

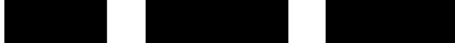
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2513799
<b>Decision Date:</b>	11/18/2025	<b>Hearing Date:</b>	10/20/2025
<b>Hearing Officer:</b>	Scott Bernard	<b>Record Open to:</b>	11/07/2025

**Appearance for Appellant:**



Consultants *via* telephone

**Appearance for MassHealth:**

Lynn Bloomquist *via* telephone



*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>	Approved	<b>Issue:</b>	Long-Term Care/Excess Assets
<b>Decision Date:</b>	11/18/2025	<b>Hearing Date:</b>	10/20/2025
<b>MassHealth's Rep.:</b>	Lynn Bloomquist	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Tewksbury 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

In a notice dated July 24, 2025, MassHealth denied the appellant's application for Long-Term Care (LTC) benefits because he had more countable assets than MassHealth benefits allow. (See 130 CMR 520.003 and Exhibit (Ex.) 1). The appellant's representative filed this appeal in a timely manner on September 22, 2025. (See 130 CMR 610.015(B) and Ex. 2). Any MassHealth action to restrict a member's assistance is grounds for appeal. (See 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth LTC benefits.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.003, in denying the appellant's application due to excess assets.

## Summary of Evidence

At the hearing, MassHealth was represented by a Benefits Eligibility Representative from the Tewksbury MassHealth Enrollment Center (MEC). The appellant was represented by an authorized representative designated by the appellant's court-appointed conservator. (Ex. 2; Ex. 5, pp. 8-9).

The MassHealth representative testified to the following. The appellant is an individual over the age of 65 years old, who was admitted to the nursing facility in 2022. (Testimony; Ex. 5, p. 1). The appellant submitted an application for LTC benefits on January 30, 2025. (Testimony; Ex. 5, pp. 2-40). MassHealth denied appellant's application for LTC benefits on July 24, 2025 because the appellant was over the \$2,000.00 countable asset limit. (Testimony; Ex. 1; Ex. Ex. 5, 44-53). According to the financial information available as of April 30, 2025, the appellant's assets included a checking account containing \$129,091.35, and \$6,427.36 representing the cash surrender value of a life insurance policy, for a total of \$135,518.71. (Testimony). After deducting the \$2,000.00 asset limit, the appellant was \$133,518.71 over the limit. (Testimony). The MassHealth representative explained that as of October 20, 2025, no documentation had been received verifying that the appellant's assets had been reduced. (Testimony).

The appellant's representative first explained the difficulties the conservator encountered when attempting to spend down the cash-surrender value of the appellant's life-insurance policy. The conservator initially sought to spend down the policy's cash surrender value by surrendering that policy to a funeral home, only to learn that the appellant already had an irrevocable, prepaid funeral contract. (Testimony). When the conservator then attempted to reassign the policy for another lawful but otherwise undescribed purpose, the life insurance company advised her that her existing letters of conservatorship did not authorize her to surrender the policy for any alternative use. (Testimony; Ex. 2, pp. 8-9).

Upon learning this, the conservator contacted the law firm that had prepared her original conservatorship petition in August 2025 in order to obtain assistance in filing a petition in Probate Court to expand her powers. (Testimony; Ex. 2, pp. 10-11). The petition for expanded conservatorship authority was filed on [REDACTED] 2025, and a citation issued on September 17, 2025, returnable by October 15, 2025, to allow for objections. (Testimony; Ex. 2, pp. 10-11). As of the hearing date, the Probate Court had taken no further action, and the life-insurance policy remained inaccessible unless and until the conservator obtains the additional authority required tact. (Testimony). In the interim, the conservator withdrew the appellant's bank account funds to pay the nursing facility as part of the spend-down process, but there was a brief delay when the facility returned the check unpaid after determining that the payment amount was incorrect. (Testimony).

For these reasons, the appellant's representative requested that the life insurance policy be treated as inaccessible until the Probate Court granted the conservator the expanded authority necessary to liquidate the asset, and further requested that the record remain open until October

24, 2025, to allow time for the corrected payment to the nursing facility so the bank account spenddown could be completed. (Testimony). The MassHealth representative asked that she be given until November 7, 2025, to confirm in writing whether the requested documentation regarding the checking account spenddown had been received. (Testimony). The MassHealth representative nevertheless asserted that the cash surrender value of the life insurance policy could not be considered inaccessible because the conservator still retained legal control, and that the asset reduction would have to be completed before MassHealth would approve eligibility. (Testimony).

A record open form documenting the parties' agreements was prepared and sent to the parties by email following the hearing. (Ex. 6). Following this, the appellant's representative and the MassHealth representative exchanged a series of emails on October 24, 2025. (Ex. 7; Ex. 8; Ex. 9). At that time the appellant's representative notified both the Hearing Officer and the MassHealth representative that the spenddown had been completed and asked whether the documentation should be faxed or emailed. (Ex. 7, p. 2). She also again described the legal steps required for the conservator to obtain expanded authority and attached correspondence from the attorney's office regarding the pending Probate Court hearing, which was now scheduled for [REDACTED] 2025. (Ex. 7, pp. 2, 4; Ex. 8, p. 2).

