

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2513621
Decision Date:	11/14/2025	Hearing Date:	10/20/2025
Hearing Officer:	Amy B. Kullar, Esq.	Record Open to:	11/10/2025

Appearance for Appellant:



Appearance for MassHealth:

Patricia Rogers, Taunton MassHealth
Enrollment Center (*via* videoconference)



*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:	Denied	Issue:	Long-Term Care; Disqualifying Transfer
Decision Date:	11/14/2025	Hearing Date:	10/20/2025
MassHealth's Rep.:	Patricia Rogers	Appellant's Rep.:	██████████
Hearing Location:	Taunton MassHealth Enrollment Center Room 2	Aid Pending:	No

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated July 25, 2025, MassHealth denied the appellant's application for Long-Term Care (LTC) benefits and imposed a 93-day period of ineligibility because the appellant "recently gave away or sold assets for less than fair market value." See 130 CMR 520.018 and 130 CMR 520.019 and Exhibit 1. The appellant filed this appeal in a timely manner on September 18, 2025, because the appellant disagreed with the imposition of a period of ineligibility. See 130 CMR 610.015(B) and Exhibit 2. Limitations on the scope or amount of assistance are valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's application for long-term care benefits due to disqualifying transfers of resources within the lookback period and calculated a 93-day penalty period of ineligibility for long-term care coverage due to a disqualifying transfer of resources during the lookback period.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant has a 93-day period of ineligibility for long-term care coverage due to a disqualifying transfer of resources during the lookback period.

Summary of Evidence

The appellant is a single adult who is over the age of 65, and she currently resides in a long-term care facility. The appellant was represented at hearing by her nephew/health care agent; he appeared in person for the hearing at the Taunton MassHealth Enrollment Center (MEC). MassHealth was represented by a worker from the Taunton MEC; she appeared via videoconference. The following is a summary of the testimony and documentary evidence presented at hearing:

The MassHealth representative opened her testimony by giving background information on the history of the appellant's LTC application at MassHealth. An application for LTC benefits was submitted on behalf of the appellant on April 17, 2025, requesting coverage as of May 1, 2025. On July 25, 2025, the denial notice on appeal was issued to the appellant. The appellant is ineligible for the period of 5/1/2025 through 8/1/2025 due to the disqualifying transfers of resources within the lookback period. Testimony. The MassHealth representative stated that MassHealth found forty-one thousand (\$41,000.00) dollars in unexplained cash withdrawals from the appellant's savings account; no receipts or other types of evidence had been provided for any of these transactions during the application process. The MassHealth representative then noted that although the case had been denied per the July 25, 2025 notice, due to the timing of the transfer penalty period, the appellant was now active on LTC MassHealth as of August 2, 2025.

The MassHealth representative then explained that MassHealth found sixteen (16) transactions during the lookback period to be disqualifying: on sixteen (16) separate occasions, between July 3, 2024 and January 6, 2025, cash withdrawals were made from the appellant's savings account totaling \$41,000.00 dollars. This savings account is the appellant's only bank account and it is where her monthly income is deposited. The MassHealth representative referenced her pre-hearing submission; she included the bank statements that show each cash withdrawal¹. See

¹ Exhibit 5 is MassHealth's pre-hearing submission, and it includes the appellant's bank statements that show the disqualifying transfers, the cash withdrawals, at issue in this appeal. On each of the following dates, cash was withdrawn from the appellant's bank account: (i) 7/3/2024 \$1,000.00; (ii) 7/8/2024 \$1,000.00; (iii) 7/11/2024 \$1,000.00; (iv) 8/20/2024 \$9,000.00; (v) 8/27/2024 \$2,000.00; (vi) 9/5/2024 1,000.00; (vii) 10/28/2024 \$2,000.00; (viii) 11/18/2024 \$2,000.00; (ix) 11/20/2024 \$2,000.00; (x) 11/21/2024 \$2,000.00; (xi) 11/22/2024 \$8,700.00; (xii) 11/25/2024 \$2,000.00; (xiii) 11/25/2024 \$2,000.00; (xiv) 11/26/2024 \$2,000.00; (xv) 12/3/2024 \$2,000.00; and (xvi) 1/6/2025 \$1,100.00. The appellant's representative testified that he is the person who made all the cash withdrawals from the appellant's checking account. Testimony; Exhibit 5 at 8-18.

