

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



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| Appeal Decision: | Approved in part; Denied in part | Appeal Number: | 2511358 |
| Decision Date: | 11/10/2025 | Hearing Date: | 09/12/2025 |
| Hearing Officer: | Emily Sabo | Record Open to: | 10/03/2025 |

Appearance for Appellant:



Appearance for MassHealth:

Stacy Kirby, Taunton 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 in part; Denied in part | Issue: | Long-Term-Care; Coverage Start Date; Disqualifying Transfer |
| Decision Date: | 11/10/2025 | Hearing Date: | 09/12/2025 |
| MassHealth's Rep.: | Stacy Kirby | Appellant's Rep.: | Daughter-in-law |
| Hearing Location: | Quincy Harbor South (Telephone) | 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 June 30, 2025, MassHealth approved the Appellant's for Long-Term-Care Services in a nursing facility, with a coverage start date of June 3, 2025, and a monthly patient-paid amount (PPA) of \$1,756.20.¹ Exhibit 1.² The Appellant's authorized representative filed this appeal in a timely manner on July 30, 2025, contending that the Appellant entered the facility on May 1, 2025, and her MassHealth coverage should begin then. 130 CMR 610.015(B) and Exhibit 2. A MassHealth action to reduce or restrict assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

¹ The Appellant did not object to the PPA.

² While not stated on the notice, MassHealth calculated a 33-day penalty period. See Exhibit 5. By the time of the hearing, based on information submitted by the Appellant's representative, MassHealth recalculated a 30-day penalty period with an effective start date of May 31, 2025. *Id.* Due to information received during the record open period, MassHealth issued an October 1, 2025 notice stating that the Appellant's long-term-care coverage had an effective start date of May 26, 2025. Exhibits 6 & 7. The MassHealth representative stated this was based on a \$441/daily rate. Exhibit 7.

MassHealth approved the Appellant for Long-Term-Care Services in a nursing facility, with a coverage start date of June 3, 2025, and a monthly PPA of \$1,756.20.

Issue

The appeal issue is whether MassHealth was correct in determining the Appellant's start date for long-term-care services in a nursing facility.

Summary of Evidence

The appeal was held by telephone. The Appellant was represented by her daughter-in-law, who verified the Appellant's identity.³ MassHealth was represented by an eligibility specialist from the Taunton MassHealth Enrollment Center.

The MassHealth representative testified that the Appellant is over the age of 65 and has a household size of one. The MassHealth representative testified that MassHealth received the Appellant's long-term-care application on May 21, 2025.⁴ The MassHealth representative submitted materials in preparation for hearing stating that the Appellant was admitted to the nursing facility on [REDACTED] 2025, and was seeking a start date of [REDACTED] 2025. Exhibit 5. The MassHealth representative included a summary stating that the Appellant's bank account indicated withdrawals totaling \$20,700.00 between May 24, 2024, and April 6, 2025, and it was not clear that they were for the benefit of the member. *Id.* at 5. The MassHealth representative testified that the Appellant had not provided verifications of what those funds were spent on.

MassHealth approved the Appellant's application, on June 30, 2025, with an effective start date of June 3, 2025, based on a 33-day penalty period based on a transfer of \$14,487.00. The MassHealth representative explained that further receipts were submitted to MassHealth in the amount of \$1,452.46, which were processed on August 4, 2025, and MassHealth recalculated a 30-day penalty period, based on \$13,394.00 in disqualifying transfers, and the Appellant was now approved, effective May 31, 2025. *See* Exhibit 5. MassHealth explained that the penalty period was based on a \$441/daily rate. The MassHealth representative testified that her determination was based on 130 CMR 520.019, 130 CMR 520.025, and 130 CMR 520.026.

The Appellant's representative testified that she had found out about the hearing from the Appellant's nursing facility and was concerned about why she and her husband (the Appellant's authorized representative) were not receiving notices. The Appellant's representative testified that

³ The appeal was filed by the Appellant's son, who is her authorized representative with MassHealth. He confirmed on the record that he was designating his wife to handle the appeal because he was at work.

