

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part	Appeal Number:	2516611
Decision Date:	1/30/2026	Hearing Date:	12/9/2025
Hearing Officer:	Cynthia Kopka	Record Open to:	12/22/2025

Appearance for Appellant:



Appearance for MassHealth:

Mandy Lau, Charlestown 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:	Approved in part	Issue:	LTC eligibility, disqualifying transfers
Decision Date:	1/30/2026	Hearing Date:	12/9/2025
MassHealth's Rep.:	Mandy Lau	Appellant's Rep.:	██████████
Hearing Location:	Charlestown (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

By notice dated October 24, 2025, MassHealth approved Appellant for MassHealth long-term care services effective October 21, 2025. MassHealth calculated a period of ineligibility from August 9, 2024 to October 20, 2025 for making impermissible transfers of assets. Exhibit 1. Appellant filed a appeal in a timely manner on November 12, 2025. Exhibit 2. 130 CMR 610.015(B). Challenging the scope of assistance is a valid basis for appeal. 130 CMR 610.032. The hearing record was held open through December 22, 2025 for the submission of additional evidence. Exhibit 5.

Action Taken by MassHealth

MassHealth determined that Appellant made impermissible transfers of assets resulting in a period of ineligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 520.019, in determining that Appellant made disqualifying transfers during the look-back period and in calculating the period

of ineligibility.

Summary of Evidence

The MassHealth representative appeared by phone and submitted documents in support, Exhibit 4. Appellant's representative, her youngest daughter, appeared by phone and submitted records in support, Exhibit 2. The hearing record was held open through December 22, 2025 for the submission of additional evidence. Exhibits 5, 6. A summary of testimony and documentary evidence follows.

On June 10, 2025, MassHealth received Appellant's application for long term care benefits. Appellant admitted to the nursing facility on [REDACTED] and seeks MassHealth coverage effective August 9, 2025. Exhibit 4. On October 24, 2025, MassHealth approved Appellant's application effective October 21, 2025. Exhibit 1.¹ On or about February 24, 2025, Appellant, as beneficiary to her son's life insurance policy, received from the life insurance company \$35,818.60, which was deposited into her bank account on February 26, 2025. Exhibit 4 at 12, 14. These were the proceeds from the policy after Appellant's son passed away on [REDACTED]. From this amount, Appellant paid \$4,000 towards her son's funeral. Appellant disbursed the remaining \$31,818 to her children. Using the daily rate of \$441, MassHealth calculated a period of ineligibility of 73 days for giving away assets.

Appellant's daughter testified that Appellant's mother never expected to receive the life insurance proceeds, as Appellant's son passed away at the age of [REDACTED]. At the time Appellant's son passed away, Appellant was living independently. It was a few months later in April 2025 that Appellant was admitted to the hospital after falling at home. Appellant entered the facility for rehab and it was determined that Appellant needed to remain at the facility. Appellant's daughter testified that her sister spoke to Appellant's son after he had a sudden stroke and he revealed the insurance policy at that time. Appellant's son told his sister that he wanted the money to go to all of his family members. Appellant did not have a will and was not able to put in writing his intent to share the proceeds.

Appellant's daughter argued that the life insurance check was not really Appellant's asset, as she was just the beneficiary of the policy and not the owner. The deposit was a one-time occurrence and not expected. As Appellant's son wished to distribute the life insurance to his 5 sisters and mother, if any penalty was to be assessed, Appellant's share would have been \$5,303. Appellant's daughter also requested that MassHealth calculate the penalty using the \$500 daily rate that Appellant's facility charges. Appellant's family has received a \$36,000 bill from the facility, which is more than the amount of the transfer. Exhibit 2.

The hearing record was held open for additional evidence. Exhibit 5. On December 15, 2025, Appellant's representative provided a signed affidavit from her sister, the person who spoke to

¹ There was a minor discrepancy between MassHealth's testimony and the written notice. The correct date based on the calculation appears to be October 21, 2025 as listed on the notice.

Appellant's son about the life insurance proceeds. According to the affidavit, Appellant's son had a stroke on [REDACTED] and passed away on [REDACTED]. Appellant's son told the affiant that he had not changed his insurance policy beneficiary from his mother and asked the affiant to take care of his funeral arrangements and distribute the remaining proceeds to his sisters. Exhibit 6. The affiant confirmed that at the time of this conversation, Appellant was living independently at home. Appellant's family did not contemplate MassHealth eligibility at the time, as the long term care application was not discussed among the family until June 2025. *Id.* The MassHealth representative did not amend the decision based on the affidavit. Exhibit 5.

