

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2516565
Decision Date:	1/16/2026	Hearing Date:	12/01/2025
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearance for MassHealth:

Linah Kunobwa – Chelsea LTC



*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:	LTC; Disqualifying Transfer
Decision Date:	1/16/2026	Hearing Date:	12/01/2025
MassHealth's Rep.:	Linah Kunobwa	Appellant's Rep.:	[REDACTED]
Hearing Location:	Telephonic	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 September 15, 2025, MassHealth imposed a 227-day disqualifying transfer penalty from October 30, 2024, to June 14, 2025. (Exhibit 1.) The appellant filed this appeal in a timely manner on November 10, 2025. (Exhibit 2; 130 CMR 610.015(B).) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth imposed a 227-day disqualifying transfer penalty, from October 30, 2024, to June 14, 2025, based upon a \$100,000 withdrawal from the appellant's bank account by her son. MassHealth also imposed a 12-day period of ineligibility arising from a Haley calculation.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.004 and 520.019, in determining the appellant's eligibility start date.

Summary of Evidence

At the hearing, MassHealth's representative testified that the appellant is over the age of 65, and she entered the nursing facility in late winter of 2024. MassHealth's representative identified the

controlling application as being July 25, 2025, and the benefits request date as June 1, 2024. MassHealth's representative testified that the delay in coverage arose from a \$100,000 withdrawal from the appellant's account on April 18, 2024, by the appellant's son. MassHealth divided \$100,000 by \$441, the average daily rate for nursing facilities in Massachusetts, and imposed a period of ineligibility based upon this disqualifying transfer running from October 30, 2024, to June 14, 2025.

The hearing record reopened via email because MassHealth's representative had not explained why coverage was delayed from June 1, 2024, to October 30, 2024. At this time, MassHealth's representative submitted an updated hearing packet including a new SC-1 from the nursing facility requesting coverage start as of October 19, 2024. (Exhibit 7, p. 4.) MassHealth also submitted a date-stamped application dated July 25, 2024. (Exhibit 8.) MassHealth's representative then explained that the appellant had excess assets of \$5,500 as of October 2024, so a Haley calculation was performed to delay coverage by the number of days the appellant could have paid privately at \$424 per day. (See Exhibit 7; Exhibit 9.) MassHealth delayed coverage by 12 days from October 19, 2024, to October 30, 2024, before imposing the 227-day disqualifying transfer penalty.

An earlier application had been submitted by the appellant's son, who holds the appellant's power of attorney. That application was denied and not appealed. The appellant's conservator became involved with this application during an earlier appeal for missing verifications. The appellant's conservator was appointed at the nursing facility's behest in November 2024.¹ The appellant's hearing exhibit includes documentation given to the appellant's conservator by the appellant's son and the appellant's son's attorney. The appellant's conservator also testified as to what the appellant's son and the appellant's son's attorney had told him with regards to this withdrawal. (Exhibit 6.)

On November 17, 2021, the appellant's son executed a deed conveying a life estate interest in his home to the appellant in exchange for \$190,000. This deed is notarized but not recorded with the registry of deeds. In conjunction with this deed, the appellant executed a promissory note, promising to pay her son \$190,000 in exchange for the life estate interest. The note identifies the fair market value of the home to be \$350,000, and the appellant's actuarial life expectancy was 15.08 years at the time of execution. The note references the Life Estate Remainder Interest tables published by the Social Security Administration and calculates the life estate value to have been \$190,572. The note sets forth the following payment schedule:

Therefore, this promissory Note must be paid **in at least** twelve equal payments of \$15,000.00 with a third [*sic*] and final payment of \$10,000.00. It is agreed by the parties that the first payment in the amount of Forty-Five

¹ The appellant's conservator testified that the documentation filed with the probate court stated a conservator was necessary because the appellant's son was unable to provide the information needed for a Medicaid application.

thousand (\$45,000.00) Dollars shall be paid no later than November 17, 2024. The second payment shall be in the amount of Forty-Five thousand (\$45,000.00) Dollars and shall be paid no later than November 17, 2025. The Third payment shall be in the amount of Forty Five [sic] Thousand (\$45,000.00) Dollars and shall be paid no later than November 17, 2030. The fourth payment shall be in the amount of Forty-Five thousand (\$45,000.00) Dollars and shall be paid no later than November 17, 2031. The final payment shall be in the amount of Twenty [sic] Thousand (\$10,000.00) Dollars and shall be made no later than November 17, 2034. ... The [appellant] shall hold One-Hundred and Ninety-Thousand (\$190,000.00) Dollars in the Life Estate value^[2] and it shall be paid to [her son] during her life in the course of no later than Thirteen (13) years. If the [appellant] should die before the value can be paid to [her son] in full, said Life Estate value shall be paid from her Estate. This Promissory Note shall NOT be canceled upon death.