⁴ It appears that prior to her admission to the facility and long-term-care application the Appellant was receiving MassHealth benefits in the community. Exhibit 4.

the Appellant has dementia, which escalated quickly. The Appellant's representative testified that the Appellant's son was made her power of attorney in May 2025. The Appellant's representative explained that she was not sure what the Appellant was doing with her money prior to May 2025, and that the Appellant had often stated that it was her money and that she could spend it as she saw fit. The Appellant's representative testified that prior to the Appellant's admission, she had spent the last several months purchasing food for the Appellant, including specialized food due to the Appellant's diabetes, high blood pressure, and lactose-intolerance. The Appellant's representative explained that they are receiving bills related to the Appellant's credit card and other purchases now that the mail from the Appellant's old address is being forwarded to them.

The record was held open until September 26, 2025, for the Appellant's representative to submit further proof that the monies withdrawn from the Appellant's account were not disqualifying transfers. The record was held open until October 3, 2025, for MassHealth's review and response. Exhibit 7. The Appellant's representative submitted additional receipts, which MassHealth reviewed. *Id.*; Exhibit 9. The MassHealth representative stated that they totaled \$2,360.52, which cured a portion of the penalty period and resulted in a new start date of May 26, 2025. Exhibits 6 and 7.

Findings of Fact

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

1. The Appellant is over the age of 65 and has a household size of one. Testimony, Exhibit 4.
2. The Appellant was admitted to a nursing facility on [REDACTED] 2025. Testimony, Exhibit 5.
3. On May 21, 2025, the Appellant applied for MassHealth Long-Term-Care, seeking a start date of [REDACTED] 2025. Testimony, Exhibits 1 & 5.
4. On June 30, 2025, MassHealth approved the Appellant for MassHealth Long-Term-Care with an effective start date of June 3, 2025. Exhibit 1.
5. As of June 30, 2025, MassHealth assessed a 33-day penalty period based on a transfer of \$14,487.00. This was based on a partial cure relating to \$20,700.00 total that the Appellant had withdrawn from her bank account in 2024-2025, and for which she had not provided verifications to MassHealth. Testimony, Exhibit 5.
6. On July 30, 2025, the Appellant's authorized representative timely filed this appeal with the Board of Hearings. Exhibit 2.
7. As of August 4, 2025, the Appellant submitted additional receipts and information that partially

cured the transfer penalty, which MassHealth recalculated as 30 days, based on a transfer of \$13,394.54 and a \$441/daily rate and a start date to May 31, 2025. Testimony, Exhibit 5.

8. The record was held open until September 26, 2025 for the Appellant to submit additional evidence, which the Appellant did. Exhibits 7 & 9.
9. Based on MassHealth's review of this additional evidence, MassHealth determined that the Appellant had cured an additional \$2,360.52 of the transfer penalty. This resulted in a remaining penalty of \$11,034.02, which MassHealth calculated as a start date of May 26, 2025. Exhibits 6 & 7.
10. On October 1, 2025, MassHealth issued a notice approving the Appellant for Long-Term-Care with a start date of May 26, 2025. Exhibit 6.

Analysis and Conclusions of Law

MassHealth regulations provide the following:

130 CMR 515.001: Definition of Terms

The terms listed in 130 CMR 515.001 have the following meanings for purposes of MassHealth, as described in 130 CMR 515.000 through 522.000: MassHealth: *Other Division Programs*.

....

Curing of a Transfer – the return, following the transfer for less than fair-market value of a portion of, or the full uncompensated value of, a resource to the individual.

....

Fair-market Value – an estimate of the value of a resource if sold at the prevailing price. For transferred resources, the fair-market value is based on the prevailing price at the time of transfer.

....

Look-back Period – a period of consecutive months that the MassHealth agency may review for transfers of resources to determine if a period of ineligibility for payment of nursing-facility services should be imposed.

....

Period of Ineligibility – the period of time during which the MassHealth agency denies or withholds payment for nursing-facility services because the individual has transferred resources for less than fair-market value.

....

