

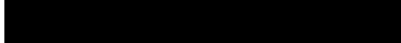
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2514588
<b>Decision Date:</b>	12/29/2025	<b>Hearing Date:</b>	11/07/2025
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kim McAvinchey (Tewksbury MEC) *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; Disqualifying Transfers
<b>Decision Date:</b>	12/29/2025	<b>Hearing Date:</b>	11/07/2025
<b>MassHealth's Rep.:</b>	Kim McAvinchey	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy Harbor South	<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 September 16, 2025, MassHealth approved the appellant's application for MassHealth Long-Term Care (LTC) benefits beginning on March 31, 2025 after a period of ineligibility from February 23, 2025 to March 30, 2025, due to net disqualifying transfers totaling \$15,378.20. (See 130 CMR 520.019; Exhibit (Ex.) 1; Ex. 5, pp. 33-39). The appellant filed this appeal in a timely manner on October 7, 2025. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal (See 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth approved the appellant's application for MassHealth LTC benefits but imposed a transfer-of-assets penalty, resulting in a delayed coverage start date.

## Issue

The issue on appeal is whether MassHealth correctly determined, pursuant to 130 CMR 520.019, that the appellant made disqualifying transfers of resources warranting the imposition of a period of ineligibility.

## Summary of Evidence

MassHealth was represented by a benefits eligibility representative from the Tewksbury MassHealth Enrollment Center (MEC), and the appellant was represented by the person she named as her appeal representative in the Fair Hearing Request. (See Ex. 2). All participants attended the hearing by telephone.

The MassHealth representative testified first to the following. The appellant is a non-married individual over the age of [REDACTED] who was admitted to the nursing facility in [REDACTED] (Testimony; Ex. 3; Ex. 5, pp. 1; 32). The appellant submitted an application for LTC benefits on February 11, 2025, requesting a MassHealth payment date of February 24, 2025. (Testimony; Ex. 5, pp. 9-11, 32). In a notice dated September 16, 2025, MassHealth approved the appellant's application for LTC benefits but imposed a 35-day transfer penalty based on alleged disqualifying transfers totaling \$15,378.20, with a resulting coverage start date of March 31, 2025. (Testimony; Ex. 5, p. 1; pp. 39-40). After the appeal was filed, MassHealth reduced the alleged disqualifying transfers to \$9,658.20, which reduced the penalty period to 22 days. (Testimony). The MassHealth representative testified that a revised eligibility notice had not yet been issued and that issuance of a revised eligibility notice remained pending the outcome of this appeal. (Testimony; Ex. 5, pp. 1-2).

The MassHealth representative stated that the disqualifying transfers concerned renovations made to the appellant's former residence, a single-family home in [REDACTED] in which the appellant continued to hold a life estate. (Testimony; Ex. 5, p. 1). The appellant moved out of the property on November 1, 2023, to reside with a family member, after which the property remained unoccupied until October 1, 2024. (Testimony; Ex. 5, p. 1). While the property was unoccupied, the appellant paid a total of \$9,658.20 to make certain renovations. (Testimony; Ex. 5 p. 7). On January 29, 2024, the appellant installed electric baseboard heating and thermostats in three second-floor bedrooms at a cost of \$1,558.20. (Testimony; Ex. 5, p. 7). On February 13, 2024, the appellant paid \$5,500.00 for interior and exterior deleading work involving windows, door jambs, ceilings, and other components identified in an inspection and risk assessment performed by a licensed lead inspector. (Testimony; Ex. 5, p. 7; Ex. 6, pp. 5-28). On June 1, 2024, the appellant paid an additional \$2,600.00 to repaint areas where lead paint had been removed. (Testimony; Ex. 5, p. 7). The MassHealth representative stated that the home had relied on a woodstove for heat while the appellant resided there and contained lead paint at that time, and that MassHealth therefore viewed the later installation of electric heat and the removal of lead paint after the appellant moved out as upgrades to the property rather than necessary repairs. (Testimony; Ex. 5, pp. 1-2). Citing 105 CMR 460.110<sup>1</sup>, the MassHealth representative further noted that there was no legal obligation to remove lead paint from a residence unless a child under the

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<sup>1</sup> This regulation, entitled "Lead Hazards: Abatement and Containment Requirements for Full Compliance," is contained within the Massachusetts Public Health Code and governs when deleading is required.

age of [REDACTED] resided there. (Testimony).