(Exhibit 5, pp. 17-18.)

The appellant retained the right to prepay the note in full at any time without penalty. The appellant's son retained the right to declare the full amount due "upon the occurrence of any one or more of the following events: ...

Any act by, against, or relating to the Maker, or her property or assets, **Including [sic] Medicaid (MassHealth)**, which act constitutes the application for, consent to, or sufferance of the appointment of a receiver, trustee, or other person, pursuant to court action or otherwise, over all, or any part of the Maker's property or assets; ...

(Exhibit 5, p. 18 (emphasis added in bold).)

On January 5, 2022, the appellant executed another promissory note promising to pay her son, "as sole owner of" his home, "the sum of **One Hundred Thousand (\$100,000.00) Dollars** to install a

² It is unclear what \$190,000 in life estate value would be. Presumably, it refers to the outstanding balance on the promissory note. It does not describe any common understanding of a life estate:

The owner of a possessory life estate, i.e., the life tenant, has a right to the exclusive possession of the land. And if a remainder interest has been created, during the existence of the life estate the remainderman is not entitled to possession until the death of the life tenant. A life estate is alienable by the life tenant, and he can accordingly convey his estate to a third person, or mortgage it, or lease it for a term of years. Alperin & Shubow, *supra* at § 17.15, at 586.

(Hershman-Tcherepnin v. Tcherepnin, 452 Mass. 77, 88 n.20 (2008) (internal citations and quotations omitted).)

15' x 35' inground vinyl pool" at the son's home. This note identifies the appellant's son "**as sole owner of the property.**" This note included the following payment schedule:

It is agreed by the parties that [the appellant] shall pay [her son] the total amount of One Hundred Thousand Dollars in four equal payments of Twenty-Five Thousand (\$25,000.00) Dollars. The First [sic] payment shall be paid on or before July 5, 2022. The second payment shall be paid on or before January 5, 2023. The third payment shall be paid on or before July 5, 2023. The final payment shall be paid on or before January 5, 2024. If the [appellant] should die before the value can be paid to [her son] in full, said value shall be paid from her Estate. This Promissory Note shall NOT be canceled upon death.

(Exhibit 5, p. 23.)

This note included similar language regarding the appellant's right to prepay and the appellant's son's right to demand full payment, including the reference to MassHealth.

A pool construction quote dated July 23, 2021, was submitted by the appellant's conservator. Construction was completed on or around October 27, 2022, for a total of \$99,650. (Exhibit 5, pp. 28-29.) No payments were made under the payment schedules laid out in either of the promissory notes. In the cover letter to the appellant's exhibits, the appellant's conservator asserts

On April 18, 2024, a \$100,000 payment was made to [the son] from [the appellant's] funds and applied to the \$190,000.00 promissory note executed on November 17, 2021 for the purchase of the life estate. Presently, \$90,000 is still outstanding on that promissory note. The entire balance of the January 5, 2022 promissory note remains due.

(Exhibit 5, p. 3.)

MassHealth's representative noted that there were many other financial inconsistencies that were skipped over during the verification process because of the difficulty the conservator faced in documenting the appellant's finances. For instance, the appellant's bank statements showed monthly payments of \$196 to Blue Cross Blue Shield. However, Blue Cross Blue Shield wrote a letter stating that the appellant held no policies with them. MassHealth suspects that the appellant was paying some insurance premium on behalf of her son. MassHealth's representative chose not to include these payments in its disqualifying transfer calculation.

MassHealth's representative noted that the appellant moved into the nursing facility from a senior living community, where she rented an apartment. MassHealth referenced 130 CMR 520.019 and argued that a purchased life estate is only valid if the applicant resides in the property for at least one year. There is no evidence that the appellant ever resided in the home in which she

purportedly held a life estate. The appellant was paying rent at a senior living community up until the month she entered the nursing facility.

The appellant's conservator responded that the appellant's son told him that the appellant resided in his home from the time of the life estate contract through to 2023, when the appellant moved into the apartment. The appellant's conservator testified that bank statements from this time are addressed to the appellant at her son's address. These bank account statements are not in evidence, and there are no affidavits or other documentation to substantiate that the appellant ever resided at her son's address.