Exhibit 5 at 8-18. The appellant has not provided an explanation of the reason or reasons for the cash withdrawals from her savings account, and therefore MassHealth considers each withdrawal to be an unexplained transfer of resources. The total value of all the cash withdrawals, \$41,000.00, constitutes the amount of the disqualifying transfer.

The MassHealth representative explained that the penalty period was calculated by dividing the amount of the disqualifying transfers by the average daily cost to a person paying privately for nursing facility services in the Commonwealth of \$441.00 at the time of application ($\$41,000.00/\$441.00 = 92.97$, or 93, days.)² At the time of the July 25, 2025 notice on appeal, the appellant was not eligible for MassHealth long-term care services because the appellant gave away assets for less than fair market value, and the appellant has a 93-day period of ineligibility for MassHealth benefits from May 1, 2025, through August 1, 2025. Testimony and Exhibit 5.

The appellant's representative responded to MassHealth's testimony. The appellant is his very elderly aunt, and he has been helping her and her very elderly sister for the past fifteen years with their healthcare and their finances. He serves as her health care agent, but the appellant has not granted him power of attorney. Testimony. He stated, "I didn't provide proof of where that money went because that's what I wanted to clarify, because the money wasn't her money. The account was my account. She was the signature to my account." Testimony. The MassHealth representative responded to this testimony by stating that the appellant is a verified co-owner of the account and the only deposits going into the bank account are from the appellant's income. MassHealth reviewed 12 months of bank statements that were submitted during the application process and the only deposits reflected in the bank statements are the appellant's income³. Testimony; Exhibit 5.

The Hearing Officer then asked the appellant's representative if he would be able to provide any information that would show that the source of the \$41,000.00 that was withdrawn from the bank account is not the appellant's Social Security income. The appellant's representative stated that information would be over fifteen years old; he added the appellant to his bank account fifteen years ago, and his money was already in the account at that time. The MassHealth representative then explained what type of proof MassHealth would require from the appellant's representative to show that the \$41,000.00 belonged to him, not the appellant. While reviewing the appellant's bank statements, she stated, "Once funds are commingled, it's really difficult to determine who the money belongs to...If she receives roughly a thousand dollars a month, I would need to know when her income started going into that account because as your money built up, her money could have also built up." Testimony. After questioning by the Hearing Officer, the MassHealth representative stated that the type of proof

² See also, MassHealth Eligibility Operations Memo 24-07, "Average Cost of Nursing Facility Services" (November, 2024).

³ The appellant's net monthly income from Social Security is \$878.00. She also receives a monthly VA pension of \$74.00, a small monthly state pension of \$39.26, and a small monthly SSI payment \$34.00. The appellant's total net monthly income in 2025 is \$1,028.26. See Exhibit 5 at 18.

necessary to show that these funds did not belong to the appellant would be five (5) years of bank statements, with each transaction in the statements verified; the appellant's representative would have to show that the appellant's monthly income was spent on the appellant's care during that time period.

The Hearing Officer proposed holding the record open for three weeks so that the appellant's representative could submit five (5) years of statements from the appellant's bank account and documentation that shows her income was spent on her care during that time period. Both parties agreed to this plan and at the conclusion of the hearing, the record was held open until November 10, 2025. Exhibit 6. On November 10, 2025, the appellant's representative emailed the Hearing Officer and the MassHealth representative; he had compiled the bank statements, but he would not be able to verify every transaction or provide the requested documentation to MassHealth. He requested that the Hearing Officer issue a decision in this appeal. Exhibit 7. The Hearing Officer closed the administrative record on November 10, 2025.

Findings of Fact

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

1. The appellant is over the age of 65 and filed an application for MassHealth long-term care benefits on April 17, 2025, with a requested benefit start date of May 1, 2025. Testimony.
2. Between July 3, 2024 and January 6, 2025, sixteen (16) cash withdrawals totaling \$41,000.00 were made from the appellant's savings account. The only deposits made into this bank account during this period were the appellant's monthly income payments. Testimony and Exhibit 5.
3. As of the application date, the average daily private rate for nursing home care in Massachusetts was \$441.00. MassHealth Eligibility Operations Memo 24-07 (November, 2024).
4. On July 25, 2025, MassHealth denied the appellant's application for LTC benefits, based on a determination that appellant made disqualifying transfers of resources in the amount of \$41,000.00.
5. As a result of these disqualifying transfers, MassHealth calculated a period of ineligibility beginning on the otherwise eligible date of May 1, 2025, through August 1, 2025, or 93 days.
6. The appellant filed a timely appeal of the July 25, 2025 notice with the Board of Hearings on September 18, 2025.