In response, the appellant's representative addressed lead law requirements and the value of the work performed, stating that although lead removal is legally mandated only when a child under the age of [REDACTED] resides in a property, landlords renting any portion of a property must disclose known lead hazards and obtain a certified inspection. (Testimony). She stated that the certified inspection identified hazardous lead conditions in the home and that the deleading work resulted in a compliant condition suitable for reoccupancy, allowing the property to be offered for rent. (Testimony; Ex. 6, pp. 5-6, 18-21). The appellant's representative argued that a property offered for rent with disclosed lead hazards and without adequate bedroom heat would be unlikely to command fair-market rent, and that the appellant therefore received value from the expenditures through increased habitability and the ability to generate rental income. (Testimony).

The appellant's representative argued that the timing and nature of the renovations, rather than the identity of the eventual tenant, were relevant to determining whether the appellant received fair market value for her expenditures. (Testimony). She stated that all of the cited renovations were completed between January and June 2024 while the appellant was living with a family member, and were undertaken to prepare the property for rental at a time when the appellant did not know who the eventual tenant would be, such that the renovations were not directed toward benefiting any particular individual but toward making the property habitable and marketable generally. (Testimony). She stated that only after the renovations were completed was the property rented, beginning in October 2024, to the appellant's grandson and another adult for \$1,800.00 per month, with each paying \$900.00, and that after the other tenant moved out, the grandson continued to pay \$900.00 per month, which MassHealth treated as income to the appellant. (Testimony).

In response to follow-up questions from the Hearing Officer, the MassHealth representative clarified that the tenant grandson is an adult over the age of [REDACTED] (Testimony). She again stated that the applicable lead regulations require deleading only when a child under the age of [REDACTED] resides in the home. (Testimony).

## Findings of Fact

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

1. The appellant is a non-married individual over the age of [REDACTED] (Testimony; Ex. 3; Ex. 5, pp. 9-11, 32).
2. The appellant was admitted to a nursing facility in [REDACTED] and applied for MassHealth long-term-care benefits on February 11, 2025. (Testimony; Ex. 5, pp. 1, 9-11, 32).

3. The appellant seeks a MassHealth payment date of February 24, 2025. (Testimony; Ex. 5, p. 32).
4. In a notice dated September 16, 2025, MassHealth approved the appellant's application for long-term-care benefits, but imposed a 35-day transfer-of-assets penalty based on alleged disqualifying transfers totaling \$15,378.20, resulting in a MassHealth coverage start date of March 31, 2025. (Testimony; Ex. 5, p. 1; pp. 39-40).
5. After the appeal was filed, MassHealth reduced the alleged disqualifying transfers to \$9,658.20, corresponding to a 22-day penalty period, pending issuance of a revised eligibility notice. (Testimony; Ex. 5, pp. 1-2).
6. The alleged disqualifying transfers concerned renovations that were made to the appellant's former residence, a single-family home in [REDACTED] in which she continues to hold a life estate. (Testimony; Ex. 5, p. 1).
7. The appellant moved out of the home on November 1, 2023, after which the home remained unoccupied until October 1, 2024. (Testimony; Ex. 5, p. 1).
8. While the appellant resided at the property, the home contained lead paint and relied on a woodstove as its primary source of heat. (Testimony; Ex. 5, pp. 1-2).
9. While the property was unoccupied, the appellant paid a total of \$9,658.20 to make renovations. (Testimony; Ex. 5 p. 7).
10. On January 29, 2024, the appellant installed electric baseboard heating and thermostats in three second-floor bedrooms at a cost of \$1,558.20. (Testimony; Ex. 5, p. 7).
11. On February 13, 2024, the appellant paid \$5,500.00 for interior and exterior deleading work involving windows, door jambs, ceilings, and other components identified in a lead inspection and risk assessment. (Testimony; Ex. 5, p. 7; Ex. 6, pp. 5-28).
12. On June 1, 2024, the appellant paid an additional \$2,600.00 to repaint areas where lead paint had been removed. (Testimony; Ex. 5, p. 7).
13. After the renovations were completed, beginning on October 1, 2024, the home was rented to the appellant's adult grandson and another adult for \$1,800.00 per month, with each paying \$900.00 in rent. (Testimony; Ex. 5, p. 1).
14. After the other tenant moved out, the grandson continued to pay \$900.00 per month in rent, which MassHealth treated as income to the appellant. (Testimony; Ex. 5, p. 1).