Uncompensated Value – the difference between the fair-market value of the resource or interest in the resource at the time of transfer less any outstanding debts and the actual amount the individual received for the resource. The MassHealth agency uses the uncompensated value in the calculation of the period of ineligibility.

130 CMR 515.001.

130 CMR 519.006: Long-term-care Residents

(A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must

- (1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: *Long Term Care Services*;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: *Long-term-care General Income Deductions*;
- (4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
- (5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

130 CMR 519.006(A).

130 CMR 520.016: Long-term Care: Treatment of Assets

130 CMR 520.016 describes the treatment of countable assets when one member of a couple is institutionalized, the post-eligibility transfer of assets, and the allowable income deductions for applicants and members who are residents of a long-term-care facility.

(A) Institutionalized Individuals. The total value of assets owned by an institutionalized single individual or by a member of an institutionalized couple must not exceed \$2,000.

(B) Treatment of a Married Couple's Assets When One Spouse Is Institutionalized.

(1) Assessment.

(a) Requirement. The MassHealth agency completes an assessment of the total value of a couple's combined countable assets and computes the community spouse's asset allowance as of the date of the beginning of the most recent continuous period of institutionalization of one spouse.

(b) Right to Request an Assessment. When one spouse has entered a medical institution and is expected to remain institutionalized for at least 30 days, either spouse may request the MassHealth agency to make this assessment, even if the institutionalized spouse is

not applying for MassHealth Standard at that time. The period of institutionalization must be continuous and expected to last for at least 30 days.

(c) Right to Appeal. The MassHealth agency must give each spouse a copy of the assessment and the documentation used to make such assessment. Each spouse must be notified that he or she has the right to appeal the determination of countable assets and the community spouse's asset allowance when the institutionalized spouse (or authorized representative) applies for MassHealth Standard.

(2) Determination of Eligibility for the Institutionalized Spouse. At the time that the institutionalized spouse applies for MassHealth Standard, the MassHealth agency must determine the couple's current total countable assets, regardless of the form of ownership between the couple, and the amount of assets allowed for the community spouse as follows. The community spouse's asset allowance is not considered available to the institutionalized spouse when determining the institutionalized spouse's eligibility for MassHealth Standard.

(a) Deduct the community spouse's asset allowance, based on countable assets as of the date of the beginning of the most recent continuous period of institutionalization of the institutionalized spouse, from the remaining assets. The community spouse's asset allowance is the greatest of the following amounts:

1. the combined total countable assets of the institutionalized spouse and the community spouse, not to exceed \$109,560;
2. a court-ordered amount; or
3. an amount determined after a fair hearing in accordance with 130 CMR 520.017.

130 CMR 520.016(A), (B)(1),(2).

130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer

(A) The provisions of 42 U.S.C. 1396p apply to all transfers of resources. In the event that any portion of 130 CMR 520.018 and 520.019 conflicts with federal law, the federal law supersedes.

(B) The MassHealth agency denies payment for nursing-facility services to an otherwise eligible nursing-facility resident as defined in 130 CMR 515.001: *Definition of Terms* 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.

(C) The denial of payment for nursing-facility services does not affect the individual's eligibility for other MassHealth benefits.

(D) Circumstances giving rise to disqualifying transfers of resources are also described at 130 CMR 520.007(J).

130 CMR 520.018.

130 CMR 520.019: Transfer of Resources Occurring on or after August 11, 1993

(A) Payment of Nursing-facility Services. The MassHealth agency applies the provisions of 130 CMR 520.018 and 520.019 to nursing-facility residents as defined at 130 CMR 515.001: *Definition of Terms* requesting MassHealth agency payment for nursing-facility services provided in a nursing facility or in any institution for a level of care equivalent to that received in a nursing facility or for home- and community-based services provided in accordance with 130 CMR 519.007(B): *Home- and Community-based Services Waiver-Frail Elder.*

(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.

(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. The 60-month look-back period will begin to be phased in on February 8, 2009. Beginning on March 8, 2009, applicants will be asked to provide verifications of their assets for the 37 months prior to the application. As each month passes, the look-back period will increase by one month until the full 60 months is reached on February 8, 2011.