7. The appellant is the co-owner of a savings account with her nephew; this is the appellant's only bank account and it is where her Social Security income was deposited during the lookback period. Testimony; Exhibit 5.

Analysis and Conclusions of Law

The issue in this appeal is that the appellant is the co-owner of a bank account with her nephew. MassHealth determined that the entire value of the assets in the bank account is attributable to the appellant, and therefore that the 16 cash withdrawals from the appellant's bank account during the lookback period, totaling \$41,000.00, constitute a disqualifying transfer of resources. The appellant's representative, her nephew/health care agent, asserted that the appellant was only listed on the bank account for convenience purposes and so that she would have a place where her Social Security income could be deposited; it was his sworn testimony that the assets in the bank account belong to him alone.

The total value of countable assets owned by or available to an individual applying for MassHealth Standard for long term care assistance may not exceed \$2,000.00. 130 CMR 520.003(A)(1). Per 130 CMR 520.004, the amount of an applicant's total countable assets affects the start date for MassHealth long term care benefits:

(A) Criteria.

(1) An applicant whose countable assets exceed the asset limit of MassHealth Standard, Family Assistance, or Limited may be eligible for MassHealth

(a) as of the date the applicant reduces his or her excess assets to the allowable asset limit without violating the transfer of resource provisions for nursing-facility residents at 130 CMR 520.019(F); or

(b) as of the date, described in 130 CMR 520.004(C), the applicant incurs medical bills that equal the amount of the excess assets and reduces the assets to the allowable asset limit within 30 days after the date of the notification of excess assets.

(2) In addition, the applicant must be otherwise eligible for MassHealth.

(B) Evaluating Medical Bills. The MassHealth agency does not pay that portion of the medical bills equal to the amount of excess assets. Bills used to establish eligibility

(1) cannot be incurred before the first day of the third month prior to the date of application as described at 130 CMR 516.002: *Date of Application*; and

(2) must not be the same bills or the same portions of the bills that are used to meet a deductible based on income.

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type.

(D) Verification. The MassHealth agency requires the applicant to verify that he or she incurred the necessary amount of medical bills and that his or her excess assets were reduced to the allowable asset limit within required timeframes.

Bank accounts are countable assets as set forth in 130 CMR 520.007(B) (emphasis added):

(B) Bank Accounts.

(1) Definition. Bank accounts are defined as deposits in a bank, savings and loan institution, credit union, or other financial institution. Bank accounts may be in the form of savings, checking, or trust accounts, term certificates, or other types of accounts.

(2) Determination of Ownership and Accessibility. The MassHealth agency considers funds in a bank account **available only to the extent that the applicant or member has both ownership of and access to such funds. The MassHealth agency determines the ownership of and access to the funds in accordance with 130 CMR 520.005 and 520.006.**

(3) Verification of Account Balances. The MassHealth agency requires verification of the current balance of each account at application, during eligibility review, and at times of reported change.

(a) Noninstitutionalized individuals excluding the individuals described at 130 CMR 519.007(B): *Home- and Community-Based Services Waiver-Frail Elder* must verify the amount on deposit by bank books or bank statements that show the bank balance within 45 days of the date of application or the date that the eligibility review is received in a MassHealth Enrollment Center or outreach site.

(b) Nursing-facility residents as described at 130 CMR 515.001: *Definition of Terms* must verify the amount on deposit by bank books or bank statements that show the current balance and account activity during the look-back period.

MassHealth's determination of ownership of bank accounts is set forth in 130 CMR 520.005(C)

hereinbelow. If the applicant claims partial ownership of the funds in the joint account, he or she must verify the amount owned by each joint depositor. When such a partial ownership is verified, the countable value of the assets is attributed to each owner in proportion to the ownership interest. Joint ownership of any countable asset must be verified by a written document providing reasonable evidence of ownership. Acceptable verification includes, documents demonstrating the origin of the funds in a joint bank account, who opened the account, or whose money was used to open the account; federal and state tax records as to which joint account holders pay the tax on interest credited to the account as income; and financial-institution records indicating the establishment of an account that accurately reflect the ownership interest of funds from the joint account.

(C) Joint Bank Accounts.

(1) Bank accounts are defined at 130 CMR 520.007(B)(1).

(2) When the applicant or member is a joint owner of a bank account, the entire amount on deposit is considered **available** to the applicant or member, except when assessing assets in accordance with 130 CMR 520.016.

