

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2513885
Decision Date:	11/18/2025	Hearing Date:	10/20/2025
Hearing Officer:	Sharon Dehmand	Record Open to:	10/27/2025

Appearance for Appellant:



Appearance for MassHealth:

Victoria Ragbir, Quincy 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:	DENIED	Issue:	Long Term Care; Coverage start date; Excess Assets
Decision Date:	11/18/2025	Hearing Date:	10/20/2025
MassHealth's Rep.:	Victoria Ragbir	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote	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 22, 2025, MassHealth approved the appellant's application for MassHealth long-term care benefits, starting March 11, 2025, with a patient-paid amount of \$2,350.20 per month. See 130 CMR 516.006(A); 130 CMR 520.004; and Exhibit 1. The appellant filed this appeal in a timely manner on September 23, 2025. See 130 CMR 610.015(B) and Exhibit 2. Any action to suspend, reduce, terminate, or restrict a member's assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

MassHealth approved the appellant for long-term care services with a coverage start date of March 11, 2025.

Issue

Whether MassHealth was correct in determining the appellant's coverage start date of March 11, 2025. See 130 CMR 520.004.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a worker from the Quincy MassHealth Enrollment Center. The appellant was represented by the nursing facility and an attorney serving as his conservator who verified his identity. The following is a summary of the testimony and evidence provided at the hearing:

The MassHealth representative testified that the appellant is over the age of 65 and resides in a nursing facility. A long-term care application was submitted on the appellant's behalf on July 23, 2024, requesting a coverage start date of [REDACTED]. On July 22, 2025, MassHealth approved the appellant's application for long-term care with the coverage start date of March 11, 2025. Starting on March 1, 2025, the appellant will owe the facility \$2,350.20 every month for his patient paid amount (PPA). The MassHealth representative reported that this is because the appellant was not asset eligible on his requested start date, and MassHealth conducted what is colloquially known as the "Haley"² calculation to give the appellant the earliest possible start date.

In formulating this calculation, the MassHealth representative reported that, as of [REDACTED] the requested start date, the appellant had a balance of \$17,144.68 in a bank account. The appellant has a burial account in the amount of \$11,780.00, which MassHealth deducted from his total assets. After subtracting the \$2,000.00 allowed asset limit, MassHealth found that the appellant was \$3,364.68 over assets on [REDACTED]. MassHealth then divided the total excess assets by the nursing facility's rate of \$302.56, which equaled 11 days in determining that the appellant's earliest possible start date should be March 11, 2025.

The appellant's representatives confirmed the appellant's date of admission and did not dispute any of the figures or calculations. Instead, they argued that the PPA payment made to the facility on May 16, 2025, in the amount of \$9,699.00 and the conservatorship fee in the amount of \$3,548.00 should be countable towards the asset spend down for purposes of the Haley calculation. The appellant's representatives expressed confusion about MassHealth regulations and contemplated whether it would have been more beneficial if they used the appellant's funds as private payment to the facility rather than the PPA. After discussion, the parties agreed that the current coverage start date is more beneficial to the appellant and since the facility has already

² The "Haley" calculation is a reference to the Supreme Judicial Court decision, Haley v. Comm'r of Pub. Welfare, 394 Mass. 466 (1985).

accepted payments from MassHealth, they would not be seeking to submit a new SC-1. The appellant's representatives requested a record open so that the parties could review and assess the Haley calculation and the applicable MassHealth regulations and report back regarding their findings. The record was held open for a week, until October 27, 2025, to allow the parties to do so. See Exhibit 6.

In an email dated October 24, 2025, the MassHealth representative explained that the PPA is not considered a medical expense, but it is the member's monthly obligation to be paid from the member's income. It cannot be prepaid. The PPA was paid prospectively for the months of March to July 2025, and the funds were therefore still accessible to the appellant. The MassHealth representative added that the conservator's fee of \$3,548.00 paid in May 2025 was acceptable as part of a spend down in that it would not be considered a disqualifying transfer, but as they are not medical expenses, they are not considered for the Haley calculation. See Exhibit 7, p. 6.