In answer to a question from the MassHealth representative, the appellant's representative stated that the life-insurance policy had not yet been surrendered. (Ex. 7, p. 4; Ex. 8, p. 1). The MassHealth representative then stated that a new determination could not be issued because the applicant's assets remained above program limits. (Ex. 7, p. 5). She continued by writing that as of July 18, 2025, the life insurance policy had a cash surrender value of \$6,427.36. (Id.). The appellant's conservator had attempted to assign the policy to a funeral home on [REDACTED] 2024. (Id.). By the January 30, 2025 application date, the conservator was aware of two existing funeral contracts and intended to dissolve or transfer the contract associated with the policy. (Id.). The MassHealth representative stated that MassHealth does not consider the life-insurance policy an inaccessible asset under 130 CMR 520.006. (Ex. 7, p. 5).

Following this email, the appellant's representative then submitted the verification that the bank account, valued at \$120,255.33 as of September 30, 2025, had been spent down to \$1,800.33 through check payments of \$115,403.00 to the nursing facility, \$2,500.00 to the conservator, and \$2,500.00 to the appellant's representative, all dated October 22, 2025. (Ex. 9, pp. 7-10). Further, the appellant's representative submitted corresponding documentation concerning the total the appellant owed for services received from nursing home between March 10, 2023 and August 1, 2025. (Ex. 9, p. 11). Finally, the appellant's representative submitted a copy of a new SC-1 form dated October 23, 2025, with a requested payment date of December 12, 2023. (Ex. 9, p. 4). These were transmitted by both email and fax for inclusion in the record. (Ex. 7, pp. 6-7; Ex. 9).

## Findings of Fact

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

1. The appellant is an individual over the age of 65 years old, who was admitted to the nursing facility in 2022. (Testimony; Ex. 5, p. 1).
2. The appellant submitted an application for LTC benefits to MassHealth on January 30, 2025. (Testimony; Ex. 5, pp. 2-40).
3. According to the financial information available as of April 30, 2025, the appellant's assets included a checking account containing \$129,091.35, and \$6,427.36 representing the cash-surrender value of a life-insurance policy, for a total of \$135,518.71. (Testimony).
4. After deducting the \$2,000.00 asset limit, the appellant was \$133,518.71 over the limit. (Testimony).
5. In a notice dated July 24, 2025, MassHealth denied the appellant's application for LTC benefits because his assets exceeded MassHealth's \$2,000.00 countable asset limit. (Ex. 1; Testimony).
6. As of October 20, 2025, no documentation had been received verifying that the appellant's assets had been reduced. (Testimony).
7. The conservator initially sought to spend down the policy's cash surrender value by assigning that policy to a funeral home, only to learn that the appellant already had an irrevocable, prepaid funeral contract. (Testimony).
8. When the conservator then attempted to reassign the policy for another lawful purpose, the life insurance company advised her that her existing letters of conservatorship did not authorize her to surrender the policy for any alternative use. (Testimony; Ex. 2, pp. 8-9).
9. The appellant's conservator has petitioned the Probate Court to expand her powers to allow her to surrender the policy for an alternative use. (Testimony; Ex. 2, pp. 10-11).
10. A court hearing whether the conservator's powers should be expanded will be held on [REDACTED] 2025. (Ex. 8).
11. The conservator withdrew the appellant's bank account funds to pay the nursing facility as part of the spend-down process, but there was a brief delay when the facility returned the check unpaid after determining that the payment amount was incorrect. (Testimony).
12. The appellant's representative requested that the record remain open until October 24, 2025, to allow time for the corrected nursing-facility payment and completion of the bank-

account spenddown, and further asked that the life-insurance policy be treated as inaccessible until the Probate Court expanded the conservator's powers. (Testimony; Ex. 6).

13. On October 24, 2025, the appellant's representative submitted the following:

- a. verification that the bank account valued at \$120,255.33 as of September 30, 2025, had been spent down to \$1,800.33 through check payments of \$115,403.00 to the nursing facility, \$2,500.00 to the conservator, and \$2,500.00 to the representative, all dated October 22, 2025, along with documentation of the total amount owed for nursing-home services between March 10, 2023, and August 1, 2025. (Ex. 7, pp. 6-7; Ex. 9).
- b. a new SC-1 form dated October 23, 2025, with a requested payment date of December 12, 2023, and transmitted all materials by both email and fax for inclusion in the record. (Ex. 7, pp. 6-7; Ex. 9).
- c. a letter from the attorney for the conservator indicating that the Probate Court had scheduled a hearing on the petition to expand the conservator's powers for [REDACTED] 2025. (Ex. 7, pp. 2, 4; Ex. 8, p. 2).

## **Analysis and Conclusions of Law**

The total value of countable assets owned by or available to individuals applying for MassHealth LTC benefits may not exceed \$2,000.00 for that individual. (130 CMR 520.003(A)(1); 520.016(A)). An applicant whose countable assets exceed the asset limit may be eligible for MassHealth either as of the date the applicant reduces excess assets to the allowable limit without violating the transfer-of-resource provisions for nursing-facility residents, or as of the date the applicant incurs medical bills equal to the excess assets and reduces the assets to the allowable limit within 30 days after notification of excess assets. (130 CMR 520.004(A)(1)).