(3) If the applicant or member claims partial ownership of the funds in the joint account, he or she must verify the amount **owned** by each joint depositor. When such a partial ownership is verified, **the countable value of the assets is attributed to each owner in proportion to the ownership interest.**

(4) The applicant or member may transfer the funds owned by him or her into an account that accurately reflects his or her ownership interest. The MassHealth agency does not consider such a transfer of assets to make oneself eligible for MassHealth if the transfer is completed within 30 days after written notification by the MassHealth agency of this requirement, except in the case of a community spouse as described at 130 CMR 520.016 who is allowed 90 days to make the transfer.

130 CMR 520.005(C) (emphases added).

In this case, the appellant is the co-owner of a bank account held jointly with her nephew. MassHealth, relying on 130 CMR 520.005(C)(2), determined that because the assets held in the bank account were available to the appellant, they were her countable assets. However, as stated in 130 CMR 520.007(B)(2), the funds are only available, and therefore countable, if the appellant has “both ownership of and access to such funds” in accordance with 130 CMR 520.005. The appellant has not provided any evidence to show that she does not have ownership and access to the funds in the jointly held bank account. This is the sole bank account owned by the appellant; according to the appellant’s representative it is where the appellant’s monthly Social Security income has been deposited for the past fifteen years, but he asserts that the funds in question belong to him alone. Despite the record being left open after hearing, the appellant’s representative was either unable or unwilling to provide the documentation that would prove that the funds withdrawn from the appellant’s bank account were his sole property. When the

applicant or member is a joint owner of a bank account, the entire amount on deposit is considered available to the applicant or member and if the applicant or member claims partial ownership of the funds in the joint account, he or she *must verify the amount owned by each joint depositor*. When such a partial ownership is verified, the countable value of the assets is attributed to each owner in proportion to the ownership interest. As the appellant did not verify the proportional amount of the bank account that is attributable to the appellant and her co-owner, MassHealth did not err in determining that the entire value of the bank account was attributable to the appellant.

MassHealth considers any transfer during the appropriate look-back period by the nursing-facility resident of a resource, or interest in a resource, owned by or available to the nursing-facility resident (including the home or former home of the nursing-facility resident) 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. See 130 CMR 520.019(C).

In determining whether an applicant qualifies for benefits, MassHealth will assess whether he or she, or their spouse, has transferred any resources for less than fair market value (FMV). If the individual or their spouse has made a transfer for less than FMV, the applicant, even if “otherwise eligible,” may be subject to a period of disqualification in accordance with its transfer rules at 130 CMR §§520.018 and 520.019. MassHealth’s “strict limitations on asset transfers,” which were adopted pursuant to federal law, are intended to “prevent individuals from giving away their assets to their family and friends and forcing the government to pay for the cost of nursing home care.” See Gauthier v. Dir. of the Office of Medicaid, 80 Mass. App. Ct. 777, 779 (2011) (citing Andrews v. Division of Med. Assistance, 68 Mass. App. Ct. 228, 229 (2007)).

With respect to transfers of resources, regardless of the date of transfer, MassHealth provides the following, in relevant part:

The MassHealth agency 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.

See 130 CMR 520.018(B).

The “look back period”, referred to in § 520.018(B), above, is sixty months, or 5 years, before the first date the individual is both a nursing facility resident *and* has applied for, or is receiving,

MassHealth Standard.⁴ See 130 CMR 520.019(B). MassHealth will deem the individual to have made a “disqualifying transfer” if it finds that during the look-back period, the individual (or their spouse) transferred resources for less than FMV, or, if they have taken any action “to avoid receiving a resource to which the resident or spouse would be entitled if such action had not been taken.” 130 CMR 520.019(C). If it is determined that a resident or spouse made a disqualifying transfer of resources, MassHealth will calculate a period of ineligibility in accordance with the methodology described in 130 CMR 520.019(G).

The transfer provisions also have several exceptions to the general rule governing disposition of assets, which are detailed at 130 CMR 520.019(D) (permissible transfers), 130 CMR 520.019(K) (exempted transfers), and 130 CMR 520.019(F) (exemptions based on intent). See, 130 CMR 520.019(C). In the instant case, there are no applicable exceptions, and no regulatory exceptions were raised by appellant at hearing or during the record open period.