It was noted that, even if these contracts were valid contracts, they indicate on their face that the appellant was contemplating the need for Medicaid coverage when they were created. The appellant's conservator was told by the appellant's son's attorney that the note should be satisfactory according to MassHealth's regulations.

Findings of Fact

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

- 1) The appellant entered the nursing facility in the winter of 2024. An application for long term care benefits was submitted on July 25, 2024. The nursing facility is seeking payment for long term care services as of October 19, 2024. (Testimony by MassHealth's representative; Exhibit 7, p. 4; Exhibit 8.)
- 2) As of October 19, 2024, the appellant had \$5,500 in excess assets. (Exhibit 9.)
- 3) On April 18, 2024, the appellant's son, acting as her power of attorney, withdrew \$100,000 from the appellant's bank account. (Exhibit 6, pp. 13-15.)
- 4) The appellant moved into the nursing facility from a private apartment for which she paid rent. (Testimony by MassHealth's representative; testimony by appellant's conservator; Exhibit 6, pp. 22-23.)
- 5) On November 17, 2021, the appellant's son executed a life estate deed, purportedly transferring a life estate in his home to the appellant in exchange for \$190,000. (Exhibit 6, pp. 16-18.)
- 6) On November 17, 2021, the appellant and her son executed a promissory note by which the appellant promised to pay \$190,000 to her son in exchange for a life estate in the son's home. The life estate's value was calculated using the appellant's life expectancy and assessed value of the son's home. The promissory note requires both that the note be paid in 12 equal payments of \$15,000 and intermittent payments of \$45,000. The note explicitly

contemplates the appellant's eligibility for Medicaid as a potential trigger for accelerating payments. (Exhibit 5, pp. 17 – 21.)

- 7) On January 5, 2022, the appellant executed another promissory note promising to pay her son, "the sum of **One Hundred Thousand (\$100,000.00) Dollars** to install a 15' x 35' inground vinyl pool" at the son's home. This note explicitly identifies the appellant's son "**as sole owner of the property.**" The note explicitly contemplates the appellant's eligibility for Medicaid as a potential trigger for accelerating payments. (Exhibit 5, pp. 23-26.)
- 8) The pool construction was completed on or around October 27, 2022, for a total of \$99,650. (Exhibit 6, pp. 24-25.)
- 9) The appellant's conservator submitted a letter asserting that the \$100,000 withdrawal by the appellant's son on April 18, 2024, was in payment toward the appellant's life estate in her son's home. No other payments were ever made on either of these notes. (Exhibit 5, p. 3.)
- 10) The appellant's conservator was told that the appellant's bank statements from 2022 list her son's home as her address. The appellant's son told the appellant's conservator that the appellant resided in his home November 17, 2021, until the beginning of 2023. There is no documentary or direct evidence that establishes the appellant's place of residence in 2022. (Testimony by the appellant's conservator.)

Analysis and Conclusions of Law

The purpose of Medicaid is to provide medical assistance to those "whose income and resources are insufficient to meet the costs of necessary medical services." (42 USC § 1396-1.) An individual applying for MassHealth long-term care benefits must have countable assets below \$2,000. (130 CMR 520.003(A).) Countable assets includes "assets to which the applicant or member or his or her spouse would be entitled whether or not these assets are actually received when failure to receive such assets results from the action or inaction of the applicant, member, spouse, or person acting on his or her behalf." (130 CMR 520.007.) "All real estate owned by the individual and the spouse, with the exception of the principal place of residence as described in 130 CMR 520.008(A), is a countable asset." (130 CMR 520.007(G)(1).)

If an applicant has assets above this threshold, their earliest eligibility start date is either:

- (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.

(130 CMR 520.004(A)(1).) These alternative dates are referred to as the asset-eligibility date and the otherwise-eligible date.³ Applicants in a nursing facility are able to use the private-pay daily rate at the nursing facility to easily identify the date on which their medical expenses outstrip their excess assets.

The transfer of resource provisions allow MassHealth to see whether an applicant has given away assets within the previous five years in order to qualify – this is referred to as the “lookback period.” (See 130 CMR 520.019(B); 130 CMR 520.023(A).) A disqualifying transfer may include

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).⁴ 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 considers the specific circumstances involved. A disqualifying transfer may include any action taken that would result in making a formerly available asset no longer available.

(130 CMR 520.019(C) (emphasis added.) Permissible transfers are made to benefit a community spouse or a disabled relative. Exempted transfers are cured in some manner after the fact.

³ The otherwise-eligible date is also known as the “Haley” calculation date, which is a reference to the Supreme Judicial Court decision, Haley v. Comm’r of Pub. Welfare, 394 Mass. 466 (1985).

