

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2515220
Decision Date:	1/15/2026	Hearing Date:	11/18/2025
Hearing Officer:	Marc Tonaszuck	Record Open to:	01/09/2026

Appearances for Appellant:




Appearance for MassHealth:

Yadira Rodriguez



*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:	1/15/2026	Hearing Date:	11/18/2025
MassHealth’s Rep.:	Yadira Rodriguez	Appellant’s Reps.:	
Hearing Location:	Charlestown MassHealth Enrollment Center	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 05/09/2025, MassHealth approved the appellant's application for MassHealth long term care (LTC) benefits. Through the same notice, MassHealth informed the appellant that it calculated a period of ineligibility from 09/20/2024 to 12/18/2024 because of disqualifying transfers of resources. Appellant’s LTC benefits began on 12/19/2024 (130 CMR 520.018; 520.019 and Exhibit 1). Appellant filed a timely appeal to the above notice on 07/08/2025 (130 CMR 610.015(B) and Exhibit 2). MassHealth agency actions to suspend, reduce, terminate, or restrict a member's assistance are valid grounds for appeal (see 130 CMR 610.032).

At the fair hearing on 11/18/2025, the appellant’s representative requested that the record remain open to submit additional documentation in support of her position. The request was granted, and the record remained open in this matter until 12/26/2025 for Appellant’s submission and until 01/09/2026 for MassHealth’s response (Exhibit 5).

Action Taken by MassHealth

MassHealth approved the appellant's application for LTC benefits but calculated a period of ineligibility from 12/01/2024 to 11/25/2027 because of disqualifying transfers of resources.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.018 and 520.019, in determining that the appellant made disqualifying transfers of resources resulting in a period of ineligibility from 12/01/2024 to 11/25/2027.

Summary of Evidence

The MassHealth representative testified that the appellant is a resident of a skilled nursing facility. On 03/05/2025, the appellant applied for MassHealth LTC benefits. In processing appellant's application for LTC benefits, MassHealth determined that there were several transfers during the 60-month look back period, each constituting a disqualifying transfer of resources. The funds were transferred from the appellant's [REDACTED] account, either by check, bank transfer or withdrawals. The transfers totaled \$480,396.78. Copies of the transaction details were submitted by MassHealth and were marked as Exhibit 4.

MassHealth divided the total transfer amount by the average daily private rate for a nursing facility in Massachusetts, \$441.00, to calculate the period of ineligibility of 1,090 days, beginning on 12/01/2025, the date the appellant was otherwise eligible for benefits, and ending on 11/27/2027. The MassHealth representative testified that the above transactions were made during the 60-month look-back period. There was no information provided to show that the money transferred was for the appellant's benefit.

The appellant was represented at the fair hearing by two representatives from [REDACTED]. They testified that the appellant sold his [REDACTED] home more than 5 years before the application for MassHealth benefits. They explained that there are "suspicious" transactions from the appellant's bank account; specifically, the appellant may have been "swindled" by younger women, and that he paid for property services for family members, in exchange for letting him stay with them.

The appellant representative testified that there was no police report or other documentation to law enforcement regarding alleged exploitation or abuse of an elder. She requested an opportunity to provide documentation to show that the appellant's transfers were permissible transfers. Her request was granted, and the record remained open until 12/26/2025 for the appellant's submission and until 01/09/2026 for MassHealth's response (Exhibit 5).

During the record open period, the appellant's representative submitted the following statement:

“In speaking to the son the checks paid for work done was in lieu of paying rent to the homeowner. He would pay the tree services and for other odd bills that needed to be paid. The appellant did go on to pay rent at his new residence prior to admitting to the facility” (Exhibit 6).

Findings of Fact

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

1. The appellant is a resident of a long-term care nursing facility.
2. An application for long-term-care (LTC) benefits was submitted to MassHealth on appellant's behalf on 03/15/2025.
3. MassHealth received information about transfers that were made during the 60-month look-back period. They were from the appellant's [REDACTED] account, and were checks written to others, withdrawals and transfers (Exhibit 4).
4. MassHealth did not receive any information regarding the above transactions to show that the transfers were made for the appellant's benefit.
5. There is no evidence that a police report was filed regarding these transfers or that an investigative complaint was made with Elder Services regarding any alleged financial exploitation.
6. There is no evidence that the appellant has taken legal action against any of the known transferees for financial exploitation.
7. MassHealth determined that the appellant did not receive fair market value in exchange for the transactions, and they were determined to be disqualifying transfers of resources totaling \$480,396.78 (Testimony; Exhibits 1 and 4).
8. The average daily private rate for a skilled nursing facility in Massachusetts is \$441.00.
9. MassHealth calculated a period of ineligibility of 1,090 days (\$480,396.78 divided by \$441.00), beginning on the date appellant was otherwise eligible for MassHealth payment of benefits, 12/01/2024, and ending on 11/25/2027 (Testimony; Exhibits 1 and 4).
10. At the fair hearing on 11/18/2025, the appellant's representative requested an opportunity to provide documentation to show that the above transfers were made for the appellant's benefit.