(3) For transfers of resources from or into trusts, the look-back period is described in 130 CMR 520.023(A).

(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.

(D) Permissible Transfers. The MassHealth agency considers the following transfers permissible. Transfers of resources made for the sole benefit of a particular person must be in accordance with federal law.

(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) Effective until sixty days after the end of the maintenance of effort and continuous eligibility provisions of Section 6008 of the Families First Coronavirus Response Act (Public Law No. 116-127), the resources were transferred to a pooled trust created for the sole benefit of the permanently and totally disabled nursing-facility resident. Effective sixty days after the end of the maintenance of effort and continuous eligibility provisions of Section 6008 of the Families First Coronavirus Response Act (Public Law No. 116-127), this transfer is no longer permissible.

(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).

(E) Repayment of Financial and Medical Assistance. A nursing-facility resident who has received or will be receiving payment from a third party as a result of an accident, injury, or other loss must first repay the MassHealth agency for medical assistance under M.G.L. c. 118E, § 22 and

42 U.S.C. 1396a(a)(25)(A) and (B) and the Department of Transitional Assistance for financial assistance under M.G.L. c. 18, § 5G, before the MassHealth agency will consider whether a transfer of such third-party payments may be permissible under 130 CMR 520.019(D), (F), or (J).

(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.

(G) Period of Ineligibility Due to a Disqualifying Transfer.

(1) Duration of Ineligibility. If the MassHealth agency has determined that a disqualifying transfer of resources has occurred, the MassHealth agency will calculate a period of ineligibility. The number of months in the period of ineligibility is equal to the total, cumulative, uncompensated value as defined in 130 CMR 515.001: *Definition of Terms* of all resources transferred by the nursing-facility resident or the spouse, divided by the average monthly cost to a private patient receiving nursing-facility services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency.

(2) Determination of the Period of Ineligibility in Special Circumstances. The MassHealth agency determines the periods of ineligibility in the following situations.

(a) Transfers in the Same Month. When a number of resources have been transferred in the same month, the MassHealth agency calculates the period of ineligibility by dividing the total value of the transferred resources by the average monthly cost to a private patient receiving nursing-facility services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency. The period of ineligibility begins on the first day of the month in which the resources were transferred.

(b) Periods of Ineligibility That Overlap. When transfers of resources result in periods of ineligibility that overlap, the MassHealth agency adds the value of all the transferred resources and divides the total by the average monthly cost to a private patient receiving nursing-facility services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency. The result is a single period of ineligibility beginning on the first day of the month in which the first transfer was made.

(c) Periods of Ineligibility That Do Not Overlap. In the case of multiple transfers where the periods of ineligibility for each transfer do not overlap, the MassHealth agency considers each transfer as a separate event with its own period of ineligibility. For non-overlapping multiple transfers occurring on or after February 8, 2006, see 130 CMR 520.019(G)(2)1.

(d) Periods of Ineligibility of Less Than One Month. If the calculated period of ineligibility

is less than one month, the MassHealth agency imposes a partial-month period of ineligibility and does not round down or disregard any fractional period of ineligibility.

(e) Transfer of Lump-sum Income. When income has been transferred as a lump sum, the MassHealth agency calculates the period of ineligibility on the lump-sum value.

(f) Transfer of Stream of Income. When a stream of income has been transferred, the MassHealth agency calculates the period of ineligibility for each income payment that is periodically transferred. The MassHealth agency may impose partial-month periods of ineligibility.

(g) Transfer of the Right to a Stream of Income. When the right to a stream of income has been transferred, the MassHealth agency calculates the period of ineligibility based on the total amount of income expected to be transferred during the nursing-facility resident's life, according to the life-expectancy tables as determined by the MassHealth agency.

(h) Transfer by the Spouse. When a transfer by the spouse results in a period of ineligibility for the nursing-facility resident, and the spouse later becomes institutionalized and applies for MassHealth agency payment of nursing-facility services, the MassHealth agency apportions the remaining period of ineligibility equally between the spouses. If both spouses become nursing-facility residents in the same month, the MassHealth agency divides the period of ineligibility equally between them. When one spouse is no longer subject to a penalty, any remaining penalty must then be imposed on the remaining nursing-facility-resident spouse.

