

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2512712
Decision Date:	11/24/2025	Hearing Date:	9/26/2025
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:



Appearance for MassHealth:

Lynn Bloomquist, Tewksbury 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:	LTC, disqualifying resource transfer
Decision Date:	11/24/2025	Hearing Date:	9/26/2025
MassHealth's Rep.:	Lynn Bloomquist	Appellant's Rep.:	Spouse, attorney
Hearing Location:	Quincy	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

By notice dated July 16, 2025, MassHealth approved Appellant for MassHealth long term care services effective April 28, 2025. MassHealth calculated a period of ineligibility of 34 days for making impermissible transfers of assets. Exhibit 1. Appellant filed this appeal in a timely manner on September 2, 2025. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth calculated a period of ineligibility for making disqualifying transfers of assets.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019, in determining that Appellant made disqualifying transfers during the look-back period and in calculating the period of ineligibility.

Summary of Evidence

MassHealth was represented at hearing by an eligibility representative, who submitted documents in support. Exhibit 4. Appellant appeared with his attorney and offered documents in support. Exhibit 5. A summary of testimony, argument, and documentary evidence follows.

MassHealth received Appellant's application for long term care benefits on March 27, 2025. Appellant admitted to the facility on [REDACTED] 2024 and requested a coverage start date of March 24, 2025. On July 16, 2025, MassHealth approved Appellant's application effective April 28, 2025. Exhibit 1. MassHealth determined that Appellant had impermissibly transferred assets to become eligible for MassHealth during the five-year lookback period. Exhibit 1. MassHealth identified a series of eleven checks written to one individual, Appellant's adult child ("Child"):

Date	Amount	Check No.
1/26/2024	\$1,500.00	[REDACTED]
2/26/2024	\$1,500.00	[REDACTED]
3/20/2024	\$1,200.00	[REDACTED]
4/17/2024	\$1,200.00	[REDACTED]
5/21/2024	\$1,600.00	[REDACTED]
6/20/2024	\$1,300.00	[REDACTED]
7/18/2024	\$1,400.00	[REDACTED]
8/26/2024	\$1,200.00	[REDACTED]
9/25/2024	\$1,400.00	[REDACTED]
10/22/2024	\$1,500.00	[REDACTED]
11/29/2024	\$1,200.00	[REDACTED]
Total amount	\$15,000.00	

Exhibit 5 at 1. MassHealth did not receive documentation that Child is federally disabled child or that the applicant and spouse received fair market value, citing 130 CMR 520.019 (C) and (D). Therefore, MassHealth determined that the transfers were disqualifying. Using the average daily rate of \$441, MassHealth calculated a penalty period of 35 days, from March 24, 2025 through April 27, 2025.¹

Appellant's spouse testified that the payments made to Child were exclusively for the purpose of providing income for Child. According to her treating physician, Child suffers from a debilitating alcohol use disorder and major depressive disorder. As a result, Child is unable to work and has no income. Exhibit 4 at 3. Child wrote that she has been struggling with alcoholism for over ten years and has been in and out of rehabilitation facilities for the past five years. *Id.* at 4.

Appellant's spouse testified that he made the payments to Child solely for the purpose of providing for Child's basic necessities, including food, clothing, phone, and transportation. Child also used

¹ MassHealth's notice indicates that the penalty period was 34 days. The calculation of 15,000 divided by 441 yields 34.01, which would result in a period of ineligibility of 35 days.

money provided by her parents to cover medical expenses that MassHealth did not cover. Appellant's spouse testified that the purpose of making the payments to Child was to keep Child healthy and alive. Appellant's spouse testified that Child is currently in a rehabilitation program for alcohol dependence and therefore could not attend the hearing.

Appellant's spouse testified that Appellant was in normal health up until late [REDACTED] 2024 when she suffered a seizure. Appellant was admitted to [REDACTED] Hospital after the seizure and learned that she had a benign tumor in her brain. Appellant was transferred to [REDACTED] Hospital [REDACTED] for a seven and a half hour surgery to remove the tumor. Appellant was admitted to [REDACTED] for four months and then transferred to [REDACTED]. Appellant's spouse testified that he is a 100% disabled veteran and was working with the [REDACTED] with a goal of bringing Appellant home with community care. Appellant's spouse did not contemplate MassHealth long-term care benefits during this time, as the goal was to bring Appellant home.

When Appellant's spouse began the MassHealth application in 2025, he worked with the law firm who assisted with the application and this appeal. Appellant's spouse made permissible payments to pay off his mortgage so Appellant could qualify.

Appellant's attorney did not dispute the presentation made by MassHealth nor the transfers paid to Child. Appellant's attorney asserted that the checks paid to Child were not done in contemplation of qualifying for MassHealth benefits, but to provide the basic necessities for Child. Appellant's attorney argued that while Child has not been deemed federally disabled, she may qualify for SSI or SSDI under the circumstances. Nevertheless, Appellant's attorney asserted that the intent of the transfers was not disqualifying under 130 CMR 520.019(F).

Findings of Fact

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

1. On March 27, 2025, MassHealth received Appellant's application for long term care benefits.
2. Appellant admitted to the facility on [REDACTED], 2024 and requested a coverage start date of March 24, 2025.
3. On July 16, 2025, MassHealth approved Appellant's application effective April 28, 2025. MassHealth determined that Appellant had impermissibly transferred \$15,000 to become eligible for MassHealth during the five-year lookback period. Exhibit 1.
4. Using the daily rate of \$441, MassHealth calculated a total penalty period of 35 days, from March 24, 2025 through April 27, 2025. *Id.*

5. Appellant filed a timely appeal on September 2, 2025. Exhibit 2.
6. In 2024, Appellant and her spouse wrote the following checks to Child:

Date	Amount	Check No.
1/26/2024	\$1,500.00	
2/26/2024	\$1,500.00	
3/20/2024	\$1,200.00	
4/17/2024	\$1,200.00	
5/21/2024	\$1,600.00	
6/20/2024	\$1,300.00	
7/18/2024	\$1,400.00	
8/26/2024	\$1,200.00	
9/25/2024	\$1,400.00	
10/22/2024	\$1,500.00	
11/29/2024	\$1,200.00	
Total amount	\$15,000.00	

Exhibit 5 at 1.