The appellant's attorney responded that the PPA was paid retroactively but the nursing facility confirmed that in fact it was to cover the months of March to July 2025. See Exhibit 7, pp. 1, 6. The attorney also argued that the legal expenses associated with obtaining MassHealth benefits on behalf of the appellant should be considered an allowed expense and factored into the Haley calculation. She submitted an itemized invoice for her legal fees which exceeded the conservatorship fee paid in the amount of \$3,548.00. See Exhibit 7, pp. 16, 24-25.

Findings of Fact

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

1. The appellant is over the age of 65 and resides in a nursing facility. (Testimony and Exhibit 4).
2. A long-term care application was submitted on the appellant's behalf on July 23, 2024, requesting a coverage start date [REDACTED]. (Testimony and Exhibit 5).
3. On July 22, 2025, MassHealth approved the appellant's application for long-term care with the coverage start date of March 11, 2025. (Testimony and Exhibit 1).
4. Starting on March 1, 2025, the appellant will owe the facility \$2,350.20 every month for his PPA. (Testimony and Exhibit 1).
5. MassHealth conducted what is colloquially known as a Haley calculation to give the appellant the earliest possible start date. (Testimony).
6. As of [REDACTED] requested start date, the appellant had a balance of \$17,144.68 in a bank account. (Testimony and Exhibit 5).

7. MassHealth deducted the amount of \$11,780.00 for a burial account from the appellant's total assets. (Testimony).
8. MassHealth subtracted the amount of \$2,000.00 allowed asset limit from the appellant's total assets. (Testimony).
9. After all deductions, MassHealth found that the appellant was \$3,364.68 over assets on [REDACTED] (Testimony and Exhibit 7).
10. MassHealth then divided the total excess assets by the nursing facility's rate of \$302.56, which equaled 11 days in determining that the appellant's earliest possible start date should be March 11, 2025. (Testimony).
11. The appellant filed this appeal in a timely manner on September 23, 2025. (Exhibit 2).
12. The relevant private pay rate for the facility is \$302.56 per day. (Testimony).
13. The appellant paid \$9,699.00 to the nursing facility for his PPA prospectively for the months of March to July 2025. (Testimony and Exhibit 7).
14. The appellant paid \$3,548.00 for conservatorship fees which was counted towards the asset spend down. (Testimony and Exhibit 7).

Analysis and Conclusions of Law

MassHealth administers and is responsible for delivery of healthcare benefits to MassHealth members. See 130 CMR 515.002. Eligibility for MassHealth benefits differs depending on an applicant's age. 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for non-institutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, and certain Medicare beneficiaries. See 130 CMR 515.002(B). As the appellant is over 65 years old and an institutionalized person, he is subject to the requirements of the provisions of Volume II. See 130 CMR 515.002.

Long-term care residents are eligible for MassHealth Standard coverage if they meet the following requirements:

- (1) be younger than 21 years old or 65 years of age or older or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing facility services by the MassHealth

agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;

(3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions;

(4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets When One Spouse Is Institutionalized; and

(5) not have transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

See 130 CMR 519.006(A). An applicant for long-term care benefits "must file a complete Senior Application and Supplements or apply in person at a MassHealth Enrollment Center." See 130 CMR 516.001(A)(1)(b). The date of application is considered the date that the application is received by MassHealth. See 130 CMR 516.001(A)(2)(a).

In this case, there is no dispute that the appellant is a long-term care resident eligible for MassHealth Standard coverage. The only issue is the determination of the coverage start date.

An applicant whose countable assets exceed the asset limit may become eligible in accordance with the following regulation regarding asset reduction:

(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.

See 130 CMR 520.004.

Under 130 CMR 520.004(A)(1)(b), the “Haley” calculation, the relevant facts are: the amount of excess assets, the earliest date that medical expenses exceed the excess assets, and whether the assets are reduced.