## Analysis and Conclusions of Law

To qualify for MassHealth payment of nursing-facility services, an institutionalized single individual must have countable assets valued at no more than \$2,000.00. (130 CMR 520.003(A)(1); 130 CMR 520.016(A)). Countable assets include all resources considered in the eligibility determination, including resources the individual is entitled to receive but does not receive when that failure results from the action or inaction of the individual or a person acting on the individual's behalf, as reasonably attributable based on the circumstances of the case. (130 CMR 520.007). MassHealth denies payment for nursing-facility services to otherwise eligible nursing-facility residents who transfer countable resources for less than fair-market value during the 60-month look-back period, which begins on the first date on which the individual is both a nursing-facility resident and has applied for or is receiving MassHealth Standard. (130 CMR 520.018(B); 130 CMR 520.019(B)(2)). When a disqualifying transfer is established, MassHealth determines the period of ineligibility by dividing the uncompensated value of the transferred resources by the average daily cost of nursing-facility services in Massachusetts in effect at the time of application, and the resulting number of days constitutes the penalty period. (130 CMR 520.019(G)).

A transfer of resources is disqualifying if, during the look-back period, a nursing-facility resident transfers a resource or an interest in a resource for less than fair-market value, unless the transfer is specifically identified as permissible, exempt, or excluded; actions that avoid receipt of a resource to which the resident is or would be entitled, including actions that render a previously available resource unavailable, may also constitute disqualifying transfers. (130 CMR 520.019(C)).

Permissible transfers are limited to those expressly identified in the regulations, including certain transfers to a spouse, transfers for the sole benefit of a spouse, and transfers to or for the sole benefit of a permanently and totally disabled individual under the age of ■ (130 CMR 520.019(D)). The regulations also provide limited mechanisms by which an otherwise disqualifying transfer may be exempted from a penalty through specified corrective actions, such as revising a trust or curing a transfer through the return of transferred resources, subject to the timing and procedural requirements set forth in the regulation. (130 CMR 520.019(K)). When a transfer is neither permissible nor exempted, the analysis turns to whether the transfer was made exclusively for a purpose other than to qualify for MassHealth or in exchange for fair-market value or other valuable consideration. (130 CMR 520.019(F)). MassHealth will not impose a period of ineligibility if that burden is met, and the burden of proof rests with the appellant. (Id.).

The renovations at issue occurred during the look-back period and involved real property in which the appellant held a life estate, a countable interest for MassHealth eligibility purposes. MassHealth therefore appropriately evaluated whether the expenditures constituted disqualifying transfers of assets.

The record establishes that the expenditures do not fall within any category of permissible transfers and were not exempted through corrective action such as a trust revision or the return of

transferred resources. The analysis therefore turns to whether the appellant has demonstrated that the expenditures were made exclusively for a purpose other than to qualify for MassHealth, or that she intended to dispose of the resources at fair-market value or for other valuable consideration.

Valuable consideration is defined as a tangible benefit equal to at least the fair-market value of the transferred resource, and the regulations focus on the appellant's intent at the time the expenditures were made, rather than on whether the asset transfer produced a profit or monetary benefit to the appellant.

A preponderance of the evidence indicates that the appellant undertook the renovations with the intent of increasing the marketability of the property to a broader range of potential renters or buyers, as reflected in the timing and nature of the work. The renovations began approximately 88 days after the appellant vacated the property, and while the record does not establish whether the appellant attempted to rent or sell the property during that interim period or whether its condition at that time impeded marketability, it is reasonable to conclude that a home relying on a woodstove that did not adequately heat the bedrooms would be less attractive in this market. Further offering a property without lead abatement might materially limit the pool of potential occupants, particularly families with children, even where no legal obligation to delead was triggered. Viewed in context, the evidence supports the conclusion that the renovations were directed toward improving habitability and expanding the property's lawful and practical marketability, thereby supporting a finding that the appellant intended to expend \$9,658.20 in order to receive fair-market value or, at a minimum, to receive other valuable consideration. Although the subsequent rental of the property does not establish that the appellant in fact received fair-market value for the expenditures, the later rental and MassHealth's treatment of the rental payments as income are consistent with the appellant's explanation that the renovations at least enabled productive use of the property.

Accordingly, the transfer of these resources by the appellant does not constitute disqualifying transfers for less than fair-market value, and the imposition of a transfer-of-assets penalty is not warranted.

For the above reasons, the appeal is APPROVED.

## **Order for MassHealth**


Rescind the approval notice dated September 16, 2025, deem the \$9,658.20 transfer not to be a disqualifying transfer by the appellant, and issue a new notice determining the appellant's coverage start date absent any transfer penalty. Send notice of implementation only; do not include appeal rights.

## 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

  
cc: Quincy MEC, Attn: Cassandra Moura, Appeals Coordinator, 100 Hancock Street, 6th Floor,  
Quincy, MA 02171