

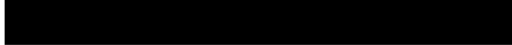
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2513437
<b>Decision Date:</b>	10/27/2025	<b>Hearing Date:</b>	10/20/2025
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearances for Appellant:**



**Appearance for MassHealth:**

Keisha McMullen



*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>	Long Term Care – Disqualifying Transfer
<b>Decision Date:</b>	10/27/2025	<b>Hearing Date:</b>	10/20/2025
<b>MassHealth’s Rep.:</b>	Keisha McMullen	<b>Appellant’s Reps.:</b>	[REDACTED]
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<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 08/22/2025, MassHealth informed the appellant that it denied her application for Long Term Care (LTC) benefits. Through the same notice, MassHealth informed the appellant that it calculated a period of ineligibility from 12/05/2024 to 09/13/2025 because she recently gave away or sold assets to become eligible for MassHealth long term care services (130 CMR 520.018, 520.019; Exhibit 1). A request for a fair hearing was filed in a timely manner on the appellant’s behalf on 09/16/2025 (130 CMR 610.015; Exhibit 2). Individual MassHealth agency determinations regarding scope and amount of assistance (including, but not limited to, level-of-care determinations) are valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant’s application for MassHealth long term care benefits and imposed a period of ineligibility from 12/05/2024 to 09/13/2025.

## Issue

Was MassHealth correct in denying the appellant's application for LTC benefits and imposing a period of ineligibility from 12/05/2024 to 09/13/2025?

## Summary of Evidence

The MassHealth representative testified that on 03/03/2025, an application for long term care (LTC) benefits was submitted on behalf of the appellant, seeking 12/05/2024 as a benefit start date. In reviewing the appellant's application, MassHealth verified that the appellant's spouse, who resides in the community, was a beneficiary of a trust that was dissolved on 05/26/2023. Each of the beneficiaries of the trust was to receive \$124,440.00. The share that was to be distributed to the appellant's community spouse, was transferred to the appellant's son, bypassing the appellant's spouse. MassHealth counted the disclaimed amount as a disqualifying transfer of resources, because there was no evidence to show that the appellant or the community spouse received fair market value in exchange for the transfer. As a result, MassHealth calculated a period of ineligibility of 283 days starting on the date the appellant requested as a start date, 12/05/2024, and ending on 09/13/2025. The period of ineligibility was calculated by dividing the transfer amount of \$124,440.00 by the average private daily rate of \$441.00.

The appellant was represented at the fair hearing by her son, her grandson, and a Medicaid Specialist. The appellant's grandson testified that the appellant and the community spouse lived with him for the last 20 years. They did not pay rent and the grandson incurred significant debt on behalf of the appellant. The money from the trust was given to the grandson to repay him for caring for and housing the appellant and her husband.

## Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant, now deceased, applied for MassHealth LTC Benefits on 03/03/2025, seeking 12/05/2024 as a benefit start date.
2. MassHealth determined that there was a disqualifying transfer of resources totaling \$124,400.00 during the 60-month look back period (Testimony; Exhibit 5).
3. By a notice dated 08/22/2025, MassHealth informed the appellant that it denied her application for long term care (LTC) benefits and calculated a period of ineligibility of 283 days because the community spouse recently gave away or sold assets to become eligible for MassHealth long term care services. MassHealth calculated a period of ineligibility from 12/05/2024 and ending on 09/13/2025 (Testimony; Exhibits 1 and 5).

4. A timely appeal was filed by the appellant on 09/16/2025 (Testimony; Exhibits 2 and 4).
5. A fair hearing took place before the Board of Hearings on 10/20/2025. The appellant was represented at the fair hearing by her son, her grandson and a Medicaid specialist (Exhibits 2 and 3).
6. The transfer at issue in this appeal involves the proceeds of a trust that dissolved on 05/26/2023.
7. The appellant's husband, the community spouse, was a beneficiary of the trust. His share of the distributed assets was \$124,400.00.
8. The appellant's community spouse disclaimed his share of the trust and those proceeds transferred to the appellant's grandson.
9. The average private daily rate for a skilled nursing facility in Massachusetts is \$441.00.
10. The appellant was otherwise eligible for MassHealth LTC benefits on 12/05/2024, the date requested by the skilled nursing facility for MassHealth benefits (Testimony).
11. MassHealth calculated a period of ineligibility from 12/05/2024 to 09/13/2025 (Testimony; Exhibit 1).
12. The appellant did not dispute the amount of the transfer, the dates of the transfer, the average daily private rate, MassHealth's calculation of the period of ineligibility, or the date the appellant was otherwise eligible for payment of MassHealth benefits (Testimony).
13. Any transfer during the look-back period for less than fair-market value is a disqualifying transfer unless listed as permissible in 130 CMR 520.019(D).

