. The remaining funds were transferred to the appellant's daughter and granddaughter to assist with legal costs associated with alleged abuse by another family member.
8. The appellant timely appealed this MassHealth action.

Analysis and Conclusions of Law

This case concerns MassHealth's determination that the appellant transferred assets for less than fair-market value. As a result of this determination, MassHealth imposed a period of ineligibility from February 17, 2025 through April 29, 2025 on the basis that appellant had given away or sold assets to become eligible for MassHealth long-term care services. In his appeal, the appellant contests MassHealth's imposition of a period of disqualification due to a transfer of resources within the regulatory look-back period.

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).¹ 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. 130 CMR 520.019(C).

Pursuant to 130 CMR 520.019(B), 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. (1) For transfers occurring before February 8, 2006, this period generally extends back in time for 36 months. (2) For transfers of resources occurring on or after February 8, 2006, the period generally extends back in time for 60 months. . . . (3) For transfers of resources from or into trusts, the look-back period is described in 130 CMR 520.023(A).

¹ The reference to 130 CMR 520.019(J) – which pertains to home equity loans and reverse mortgages and does not include any language about exemptions from transfer penalties – appears to be an error, a possible holdover from an earlier version of the regulations. The proper reference is likely 130 CMR 520.019(K), *Exempting Transfers from the Period of Ineligibility*. That provision provides an exemption from the penalty period where an applicant takes steps to reverse the actions that led to the disqualifying transfer finding (e.g., by revising a trust or by curing the transfer).

MassHealth lists “Permissible Transfers” at 130 CMR 520.019(D):

- (1) The resources were transferred to the spouse of the nursing-facility resident or to another for the sole benefit of the spouse. A nursing-facility resident who has been determined eligible for MassHealth agency payment of nursing-facility services and who has received an asset assessment from the MassHealth agency must make any necessary transfers within 90 days after the date of the notice of approval for MassHealth in accordance with 130 CMR 520.016(B)(3).
- (2) The resources were transferred from the spouse of the nursing-facility resident to another for the sole benefit of the spouse.
- (3) The resources were transferred to the nursing-facility resident’s permanently and totally disabled or blind child or to a trust, a pooled trust, or a special-needs trust created for the sole benefit of such child.
- (4) The resources were transferred to a trust, a special-needs trust, or a pooled trust created for the sole benefit of a permanently and totally disabled person who was younger than 65 years old at the time the trust was created or funded.
- (5) The resources were transferred to a pooled trust created for the sole benefit of the permanently and totally disabled nursing-facility resident.
- (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: (a) the spouse; (b) the nursing-facility resident’s child who is younger than 21 years old, or who is blind or permanently and totally disabled; (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; or (d) the nursing-facility resident’s child (other than the child described in 130 CMR 520.019(D)(6)(b)) who was living in the nursing-facility resident’s home for at least two years immediately before the date of the nursing-facility resident’s admission to the institution, and who, as determined by the MassHealth agency, provided care to the nursing-facility resident that permitted him or her to live at home rather than in a nursing facility.
- (7) The resources were transferred to a separately identifiable burial account, burial arrangement, or a similar device for the nursing-facility resident or the spouse in accordance with 130 CMR 520.008(F).

In addition to the permissible transfers described at 130 CMR 520.019(D), MassHealth will not impose a period of ineligibility for transferring resources at less than fair market value if the resident demonstrates to MassHealth’s satisfaction that the resources were transferred exclusively for a purpose other than to qualify for MassHealth, or the resident intended to dispose of the resource at either fair market value or for other valuable consideration. 130 CMR 520.019(F).

The appellant bears the burden of establishing intent to the agency’s satisfaction and, under

federal law, must 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. Director of Office of Medicaid, 80 Mass. App. Ct. 777, 788-89 (2011), citing the State Medicaid Manual, Health Care Financing Administration Transmittal No. 64, s. 3258.10(C)(2).

In the present case, MassHealth initially determined that the appellant was ineligible for MassHealth long-term care coverage for the period from February 17, 2025 to April 29, 2025 based on a series of resource transfers in 2022 and 2023. Specifically, the appellant made 5 cash/check transfers to his family members during this period, totaling \$31,546.35. The appellant does not dispute that he made the transfers, he argues that a period of ineligibility should not be imposed because the resources were transferred exclusively for a purpose other than to qualify for MassHealth. (See, 130 CMR 520.019(F)(1)).

The first issue is whether the appellant has demonstrated that he received fair market value for the transferred resource. The parties agree that the appellant did not receive anything in return for the transferred funds. Thus, there is no dispute that the appellant did not receive fair market value for the transferred resources and none of the regulatory exemptions fits the circumstances here.

The analysis then turns to whether the appellant has demonstrated that a penalty period should not be assessed because the resources were transferred exclusively for a purpose other than to qualify for MassHealth (130 CMR 520.019(F)). The appellant has met his burden to show that these transfers were unrelated to Medicaid eligibility. The appellant credibly maintains that at the time of the transfers, he was in his ■■■ lived alone, and was in relatively good health. His hospitalization and ultimate institutionalization were unexpected and were initially thought to be of a short-term nature. Further, the appellant has provided convincing testimonial evidence regarding the specific purpose(s) for which the assets were transferred. The funds given to the appellant’s children following the cash out of his life insurance policy were transferred as an early bequest – funds that he intended they receive upon his death had he purchased another policy. The remaining funds were transferred to cover his granddaughter’s legal costs associated with alleged abuse by another family member. The appellant has adequately demonstrated that the transfers were unrelated to reducing his assets to qualify for MassHealth, and that a penalty period should not be assessed.

The appeal is approved.

Order for MassHealth


Rescind notice on appeal. Approve the appellant for MassHealth long-term care coverage effective February 17, 2025, if otherwise eligible.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. 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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

CC:


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