11. The appellant representative's request was granted, and the record remained open in this matter until 12/26/2025 for the appellant's submission and until 01/09/2026 for MassHealth's response.

12. During the record open period, the appellant submitted the following information:

"In speaking to the son the checks paid for work done was in lieu of paying rent to the homeowner. He would pay the tree services and for other odd bills that needed to be paid. The appellant did go on to pay rent at his new residence prior to admitting to the facility."

(Exhibit 6.)

Analysis and Conclusions of Law

A disqualifying transfer of resources is defined at 130 CMR 520.019:

(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). 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 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.

Regulation 130 CMR 520.019(G)(3), effective February 8, 2006, provides in pertinent part:

(1) Begin Date. For transfers occurring before February 8, 2006, the period of ineligibility will begin on the first day of the month in which resources have been transferred for less than fair-market value. For transfers occurring on or after February 8, 2006, the period of ineligibility will begin on the first day of

the month in which resources were transferred for less than fair-market value or the date on which the individual is otherwise eligible for MassHealth payment of long-term-care services, whichever is later. For transfers involving revocable trusts, the date of transfer is the date the payment to someone other than the nursing-facility resident or the spouse is made.

Regulation 130 CMR 520.019(F) follows:

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

The State Medicaid Manual (HCFA Transmittal letter 64) at Section 3258.10 sets forth the following guidance to address transfers exclusively for a purpose other than qualifying for Medicaid:

The State Medicaid Manual reads, in pertinent part, the following:

The following definitions apply to transfers of assets.

1. Fair Market Value. Fair market value is an estimate of the value of an asset, if sold at the prevailing price at the time it was actually transferred. Value is based on criteria you use in appraising the value of assets for the purpose of determining Medicaid eligibility.

Note: 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 tangible form with intrinsic value. A transfer for love and consideration, for example is not considered a transfer for fair market value. Also, while relatives and family members legitimately can be paid for care they provide to the individual, HCFA presumes that services provided for free at the time were intended to be provided without compensation. Thus, a transfer to a relative for care provided for free in the past is a transfer of assets for less than fair market value. However an individual can

rebut this presumption with tangible evidence that is acceptable to the State. For example, you may require that a payback arrangement had been agreed to in writing at the time services were provided.

2. Transfers Exclusively for a Purpose Other Than to Qualify for Medicaid.--Require the individual to establish, to your satisfaction, that the asset was transferred for a purpose other than to qualify for Medicaid. Verbal assurances that the individual was not considering Medicaid when the asset was disposed of are not sufficient. Rather, convincing evidence must be presented as to the specific purpose for which the asset was transferred.

(Department of Health and Human Services Health Care Financing Administration Transmittal No. 64. November, 94.)

The intent of any transfer within the look back period is always subject to review and within MassHealth's purview in an eligibility determination. Appellant is a resident of a skilled nursing facility. An application for MassHealth LTC benefits was submitted on appellant's behalf on 03/01/2025. At issue in this appeal are transfers made from the appellant's [REDACTED] account; specifically checks written to others, transfers, and withdrawals made during the 60-month look back period. They total \$480,396.78 and the amounts and dates of the transfers were not challenged by the appellant.

At hearing the appellant representative testified that she believed the appellant was financially exploited and his funds were "misappropriated" by others. There was no evidence to support this assertion, however. Noticeably absent from the hearing record is a report to law enforcement regarding the transfers, and/or documentation from the Elder Services Department that the appellant was a "victim" of "financial exploitation."

The appellant has not met his burden of showing that the transfers were permissible transfers or were for a purpose other than to qualify for MassHealth benefits. Accordingly, MassHealth's decision that the \$480,396.78 total transfers were disqualifying transfers is supported by the evidence and the regulations. There was no dispute of the average private daily rate of \$441.00, or the date appellant was otherwise eligible, 12/01/2024.

MassHealth's determination that the transfers were disqualifying transfers is supported by the evidence in the hearing file, as are the dates and the amounts of the transfers. Accordingly, MassHealth's decision is supported by the facts, as well as the relevant regulations. This appeal is therefore denied.

The appellant may file a hardship waiver with MassHealth within 15 days of the date of this fair hearing decision.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: [REDACTED]

[REDACTED]

MassHealth Representative: Monica Ramirez, Charlestown MassHealth Enrollment Center, 529 Main Street, Suite 1M, Charlestown, MA 02129