In this case, MassHealth imposed a period of ineligibility based on 16 unverified cash withdrawals from the appellant’s savings account, totaling \$41,000.00. These transfers occurred between July 3, 2024 and January 6, 2025, and all are well within the 5-year look-back period. The only explanation for the disqualifying transfers that was offered was the testimony of the co-owner of the bank account, and he asserted that all the withdrawn funds belonged to him and not the appellant. Testimony.

In determining whether the transfers of funds was a disqualifying transfer, the first question is whether the appellant made a transfer of resources for less than FMV. In requiring state Medicaid agencies to adopt the federally mandated transfer regulations, the Centers for Medicare & Medicaid Services (CMS), formerly the Health Care Financing Administration (HCFA), published mandatory instructions, now compiled in the federal agency’s State Medicaid Manual (SMM) which included the following instruction for making determinations on whether a transfer was made for less than FMV:

For an asset to be considered transferred for fair market value or to be considered to be transferred for valuable consideration, the compensation received for the asset must be in a tangible form with intrinsic value.

See SMM, Department of Health and Human Services (DHHS) HCFA, Transmittal No. 64, § 3258.1(A) (11-94).⁵

⁴ Effective February 8, 2006, the look-back period for transfer of assets was extended from 36 months to 60 months and the beginning date for a period of ineligibility will be the date the applicant would otherwise be eligible or the date of the transfer, whichever is later. See MassHealth Eligibility Letter 147 (July 1, 2006).

⁵ The SMM is a compilation of federal resources and procedural material needed by States to administer the Medicaid Program. The instructions provided therein are CMS’s “official interpretations of the law and regulations, and, as such, are binding on Medicaid State agencies.” See SMM, Foreword § B(1); see also 130 CMR 515.002(B).

When applying MassHealth's transfer regulations and the federal mandatory instructions to the present case, appellant has not successfully demonstrated that MassHealth erred in concluding that the transfer of \$41,000.00 was made for less than FMV. See 130 CMR 520.018(B) and 520.019(B). Here, MassHealth correctly determined that appellant's transfer of funds to her nephew was a transfer for less than FMV.

Fair hearings exist to give an appellant the opportunity to present evidence regarding why they believe MassHealth's decision was in error. See, 130 CMR 610.061. A hearing officer must facilitate the orderly presentation of evidence at the hearing, can consider evidence's effect on a member's eligibility as of the date it existed, and afford the parties the opportunity to respond to evidence first presented at a hearing. See, 130 CMR 610.065; 130 CMR 610.071. An applicant for MassHealth benefits has the burden to prove his or her eligibility. See, 130 CMR 515.001, 520.004; and G.L. ch. 118E, § 20.

The record evidence and testimony presented at hearing were quite clear. Over a seven-month period from July 2024 to January 2025, \$41,000.00 in cash was withdrawn from the appellant's bank account. The appellant's nephew, the co-owner of the bank account with the appellant, confirmed at hearing that he withdrew the funds from the appellant's bank account. Despite the record being left open, the appellant's representative did not provide the documentation that would prove that he is legally entitled to all the funds in the appellant's bank account. The only evidence that I must consider is his testimony. I empathize with the appellant's nephew's position; it is difficult to help aging family members with their finances. However, the regulations are quite clear, and as the appellant did not verify the proportional amount of the bank account that is attributable to the appellant and her co-owner, MassHealth did not err in determining that the entire value of the bank account was attributable to the appellant. Once MassHealth determined that the entire value of the bank account was attributable to the appellant, MassHealth correctly determined that when the cash withdrawals were made from the appellant's savings account, the appellant transferred a countable resource for less than fair market value during the look-back period.

Once it has been established that an applicant has made a disqualifying transfer of resources, MassHealth calculates the period of ineligibility by adding "the value of all the resources transferred during the look-back period and divid[ing] 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." See 130 CMR 520.019(G)(2). MassHealth then applies the 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." *Id.*

Based on the above, the disqualifying transfer amount is \$41,000.00. At the time of her application in April, 2025, the average monthly nursing home rate in Massachusetts was \$441.00. See MassHealth Eligibility Operations Memo 24-07. In accordance with 130 CMR

520.019(G)(1), MassHealth correctly imposed a 93-day period of ineligibility (\$41,000/\$441) beginning on the appellant's otherwise eligible date of May 1, 2025 and lasting until August 1, 2025.

As the appellant did not demonstrate by a preponderance of the evidence that MassHealth erred in imposing a period of ineligibility for a disqualifying transfer of resources, this 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.

Amy B. Kullar, Esq.
Hearing Officer
Board of Hearings


cc: MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780