7. According to her treating physician, Child suffers from a debilitating alcohol use disorder and major depressive disorder. As a result, Child is unable to work and has no income. Exhibit 4 at 3.
8. Child wrote that she has been struggling with alcoholism for over ten years and has been in and out of rehabilitation facilities for the past five years. *Id.* at 4.
9. In late [REDACTED] 2024 Appellant suffered a seizure and was hospitalized. Appellant was treated for a benign brain tumor.

Analysis and Conclusions of Law

Per 130 CMR 519.006(A)(4), to qualify for MassHealth Standard coverage as a resident of a long-term care facility, an individual must have countable assets of \$2,000 or less. MassHealth considers any transfer of a resource owned by a nursing facility resident for less than fair market value during the appropriate look-back period to be a disqualifying transfer unless the transfer in question is permitted or exempted under the regulations. Specifically, 130 CMR 520.018(B) states that MassHealth “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 look-back period for transfers of resources occurring on or after February 8, 2006 is 60 months. 130 CMR

520.019(B)(2).

According to 130 CMR 520.019(C), set forth in pertinent part:

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.

Per 130 CMR 520.0019(G):

Where the MassHealth has determined that a disqualifying transfer of resources has occurred, the MassHealth 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 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.

Transfers made to the resident's permanently and totally disabled child are permissible under the regulations. 130 CMR 520.019(D)(3). Permanent and total disability for adults is defined in 130 CMR 515.001 as:

Permanent and Total Disability – a disability as defined under Title XVI of the Social Security Act or under applicable state laws.

(1) For Adults and 18-year-olds.

(a) The condition of an individual, 18 years of age or older, who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that

1. can be expected to result in death; or
2. has lasted or can be expected to last for a continuous period of not less than 12 months.

(b) For purposes of 130 CMR 515.001: Permanent and Total Disability, an individual 18 years of age or older is determined to be disabled only if his or her physical or mental impairments are of such severity that the individual is not only unable to do his or her previous work, but cannot, considering age, education, and work experience, engage in any other kind of substantial gainful work that exists

in the national economy, regardless of whether such work exists in the immediate area in which the individual lives, whether a specific job vacancy exists, or whether the individual would be hired if he or she applied for work. "Work that exists in the national economy" means work that exists in significant numbers, either in the region where such an individual lives or in several regions of the country.

In addition to permissible transfers, MassHealth will not impose a period of ineligibility for transferring resources at less than fair market value if Appellant demonstrates to MassHealth'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.

130 CMR 520.019(F).

HCFA [Health Care Financing Administration, now called Centers for Medicare and Medicaid Services, or "CMS"] Pub. 45-3, Transmittal 64 § 3258.10 sets forth the following guidance for transfers exclusively for a purpose other than qualifying for Medicaid:

Transfers Exclusively for a Purpose Other Than to Qualify for Medicaid.--Require the individual to establish, to your satisfaction, that the asset was transferred for a purpose other than to qualify for Medicaid. **Verbal assurances that the individual was not considering Medicaid when the asset was disposed of are not sufficient.** Rather, convincing evidence must be presented as to the specific purpose for which the asset was transferred.

(Emphasis added).

Citing the above provision, the Massachusetts Appeals Court has recognized that "federal law mandates a heightened evidentiary showing" on the issue of exclusive intent. *See Gauthier v. Director of the Office of Medicaid*, 80 Mass. App. Ct. 777, 785-786 (2011). The element of "exclusivity" under this provision means that the possibility of needing public assistance for medical care must not have weighed at all upon Appellant's mind at the time the decision was made.

At issue in this appeal is whether the checks Appellant and her spouse wrote to Child were disqualifying transfers under the regulations. Though Appellant raised the argument that Child is

effectively disabled, she has not been determined permanently and totally disabled as defined under Title XVI of the Social Security Act or under applicable state laws. Therefore, Appellant has not demonstrated that the transfer was permissible under 130 CMR 520.019(D)(3).

Appellant also argued that the transfers are not disqualifying pursuant to 130 CMR 520.019(F). Appellant's spouse testified that the sole purpose of issuing the checks was to provide basic income for necessities for Child without contemplation of MassHealth benefits. While Appellant's spouse's testimony alone would not be convincing, the supporting evidence and timeline adds credibility to Appellant's spouse's assertion that they were not considering public assistance at the time they began making payments to Child. Appellant offered letters from Child and her medical provider establishing Child's inability to earn income. The payments began months before Appellant's sudden hospitalization and ended in the month before Appellant's admission to the facility and three months before Appellant filed her MassHealth application. Finally, the amounts paid were consistent in timing and in amount with Appellant's spouse's claim that the payments were exclusively for financial support.

Given the supporting evidence and credibility of testimony, Appellant has met the burden of demonstrating with convincing evidence that the transfers were made exclusively for a purpose other than qualifying for Medicaid. Accordingly, this appeal is approved.

Order for MassHealth

Revise the July 16, 2025 notice, approving Appellant's application effective March 24, 2025.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings



MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290