In this case, the appellant applied for MassHealth on July 23, 2024. The appellant requested a coverage start date of [REDACTED], when he was admitted to the nursing facility. The appellant’s representatives argued that MassHealth should consider the PPA payments for March 2025 to July 2025 as medical bills incurred. However, funds used to satisfy the PPA prospectively are paid through income and cannot be used to spend down assets. The date can only be adjusted 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). See 130 CMR 520.004(C)(1)(emphasis added). Here, there is no dispute that the appellant was admitted to the nursing facility in [REDACTED]. The nursing facility confirmed that the PPA payment was for the months of March to July 2025. As such, the PPA was paid prospectively and not retroactively and cannot be considered an incurred medical expense.

Additionally, the appellant’s representatives argued that the conservatorship fee in the amount of \$3,548.00 should be deducted from the appellant’s excess assets because it is a legal expense associated with obtaining MassHealth benefits on behalf of the appellant.

The MassHealth regulation at 130 CMR 520.026(E)(3) states the following regarding guardianship fees and related expenses:

(3) Guardianship Fees and Related Expenses. The MassHealth agency allows deductions from a member’s income for guardianship fees and related expenses when a guardian is essential to enable an incompetent applicant or member to gain access to or consent to medical treatment, as provided below.

(a) Expenses Related to the Appointment of a Guardian.

1. The MassHealth agency allows a deduction for fees and expenses related to the appointment of a guardian if the guardian’s appointment is made for the purpose of a. assisting an incompetent applicant to gain access to medical

treatment through MassHealth; or b. consenting to medical treatment on behalf of a MassHealth member.

2. The MassHealth agency allows a deduction for reasonable costs, including attorney fees, as approved by the probate court, not to exceed \$500 for the appointment, except as provided in 130 CMR 520.026(E)(3)(a)3.

3. The MassHealth agency may allow a deduction, as approved by the probate court, of up to \$750 for the appointment when the medical issues before the court are more complex. An example of such complexities includes providing evidence of the need for anti-psychotic medications.

4. The deduction is made from the member's monthly patient-paid amount over a 12-month period.

(b) Guardianship Services Related to the Application Process.

1. The MassHealth agency allows a deduction for fees for guardianship services related to the MassHealth application process when the guardian has been appointed by the probate court to assist an incompetent person with the MassHealth application when the securing of MassHealth benefits is essential for the member to gain access to medical treatment.

2. The MassHealth agency allows a deduction for reasonable costs related to the MassHealth application process, as approved by the probate court, not to exceed \$500. In cases where an administrative hearing is held, the total deduction may not exceed \$750 for the costs related to the application process and hearing.

3. The deduction is made from the member's monthly patient-paid amount over a 12-month period.

Even assuming, without deciding, that conservatorship fees³ were to be treated similarly to guardianship fees, this deduction is allowed from a member's **income, not assets**, for guardianship fees and related expenses when a guardian is essential to enable an incompetent applicant or member to gain access to or consent to medical treatment. See 130 CMR 520.026(E)(3)(a). Accordingly, MassHealth can only consider allowable medical expenses as part of the asset reduction process and not the conservatorship fees.

There is no dispute that on [REDACTED] the appellant had \$17,144.68 in a bank account. After deducting \$2,000.00 for the allowable asset limit, and \$11,780.00 for burial expenses,⁴ the appellant was \$3,364.68 over assets of [REDACTED]. Dividing the total excess assets by the nursing facility's rate of \$302.56, equals 11 days. As such, I find that MassHealth correctly determined that the appellant's earliest possible start date would be March 11, 2025 with a

³ There are no similar regulation allowing conservator fees.

⁴ Funeral and burial arrangements are considered noncountable assets pursuant to 130 CMR 520.008(F).

patient-paid amount of \$2,350.20 per month.⁵

For the foregoing reasons, 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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings



MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 02171

⁵ The appellant's representatives did not dispute the PPA amount.