⁴ As published, the last cross-reference is to subsection (J) and is a typographical error. Subsection (J) specifically **includes** as disqualifying transfers of home equity loans and reverse mortgages if transferred for less than fair market value. Subsection (K), however, **exempts** listed transactions from the period of ineligibility.

The transfer rules specifically note that “the purchase of a life estate in another individual’s home made on or after April 1, 2006, [is] a disqualifying transfer, unless the purchaser resides in the home for a period of at least one year after the date of the purchase.” (130 CMR 520.019(I)(3).)

The applicant’s intent can affect whether a transfer of resources results in a period of ineligibility:

(F) 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.

(130 CMR 520.019(F) (emphasis added).) Federal guidance requires an applicant to make a heightened evidentiary showing on this issue: “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.” (Gauthier v. Dir., Office of Medicaid, 80 Mass. App. Ct. 777, 785 (2011) (citing State Medicaid Manual, Health Care Financing Administration Transmittal No. 64, § 3258.10(C)(2)).) Essentially, there is a presumption that transfers made within the look-back period were intended to preserve assets from being used to pay for an individual’s care.

As of the benefits request date, the appellant had \$5,500 in excess assets. The private pay rate at the nursing facility as documented on the SC-1 was \$424 per day. This equals 12.97, nonetheless MassHealth determined the otherwise-eligible date of October 30, 2024, or 12 days after October 19, 2024. The appellant raised no objections to this calculation, and it will not be disturbed.

Regarding the disqualifying transfer, MassHealth divided \$100,000 by \$441, and imposed a 227-day penalty.⁵ Many concerns could be raised regarding the legitimacy of the purported life estate transaction. The circumstances surrounding the transaction indicate that a present, possessory interest in the property was never transferred to the appellant. The later-signed promissory note for the pool identifies the appellant’s son as the sole owner of the property, and the appellant resided in an apartment prior to moving into the nursing facility. Furthermore, the attendant promissory note is replete with typographical errors, conflicting payment schedules, and an explicit

⁵ Technically, MassHealth should have divided by \$433 because the application was received before November 1, 2024. (EOM 24-07 (Nov. 2024).)

reference to the possibility of Medicaid coverage that belies the intentions of the parties in entering the arrangement.

Assuming the appellant has a valid life estate, MassHealth was correct to treat any money paid for this life estate as a disqualifying transfer under 130 CMR 520.019(I)(3). There is no reliable evidence that the appellant resided in the property in which she purportedly held a life estate for at least a year. The only evidence that the appellant lived there is the assertion that the son's address is listed on the appellant's bank statements at some point in time. These bank statements are not in evidence, and no other evidence establishes that the appellant ever resided at this property. Whether or not the life estate and the note to purchase the life estate are valid,⁶ the purported purchase of a life estate is a disqualifying transfer under 130 CMR 520.019(I)(3). Therefore, this appeal is DENIED.

Nor would any payment be allowed on the note to purchase the pool. An applicant must intend to receive fair-market value, otherwise the transaction is a disqualifying transfer. The appellant's own assertion is that she moved out of her son's residence at the beginning of 2023. The pool was not completed until October 2022. Therefore, the appellant's own position is that she lived at the property for a few months after the pool was completed, during a time of year that people in Massachusetts do not generally use outdoor pools. Therefore, I find that the appellant did not receive \$100,000 in value by purchasing an inground pool to be installed at someone else's house.

Finally, there is not convincing evidence that the appellant transferred this money "exclusively for a purpose other than to qualify for Medicaid." The overall impression of the evidence suggests that this transfer was made specifically with the intention of preventing the money from being available to pay for the appellant's nursing facility expenses and to qualify her for Medicaid. The money was not withdrawn until after the appellant entered the nursing facility. The withdrawal is made by the appellant's son, as power of attorney, and not a check written by the appellant.⁷ There is no receipt or other contemporaneous documentation as to the purpose of the withdrawal. For these reasons, this appeal is DENIED.

Order for MassHealth

None.

⁶ This decision takes no position on the validity of the purported life estate and its attendant promissory note. MassHealth is also, effectively, ignoring the life estate. If the appellant had actually purchased a life estate in her son's home, she would not be eligible for long-term care benefits. The life estate would be a countable asset under 130 CMR 520.007(G). The appellant did not reside in her son's home prior to entering the nursing facility, therefore this property interest would not be exempted as being in a primary residence.

⁷ The appellant signed her own rent checks to pay for her apartment. (Exhibit 6, p. 23.)

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: [REDACTED]

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