(i) Multiple Transfers Occurring on or after February 8, 2006. For transfers occurring on or after February 8, 2006, the MassHealth agency adds the value of all the resources transferred during the look-back period and divides the total by the average monthly cost to a private patient receiving long-term-care services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency. The result will be a single period of ineligibility beginning on the first day of the month in which the first transfer was made or the date on which the individual is otherwise eligible for long-term-care services, whichever is later.

(3) Begin Date. For transfers occurring before February 8, 2006, the period of ineligibility begins 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 begins 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 agency 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. For transfers involving irrevocable trusts, the date of transfer is

(a) the date that the countable trust resources are transferred to someone other than the nursing-facility resident or spouse; or

(b) the latest of the following:

1. the date that payment to the nursing-facility resident or the spouse was foreclosed under the terms of the trust;

2. the date that the trust was established; or
3. the date that any resource was placed in the trust.

(H) Transfers of Jointly Held Resources. The MassHealth agency will determine the amount of the nursing-facility resident's ownership interest of jointly held resources as defined in 130 CMR 515.001: *Definition of Terms* in accordance with the ownership rules at 130 CMR 520.005. The MassHealth agency will consider as a transfer any action taken by any person that reduces or eliminates the nursing-facility resident's ownership or control of the resource. The MassHealth agency then will determine whether the transfer was made at less than fair-market value in accordance with the transfer rules.

(I) Transfer of Life-estate and Remainder Interest. The rules pertaining to transfer of life-estate and remainder interest apply in instances involving remainder interest of property including life estates, annuities, wills, and trusts.

(1) The MassHealth agency considers a transfer of property with the retention of a life estate, as defined in 130 CMR 515.001: *Definition of Terms*, to be a transfer of resources. The difference between the fair-market value of the entire asset and the value of the life estate is called the remainder interest. The remainder interest is the amount considered to be transferred at less than fair-market value. The MassHealth agency will calculate the values of the remainder interest and the life estate in accordance with the life-estate tables, as determined by the MassHealth agency. If the language of the document creating the life estate explicitly states that the owner of the life estate has the power to sell the entire property (not simply the life estate), then the creation of this type of life estate will be treated as a trust.

(2) If the nursing-facility resident's or the spouse's life-estate interest or property including the life-estate interest is sold or transferred, the value of the life-estate interest at the time of the sale or transfer is calculated in accordance with the life-estate tables, as determined by the MassHealth agency. The MassHealth agency will attribute the value of the life-estate interest at the time of the sale or transfer to the person selling or transferring the life estate.

(3) The MassHealth agency considers the purchase of a life estate in another individual's home made on or after April 1, 2006, a disqualifying transfer, unless the purchaser resides in the home for a period of at least one year after the date of the purchase.

(J) Home Equity Loans and Reverse Mortgages. Proceeds from a home equity loan or a reverse mortgage that are transferred in the month of receipt will be considered a disqualifying transfer of resources if transferred for less than fair-market value.

(K) Exempting Transfers from the Period of Ineligibility.

(1) During the Eligibility Process. To avoid the imposition of a period of ineligibility, the nursing-facility resident may take action during the determination of eligibility before the issuance of a notice of a period of ineligibility as follows.

(a) Revising a Trust. During the eligibility process, the nursing-facility resident may revise a trust to comply with the criteria of a special-needs trust or a pooled trust, as defined in 130 CMR 515.001: *Definition of Terms*. The use of resources to create these trusts are

permissible transfers, in accordance with 130 CMR 520.019(D). The MassHealth agency will use the original application date if during the eligibility process the nursing-facility resident provides proof that the trust has been revised accordingly.

(b) Curing a Transfer. During the eligibility process, the full value or a portion of the full value of the transferred resources may be returned to the nursing-facility resident. The MassHealth agency will use the original application date and consider the transfer to have been eliminated or adjusted. The MassHealth agency will apply the countable assets rules at 130 CMR 520.007 and the countable income rules at 130 CMR 520.009 to the returned resources in determining eligibility.

