

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2511890
<b>Decision Date:</b>	11/6/2025	<b>Hearing Date:</b>	09/15/2025
<b>Hearing Officer:</b>	Kimberly Scanlon	<b>Record Open to:</b>	10/27/2025

**Appearance for Appellant:**



**Appearance for MassHealth:**

Eileen Smith, Charlestown 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Eligibility; Over 65; Resource Transfer
<b>Decision Date:</b>	11/6/2025	<b>Hearing Date:</b>	09/15/2025
<b>MassHealth's Rep.:</b>	Eileen Smith	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Charlestown MassHealth Enrollment Center - Room 1 (Remote)	<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 July 15, 2025, MassHealth denied the appellant's application for MassHealth benefits because it determined that the appellant had given away or sold assets to become eligible for MassHealth long-term care services. (130 CMR 520.018; 520.019; Exhibit 1). The appellant filed this appeal in a timely manner on August 13, 2025. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032). After the hearing, the record was left open for the submission of additional documentation. (Exhibit 7).

### Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits because it determined that the appellant had given away or sold assets to become eligible for MassHealth long-term care services.

### Issue

The appeal issue is whether MassHealth was correct in determining that the appellant had given away or sold assets to become eligible for MassHealth long-term care services.

## Summary of Evidence

The MassHealth representative and the appellant's representative appeared at the hearing telephonically. The record establishes the following: the appellant is over the age of [REDACTED] and she was admitted to a nursing facility on [REDACTED]. On December 26, 2024, MassHealth received the appellant's long-term care application, with a requested start date of February 21, 2025.

On March 11, 2025, MassHealth denied the appellant's long-term care application for failure to submit verifications; that denial was appealed. MassHealth subsequently received the remaining verifications, resolving the March 11<sup>th</sup> denial notice on appeal.<sup>1</sup> MassHealth preserved the appellant's original application date. On July 15, 2025, MassHealth denied the appellant's long-term care application because it determined that the appellant had given away or sold assets to become eligible for MassHealth long-term care services. (Exhibit 1). The notice further stated that the appellant had a period of ineligibility from February 21, 2025 to September 17, 2025. *Id.* MassHealth calculated a period of ineligibility from February 21, 2025 to September 17, 2025 by dividing \$91,930 by the private pay facility rate of \$441 per day.


The MassHealth representative testified that it initially identified the following disqualifying resource transfers, each represented as an "online transfer" on the appellant's bank statements to an account owned by the appellant's son:

[REDACTED]	
10/07/2024	\$500
08/12/2024	\$2,500
08/30/2024	\$1,625
07/29/2024	\$1,500
06/10/2024	\$3,000
06/28/2024	\$1,000
04/15/2024	\$2,000
03/12/2024	\$2,000
03/25/2024	\$1,400
04/05/2024	\$10,000
04/08/2024	\$10,000
04/10/2024	\$8,500
02/21/2024	\$6,000

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<sup>1</sup> See, Appeal No. 2505700

08/24/2023 \$6,500  
02/24/2023 \$1,900  
01/17/2023 \$54,000  
\$112,425

  
04/24/2023 \$98,000  
10/08/2024 \$1,000  
\$99,000

\$112,425 +  
\$99,000  
\$211,425 (total transfer amount)

(Exhibit 6).

MassHealth also determined that the appellant had partially “cured” the transfer by showing that some of the funds were used by her son to pay legitimate expenses of hers from November 2023 through October 2024, as follows:

Cured via payments from the son’s account

\$540 (care bills)  
\$870 (care bills)  
\$90 (care bill dated 08/12/2024)  
\$480 (care bill dated 07/13/2024)  
\$285 (care bill dated 07/20/2024)  
\$420 (care bill dated 07/29/2024)  
\$450 (care bill dated 10/25/2024)  
\$555 (care bills)  
\$345 (care bills)  
\$615 (care bills)  
\$120 (care bills)  
\$960 (care bills)  
\$760 (care bills)  
\$180 (care bill dated 05/31/2024)  
\$450 (care bills)  
\$720 (care bill dated 06/07/2024)  
\$120 (care bills)  
\$405 (care bills)  
\$735 (care bills)  
\$735 (care bills)  
\$707 (care bills)  
\$160 (care bills)