## **Analysis and Conclusions of Law**

The intent of any transfer within the look back period is always subject to review and within MassHealth's purview in an eligibility determination.

### 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.

MassHealth 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).

MassHealth 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. A disqualifying transfer may include any action taken which would result in making a formerly available asset no longer available (130 CMR 520.019(C)).

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

(A) Payment of Nursing-Facility Services. The MassHealth agency will apply the provisions of 130 CMR 520.018 and 520.019 to nursing-facility residents as defined at 130 CMR 515.001 requesting MassHealth 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).

(B) Look-Back Period. Transfers of resources are subject to a look-back period, beginning on the first date the individual is both a nursing-facility resident and has applied for or is receiving MassHealth Standard. This period generally extends back in time for 36 months. For transfers of resources occurring on or after February 8, 2006, the period extends back in time for 60 months. The look-back period for transfers of resources from a revocable trust to someone other than the nursing-facility resident, or transfers of resources into an irrevocable trust where future payment to the nursing-facility resident is prevented, is 60 months.

(C) Disqualifying Transfer of Resources. The MassHealth agency considers any transfer during the appropriate look-back period by the nursing-facility resident or spouse of a resource, or interest in a resource, owned by or available to the nursing-facility resident or the spouse (including the home or former home of the nursing-facility resident or the spouse) for less than fair-market value a disqualifying transfer unless listed as permissible in 130 CMR 520.019(D), identified in 130 CMR 520.019(F), or exempted in 130 CMR 520.019(J).<sup>1</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***

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<sup>1</sup> 130 CMR 520.019(J) involves home equity loans and reverse mortgages and are not at issue in the instant appeal.

***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 will consider 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 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 under ■ years of age 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 under age ■ 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.

(F) Determination of Intent. In addition to the permissible transfers described in 130 CMR 520.019(D) MassHealth 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.

***(Emphasis added.)***

MassHealth determined that there was a disqualifying transfer of resources totaling \$124,440.00 during the 60-month look back period; specifically, that the appellant's spouse was a beneficiary of a trust that dissolved on 05/26/2023. His share of the proceeds was \$124,440.00. He disclaimed the proceeds, and they were transferred to the appellant's grandson. MassHealth determined that the spouse's disclaimer of the proceeds of the trust constituted an action taken "to avoid receiving a resource." As such, MassHealth determined that it was a disqualifying transfer of resources, and it imposed a period of ineligibility using the average private daily rate of \$144.00. The transferred resource amount of \$124,440.00 was divided by the average private daily rate to arrive at a period of ineligibility of 283 days, starting on the date the appellant was otherwise eligible for MassHealth benefits, 12/05/2024, and ending on 09/13/2025.

The appellant was represented at the fair hearing by her son, grandson, and a Medicaid specialist. They testified that the appellant and the community spouse lived with the grandson for the last 20 years and that they paid no rent and that they caused the grandson to incur "significant debts," on their behalf. The proceeds of the trust were to repay the grandson for the care and housing he provided to the appellant and the community spouse.

The appellant's representatives provided no evidence of the assertions made at the fair hearing. There was no personal care contract, no evidence of an agreement to repay debts, and no evidence that the appellant or her community spouse received fair market value in exchange for the transferred assets. Accordingly, MassHealth's denial is supported by the evidence in the hearing record and the MassHealth regulations. This appeal is therefore denied.

## Order for MassHealth

None.

## Notification of Your Right to Appeal to Court

If you disagree with this decision, in part or whole, 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

CC: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 243 Cottage Street, Springfield, MA 01104