As of the hearing date, the appellant's assets consisted of a bank account valued at \$129,091.35 and a life-insurance policy with a cash-surrender value of \$6,427.36, for a total of \$135,518.71. After subtracting the \$2,000.00 asset allowance, the appellant exceeded the countable-asset limit by \$133,518.71. During the hearing process, the appellant's representative submitted verification that the bank account had been spent down to \$1,800.33.

The appellant's representative described the difficulties the conservator encountered in accessing and spending the cash-surrender value of the life insurance policy. The conservator initially attempted to use the funds to pay for a funeral contract but could not do so because the appellant already had an irrevocable, prepaid funeral arrangement. When she sought to use the funds for another purpose, the life insurance company informed her that her existing letters of conservatorship did not authorize surrender of the policy for any purpose other than funeral

expenses. This prompted the conservator to seek court approval to expand her powers in order to surrender the life insurance policy, while in the interim she used available bank funds to continue the spend-down process. The petition for expanded authority was filed on [REDACTED] 2025, and the Probate Court will not take further action until after a hearing, which is scheduled for [REDACTED] 2025. The appellant's representative asserts that the policy remains inaccessible until that date and that its cash surrender value should therefore not be counted.

130 CMR 520.006 describes inaccessible assets in the following manner:

(A) Definition. An inaccessible asset is an asset to which the applicant or member has no legal access. The MassHealth agency does not count an inaccessible asset when determining eligibility for MassHealth for the period that it is inaccessible or is deemed to be inaccessible under 130 CMR 520.006.

(B) Examples of Inaccessible Assets. Inaccessible assets include, but are not limited to, (1) property, the ownership of which is the subject of legal proceedings (for example, probate and divorce suits); and (2) the cash-surrender value of life-insurance policies when the policy has been assigned to the issuing company for adjustment.

(C) Date of Accessibility. The MassHealth agency considers accessible to the applicant or member all assets to which the applicant or member is legally entitled

(1) from the date of application or acquisition, whichever is later, if the applicant or member does not meet the conditions of 130 CMR 520.006(C)(2)(a) or (b); or

(2) from the period beginning six months after the date of application or acquisition, whichever is later, if

(a) the applicant or member cannot competently represent his or her interests, has no guardian or conservator capable of representing his or her interests, and the authorized representative (which may include a provider) of such applicant or member is making a good-faith effort to secure the appointment of a competent guardian or conservator; or

(b) the sole trustee of a Medicaid Qualifying Trust, under [130 CMR 520.022\(B\)](#), is one whose whereabouts are unknown or who is incapable of competently fulfilling his or her fiduciary duties, and the applicant or member, directly or through an authorized representative (which may include a provider), is making a good-faith effort to contact the missing trustee or to secure the appointment of a competent trustee.

The appellant's conservator is currently unable to access and spend down the cash surrender proceeds of the life insurance policy because the appellant already has an irrevocable, prepaid funeral contract, and the existing letters of conservatorship do not authorize surrender of the policy for any other purpose. The conservator has filed a petition to expand her powers, but the Probate Court will not act until the hearing scheduled for [REDACTED] 2025. Under 130 CMR 520.006, an inaccessible asset is one to which the applicant has no legal access, including

property subject to legal proceedings and the cash surrender value of a life insurance policy when the holder cannot lawfully access it. Because the conservator is taking good-faith steps to obtain the necessary authority, the policy's cash surrender value is currently inaccessible and should not be counted for MassHealth eligibility purposes until the conservator is legally able to access it.<sup>1</sup>

Therefore, this appeal is APPROVED.

## **Order for MassHealth**

Rescind the notice dated July 24, 2025. Treat the \$6,427.36 representing the cash-surrender value of the life-insurance policy as inaccessible to the appellant. Within thirty days of the date of this decision, issue a new notice to the appellant approving him for LTC benefits, if he is otherwise eligible, using the January 30, 2025 application as the basis for that determination. Provide notice of implementation only and do not include appeal rights.

## **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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<sup>1</sup> Assuming the life insurance policy becomes accessible to the appellant's conservator following the [REDACTED] 2025 probate court hearing, the appellant must then submit a request to the life insurance company to surrender the policy for its cash value and must subsequently spend down those additional assets in order to qualify again for MassHealth. The appellant is further reminded of the obligation to comply with 130 CMR 515.008(B), "Responsibility to Report Changes," which provides, in pertinent part: "The applicant or member must report to the MassHealth agency, within ten days or as soon as possible, changes that may affect eligibility. Such changes include, but are not limited to, income, assets, inheritances, gifts, transfers of and proceeds from the sale of real or personal property, distributions from or transfers into trusts, address, availability of health insurance, immigration status, and third-party liability."

## 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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

[REDACTED]

[REDACTED]

cc: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA  
01876-1957