\$795 (care bills)  
\$720 (care bill dated 06/15/2024)  
\$695 (care bills)  
\$519 (care bills)  
\$13,961 (cures for care bills)

Additional Cures

\$1,568.95 (taxes paid on 11/13/2023)  
\$8,410 ( [REDACTED] on 11/20/2024)  
\$8,410 ( [REDACTED] on 04/06/2024)  
\$1,604.59 (taxes paid on 09/01/2024)  
\$912 ( [REDACTED] on 02/14/2023)  
\$1,623.95 (taxes paid on 05/16/2023)  
\$9,800 ( [REDACTED] for legal fees on 02/19/2024)  
\$1,544.76 (taxes paid on 08/18/2023)  
\$9,500 ( [REDACTED] to trust on 02/27/2024)  
\$60,000 ( [REDACTED] to trust on 02/27/2024)  
\$2,160 (return from son's account)  
\$105,534.25 (additional cures)

\$105,534.25 +  
\$13,961  
\$119,495.25 (total cure amount)

(Exhibit 6).

MassHealth included in its submission documentation which identifies the revised total transfer amount as \$91,930, a penalty period of 208 days, and a penalty end date of September 17, 2025. (Exhibit 6). The MassHealth representative explained that she is missing the source of other payments made for the appellant's care, especially payments made in November 2024 through January 2025.

The appellant's attorney testified that the transfers in question were made by the appellant, however, they were not made in consultation with counsel. He explained that it is his understanding that the appellant made the transfers to her son, who is also her power of attorney (POA) for convenience purposes, without consulting counsel. He stated that he would be meeting with his client in the upcoming week to obtain additional documentation.

Following the hearing, the record was left open for the appellant's attorney to submit additional documentation and for MassHealth to review all submissions. (Exhibit 7). MassHealth subsequently responded that upon review of the appellant's submission, MassHealth had identified additional cures, as follows:

2025

01/2025	\$880
01/21/2025	\$960
01/17/2025	\$560
01/05/2025	\$180

2024

12/30/2024	\$120
12/27/2024	\$615
12/23/2025	\$665
12/19/2024	\$160
12/15/2024	\$707
12/08/2024	\$735
11/22/2024	\$345
11/15/2024	\$405
11/09/2024	\$555
11/02/2024	<u>\$180</u>
	\$7067

(Exhibit 9).

The MassHealth representative explained that MassHealth could not consider, as a partial cure, the following: the appellant's submission of the bank checks to the appellant's pooled trust, some of the debit transfers made for the appellant's care, and the bill for paralegal services in the amount of \$10,000 dated February 5, 2024. She further explained that she could not consider, as a partial cure, the bank checks to the appellant's pooled trust because MassHealth already used those checks as partial cures. Specifically, the appellant re-submitted [REDACTED] in the amount of \$60,000 dated 02/27/2024. (Exhibit 8, p. 41). MassHealth already considered that check to be a partial cure. (Exhibit 6, p. 83, Exhibit 9, p. 43). Similarly, the appellant re-submitted [REDACTED] in the amount of \$9,500 dated 02/27/2024. (Exhibit 8, p. 42). MassHealth already considered that check to be a partial cure as well. (Exhibit 6, p. 74, Exhibit 9, p. 44). With respect to some of the debit transfers made for the appellant's care, the MassHealth representative explained that the debit transfers that took place on 12/23/2024 in the amount of \$50 and \$100 were transfers that were not made for the appellant's care and therefore could not be considered as partial cures. (Exhibit 9, p. 24).