Findings of Fact

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

1. On June 10, 2025, MassHealth received Appellant's application for long term care benefits.
2. Appellant admitted to the facility on [REDACTED] and requested a coverage start date of August 9, 2025. Exhibit 4.
3. On October 24, 2025, MassHealth approved Appellant's application effective October 21, 2025. Exhibit 1.
4. Using the daily rate of \$441, MassHealth calculated a total penalty period of 73 days, from August 9, 2025 through October 20, 2025. *Id.*
5. Appellant filed a timely appeal on November 12, 2025. Exhibit 2.
6. Appellant was the beneficiary of her son's life insurance policy.
7. On [REDACTED], Appellant's son, who was [REDACTED] years old, passed away after suffering a stroke on [REDACTED]. Exhibit 6.
8. According to an affidavit, Appellant's son asked his sister to ensure that his life insurance proceeds to be used to pay for his funeral arrangements and then distributed among his sisters. *Id.*
9. Appellant was living independently until April 2025, when she was hospitalized after a fall.

Analysis and Conclusions of Law

Per 130 CMR 519.006(A)(4), to qualify for MassHealth Standard coverage as a resident of a long-term care facility, an individual must have countable assets of \$2,000 or less. MassHealth considers any transfer of a resource owned by a nursing facility resident for less than fair market value during

the appropriate look-back period to be a disqualifying transfer unless the transfer in question is permitted or exempted under the regulations. Specifically, 130 CMR 520.018(B) states that MassHealth “will deny payment for nursing facility services to an otherwise eligible nursing-facility resident ... who transfers or whose spouse transfers countable resources for less than fair-market value during or after the period of time referred to as the look-back period.” The look-back period for transfers of resources occurring on or after February 8, 2006 is 60 months. 130 CMR 520.019(B)(2).

According to 130 CMR 520.019(C) (emphasis added):

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 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.

Per 130 CMR 520.0019(G) (emphasis added):

Where the MassHealth has determined that a disqualifying transfer of resources has occurred, the MassHealth will calculate a period of ineligibility. The number of months in the period of ineligibility is equal to the total, cumulative, uncompensated value as defined in 130 CMR 515.001 of all resources transferred by the nursing-facility resident or the spouse, **divided by the average monthly cost to a private patient receiving nursing-facility services in the Commonwealth of Massachusetts at the time of application, as determined by the MassHealth agency.**

In addition to permissible transfers, MassHealth will not impose a period of ineligibility for transferring resources at less than fair market value if Appellant demonstrates to MassHealth’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).

HCFA [Health Care Financing Administration, now called Centers for Medicare and Medicaid Services, or "CMS"] Pub. 45-3, Transmittal 64 § 3258.10 sets forth the following guidance for transfers exclusively for a purpose other than qualifying for Medicaid:

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.

(Emphasis added).

Citing the above provision, the Massachusetts Appeals Court has recognized that "federal law mandates a heightened evidentiary showing" on the issue of exclusive intent. *See Gauthier v. Director of the Office of Medicaid*, 80 Mass. App. Ct. 777, 785-786 (2011). The element of "exclusivity" under this provision means that the possibility of needing public assistance for medical care must not have weighed at all upon Appellant's mind at the time the decision was made.

At issue in this appeal is whether the life insurance proceeds were Appellant's asset and whether the distribution of these proceeds to other family members was a disqualifying transfer under the regulations. As Appellant was the sole beneficiary of her son's life insurance policy, she was legally entitled to receive the proceeds upon her son's death. The distribution of the funds to the other family members may be considered by MassHealth to be a disqualifying transfer pursuant to 130 CMR 520.019(C).

Appellant argued that the transfer was not disqualifying pursuant to 130 CMR 520.019(F) because the transfer was made exclusively for a purpose other than MassHealth qualification. Appellant's representative and the affiant testified that the reason for the distribution was solely to honor Appellant's son's dying wishes after his unexpected stroke. At the time the distribution was made, Appellant was living independently and would not be hospitalized for months. Appellant's representative offered credible testimony that Appellant had not contemplated ever receiving the life insurance proceeds given her son's age. While the testimony alone would not be convincing,

the timeline of events corroborates Appellant's representative's assertion that the family was not considering public assistance for Appellant at the time that the life insurance funds were distributed.

Given the supporting evidence and credibility of testimony, Appellant has met the burden of demonstrating with convincing evidence that the transfer of the life insurance proceeds to Appellant's family was made exclusively for a purpose other than qualifying for Medicaid; to wit, to honor the son's dying wishes without contemplation of Appellant's need for long-term care benefits.

The evidence shows that Appellant's share of the distribution would have been one-sixth of \$31,818, which is \$5,303. Accordingly, this appeal is approved in part to adjust the disqualifying transfer amount to \$5,303. Divided by \$441, the state private pay average, the adjusted penalty period would be 13 days.

Order for MassHealth

Revise the October 24, 2025 notice, approving Appellant's application effective August 22, 2025.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact the 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc: 

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