(2) After Issuance of the Notice of the Period of Ineligibility. After the issuance of the notice of the period of ineligibility, the nursing-facility resident may avoid imposition of the period of ineligibility in the following instances.

(a) Revising a Trust. If the nursing-facility resident revises a trust to comply with the criteria of a special-needs trust or a pooled trust as defined in 130 CMR 515.001: *Definition of Terms* and exempted in 130 CMR 520.019(D), the MassHealth agency will rescind the period of ineligibility as follows.

1. The MassHealth agency will use the original application date if within 60 days after the date of the notice of the period of ineligibility, the nursing-facility resident provides proof that the trust has been revised to comply with the criteria of a special-needs trust or a pooled trust. The MassHealth agency may extend the original 60-day period for an additional 120 days, if court action is required to revise the trust, as long as the court action is filed within the 60-day period after the date of the notice of the period of ineligibility.

2. If after the 60th day after the date of the notice of the period of ineligibility, the nursing-facility resident provides proof that the trust has been revised to comply with the criteria of a special-needs trust or a pooled trust, the MassHealth agency will consider the trust revised as of the date the trust has been both revised and notarized.

(b) Curing a Transfer. If the full value or a portion of the full value of the transferred resources is returned to the nursing-facility resident, the MassHealth agency will rescind or adjust the period of ineligibility and will apply the countable-assets rules at 130 CMR 520.007 and the countable-income rules at 130 CMR 520.009 to the returned resources in the determination of eligibility. The MassHealth agency will rescind or adjust the period of ineligibility as follows.

1. The MassHealth agency uses the original application date if the nursing-facility resident provides proof within 60 days after the date of the notice of the period of ineligibility that the transfer has been fully or partially cured. In the case of a partial cure, the MassHealth agency recalculates the period of ineligibility based on the transferred amount remaining after deducting the cured portion, beginning with the date of transfer or, for cures of transfers occurring on or after February 8, 2006, the later of the date of transfer or the date on which the individual would have otherwise been eligible.

2. If the nursing-facility resident provides proof later than the 60th day after the date of the notice of a period of ineligibility that the transfer has been fully or partially cured, the nursing-facility resident must reapply. The MassHealth agency recalculates the period of ineligibility based on the amount of the transfer remaining after the cure, beginning with the date of transfer or, for cures of transfers occurring on or after February 8, 2006, the later of the date of transfer or the date on which the individual would have otherwise been eligible.

(L) Waiver of the Period of Ineligibility Due to Undue Hardship. In addition to revising a trust and curing a transfer, the nursing-facility resident may claim undue hardship in order to eliminate the period of ineligibility.

(1) The MassHealth agency may waive a period of ineligibility due to a disqualifying transfer of resources if ineligibility would cause the nursing-facility resident undue hardship. The MassHealth agency may waive the entire period of ineligibility or only a portion when all of the following circumstances exist.

(a) The denial of MassHealth would deprive the nursing-facility resident of medical care such that his or her health or life would be endangered, or the nursing-facility resident would be deprived of food, shelter, clothing, or other necessities such that he or she would be at risk of serious deprivation.

(b) Documentary evidence has been provided that demonstrates to the satisfaction of the MassHealth agency that all appropriate attempts to retrieve the transferred resource have been exhausted and that the resource or other adequate compensation cannot be obtained to provide payment, in whole or part, to the nursing-facility resident or the nursing facility.

(c) The institution has notified the nursing-facility resident of its intent to initiate a discharge of the resident because the resident has not paid for his or her institutionalization.

(d) There is no less costly noninstitutional alternative available to meet the nursing-facility resident's needs.

(2) Undue hardship does not exist when imposition of the period of ineligibility would merely inconvenience or restrict the nursing-facility resident without putting the nursing-facility resident at risk of serious deprivation.

(3) Where the MassHealth agency has issued a notice of the period of ineligibility due to a disqualifying transfer of resources, the nursing-facility resident may request a hardship waiver. For transfers occurring on or after February 8, 2006, nursing facilities may apply for a hardship waiver on behalf of a resident, with the consent of the nursing-facility resident or the resident's authorized representative.