As to the bill for paralegal services, MassHealth explained that it could not consider, as a partial cure, the \$10,000 bill for paralegal services because MassHealth already used [REDACTED] in the amount of \$9,500 dated 02/27/2024 that was paid for legal fees. The MassHealth representative explained that the \$10,000 bill for paralegal services appears to be duplicative to the \$9,500 check dated 02/27/2024 that was paid for legal fees at that time. MassHealth explained that a detailed

bill would need to be submitted so that MassHealth can verify the services and the dates said services were performed and for whom. *Id.* The appellant's request to extend the record-open period was granted, in part (Exhibit 10, p. 4). MassHealth subsequently responded that it did not receive any additional documentation to review. (Exhibit 10). MassHealth confirmed that the revised transfer total of \$84,863 results in a penalty period of 192 days, and an adjusted coverage start date of September 1, 2025. *Id.*

## Findings of Fact

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

1. The appellant is over the age of [REDACTED] and she was admitted to a nursing facility on [REDACTED].
2. An application for long-term care benefits was submitted on December 26, 2024 seeking eligibility effective February 21, 2025.
3. On March 11, 2025, MassHealth denied the appellant's long-term care application for failure to submit verifications.
4. MassHealth subsequently received the outstanding verifications, resolving the March 11<sup>th</sup> denial notice for missing verifications on appeal.
5. On July 15, 2025, MassHealth denied the appellant's long-term care application because it determined that the appellant had given away or sold assets to become eligible for MassHealth long-term care services. A period of ineligibility from February 21, 2025 to September 17, 2025 was calculated by dividing \$91,930 transferred by the private pay facility rate of \$441 per day.
6. During the record-open period, the appellant submitted additional invoices and bank statements which reduced a portion of the penalty period.
7. The record-open period was extended for a brief period to allow the appellant to submit additional documentation.
8. MassHealth did not receive any further documentation and maintained that the otherwise eligible date for coverage to begin is September 1, 2025, based on the documentation that the appellant previously submitted.
9. 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 21, 2025 through September 17, 2025 on the basis that appellant had given away or sold assets to become eligible for MassHealth long-term care services. In her appeal, the appellant contests MassHealth's imposition of a period of disqualification due to a transfer of resources within the regulatory look-back period, arguing that she received fair-market value for all the transferred funds.

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).<sup>2</sup> 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).

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

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<sup>2</sup> 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).

- (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 ■ 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 is ineligible for MassHealth long-term care coverage for a 208-day period from February 21, 2025 to September 17, 2025 based on a series of resource transfers in 2023 and 2024. Specifically, the appellant made numerous online transfers to her son during this period, totaling \$211,425. MassHealth concedes that the appellant has demonstrated that of these funds, \$119,495.25 has now been cured, resulting in a period of ineligibility from February 21, 2025 to August 31, 2025. Specifically, \$2,160 has been returned, \$9,800 was used to pay for legal expenses, and \$107,535.25 was used to pay for the appellant’s expenses/care. MassHealth argues that the appellant has not demonstrated that a penalty period should not be imposed for the transfer of the remaining funds (\$84,863).

The appellant has not met her burden to show that she received fair-market value for this portion of the transferred funds. As noted by the MassHealth representative, some of the appellant’s submissions made during the record-open period were duplicative. Specifically, the appellant re-submitted ██████████ in the amount of \$60,000 dated 02/27/2024 and ██████████ in the amount of \$9,500 dated 02/27/2024; MassHealth already considered both checks as partial cures prior to the record-open period. Additionally, the online transfers made on 12/23/2024 in the amounts of \$50 and \$100 did not appear to be transfers that were made for the appellant’s care, as noted by the MassHealth representative. With respect to the \$10,000 bill for paralegal services, the record was extended to allow the appellant additional time to submit a detailed bill. MassHealth did not receive any additional documentation, despite the additional time that was granted. Without any additional supporting documentation, MassHealth is unable to determine whether the appellant received fair market value for the remaining portion of the transferred funds. Thus, I find that appellant has not demonstrated by a preponderance of the evidence that MassHealth improperly calculated a penalty period. 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.

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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:



MassHealth Representative: Monica Ramirez, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129