(4) If the nursing-facility resident feels the imposition of a period of ineligibility would result in undue hardship, the nursing-facility resident must submit a written request for consideration of undue hardship and any supporting documentation to the MassHealth Enrollment Center listed on the notice of the period of ineligibility within 15 days after the date on the notice. Within 30 days after the date of the nursing-facility resident's request, the MassHealth agency

will inform the nursing-facility resident in writing of the undue-hardship decision and of the right to a fair hearing. The MassHealth agency will extend this 30-day period if the MassHealth agency requests additional documentation or if extenuating circumstances as determined by the MassHealth agency require additional time.

(5) The nursing-facility resident may appeal the MassHealth agency's undue-hardship decision and the imposition of a period of ineligibility by submitting a request for a fair hearing to the Office of Medicaid Board of Hearings within 30 days after the nursing-facility resident's receipt of the MassHealth agency's written undue-hardship notice, in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*.

(6) The nursing-facility resident's request for consideration of undue hardship does not limit his or her right to request a fair hearing for reasons other than undue hardship.

(M) Fraudulent Transfer or Sale. If a nursing-facility resident whose estate would be subject to a claim under 130 CMR 515.011: *Estate Recovery* transfers or sells any property including a home or an interest in the property for less than fair-market value, the MassHealth agency may consider the transfer or sale that does not meet the conditions of 130 CMR 520.019(D)(6) to be fraudulent under the Uniform Fraudulent Conveyance Act (M.G.L. c. 109(A)) and take appropriate legal action to set aside the transfer or sale.

(N) No Double Penalty. In the event that application of the transfer rules and the trust rules in 130 CMR 520.000 results in a nursing-facility resident being subject to a transfer penalty twice for actions involving the same resource, the trust rules will supersede the transfer rules in the determination of eligibility.

130 CMR 520.019.

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2007). *See also Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

"MassHealth is a cooperative Federal and State undertaking that provides payment for medical services to eligible individuals and families who are unable to pay for their own medical care." *Shelales v. Dir. of the Office of Medicaid*, 75 Mass. App. Ct. 636, 637 (2009). MassHealth is "a needs-based program aimed at maximizing the use of personal funds for long-term care before relying on public funds. Medicaid is, and always has been, a program to provide basic health coverage to people who do not have sufficient income or resources to provide for themselves." *Id.* at 641.

Here, the issue in dispute is the start date for the Appellant's MassHealth Long-Term-Care benefits. The Appellant's bank account statements indicating she withdrew \$20,700.00 between May 24,

2024, and April 6, 2025, which occurred within the 60-month look back period as provided for in 130 CMR 520.019(B)(2).

Prior to the hearing, and during the record open period, based on evidence submitted, MassHealth determined that the Appellant had partially cured the disqualifying transfer and that the Appellant's coverage start date was May 26, 2025. Exhibits 5 & 6. By notice dated October 1, 2025, MassHealth approved the Appellant for long-term-care with a start date of May 26, 2025. Exhibit 6. Hence, the appeal is approved in part, as MassHealth reduced the disqualifying transfer amount to \$11,034.02.

Regarding the calculation of the penalty period, dividing \$11,034.02. by the \$441 daily rate equals 25.02 days. Because it is less than one month, based on 130 CMR 520.019(G)(2)(d), that amount is not rounded down, and MassHealth correctly calculated a 26-day penalty period between April 30, 2025, and May 26, 2025. I find that MassHealth did not err in calculating the penalty period. Besides the receipts submitted, which I have reviewed, I do not have evidence of the Appellant's intent when she made the transfers under 130 CMR 520.019(F). The Appellant has also not presented evidence under 130 CMR 520.019(K)(2)(b) or 130 CMR 520.019(L). Accordingly, the remaining part of the appeal is 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.

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.

Emily Sabo
Hearing Officer

Board of Hearings



cc: MassHealth Representative: Quincy MEC, Attn: Cassandra Moura, 100 Hancock Street, 6th Floor, Quincy, MA 02171