

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2518397
Decision Date:	01/27/2026	Hearing Date:	01/12/2026
Hearing Officer:	Marc Tonaszuck	Record Open to:	01/16/2026 for the appellant; 01/30/2026 for MassHealth

Appearance for Appellant:



Appearance for MassHealth:

Arlene Hatch



*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:	Community Eligibility – Over 65 - Assets
Decision Date:	01/27/2026	Hearing Date:	01/12/2026
MassHealth's Rep.:	Arlene Hatch	Appellant's Rep.:	[REDACTED]
Hearing Location:	Quincy Harbor South	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 10/09/2025, MassHealth informed the appellant that it denied her MassHealth benefits because her countable assets exceed the program limits (130 CMR 502.002; 502.003; Exhibit 1). The appellant filed her timely appeal on 12/12/2025 05 (130 CMR 610.015(B); 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).

A fair hearing took place on 01/12/2026 and the parties appeared virtually. At the fair hearing the appellant's representative requested an opportunity to show that MassHealth incorrectly determined that the appellant had countable assets over the \$2,000.00 limit. Her request was granted and the record remained open in this matter until -01/16/2026 for the appellant's submission and until 01/30/2026 for MassHealth's response (Exhibit 4). Neither party made a submission during the record open period.

Action Taken by MassHealth

MassHealth denied the appellant's MassHealth benefits.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is not eligible for MassHealth benefits because of her countable assets exceed the \$2,000.00 program limit.

Summary of Evidence

The MassHealth representative testified that the appellant, a single woman who is over 65 years of age, recently submitted her annual eligibility renewal application. According to the information on file, the appellant has a bank account with \$884.63, and she is the owner of a home in [REDACTED] valued at \$343,500.00. She has been determined to be clinically eligible for the Frail Elder Waiver; however, because her assets exceed the \$2,000.00 limit, she is not financially eligible for MassHealth benefits. The appellant lives in [REDACTED] and the house in [REDACTED] is a vacation rental. Because it is not her primary residence, it is countable in an asset calculation.

The MassHealth representative testified that if the [REDACTED] property is being used as a rental, then the appellant can verify the profit and the expenses involved in running the rental business, the asset would be converted to income. She continued that she would accept 2024 US 1040 tax return with all the schedules, especially Schedule E, to verify that the property is an income generating property.

The appellant appeared at the fair hearing, and she testified virtually with the assistance of her adult son. They testified that they would provide the requested verification to show that the [REDACTED] property is income-generating and should not be counted as an asset.

The record was left open for the appellant's submission until 01/16/2026 and until 01/30/2026 for MassHealth's response (Exhibit 4). The appellant did not make a submission during the record open period.

Findings of Fact

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

1. Appellant is over 65 years of age and lives in the community. She is counted as a family group of one for the purposes of MassHealth eligibility (Testimony).
2. The appellant was determined to be clinically eligible for a Frail Elder Waiver.
3. In a recent eligibility review, MassHealth became aware of real estate owned by the appellant in [REDACTED] valued at \$343,850.00.
4. The [REDACTED] property is not the appellant's primary residence.

5. The appellant also has a bank account with a balance of \$884.63.
6. The appellant's total countable assets are \$344,384.63.
7. The asset limit for an individual to be financially eligible for MassHealth benefits under the Frail Elder Waiver is \$2,000.00.
8. The appellant's income is not at issue in this appeal.

Analysis and Conclusions of Law

MassHealth Regulations at 130 CMR 519.007(B) address Home- and Community-based Services Waiver–Frail Elder, as follows:

- (1) Clinical and Age Requirements. The Home- and Community-based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing-facility services to receive certain waiver services at home if they
 - (a) are 60 years of age or older and, if younger than 65 years old, is permanently and totally disabled in accordance with Title XVI standards; and
 - (b) would be institutionalized in a nursing facility, unless he or she receives one or more of the services administered by the Executive Office of Elder Affairs under the Home and Community-Based Services Waiver-Frail Elder authorized under section 1915(c) of the Social Security Act.
- (2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of their marital status. The applicant or member must
 - (a) meet the requirements of 130 CMR 519.007(B)(1)(a) and (b);
 - (b) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual; and
 - (c) **have countable assets of \$2,000 for an individual** and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, 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 (d) have not transferred resources for less than fair market value, as described at 130 CMR 520.018: Transfer of Resources Regardless of the Transfer Date and 520.019: Transfer of Resources Occurring on or After August 11, 1993.

The appellant is over 65 years of age and is a community-based individual whose undisputed countable income is below the income guidelines for this program. MassHealth calculated her countable assets to be \$344,384.63. She has a Frail Elder Waiver in place.

MassHealth determined that the appellant's bank account holding \$884.63 is countable, as is the home she owns in [REDACTED] that is not her primary residence, valued at \$343,500.00.¹ Because the [REDACTED] property is not the appellant's primary residence, it is countable in an eligibility determination.

The appellant and her adult son testified that the [REDACTED] property is used as a rental. The MassHealth representative responded that if the appellant could show the amount of income generated by the [REDACTED] property, it could be considered income, instead of an asset. The appellant requested an opportunity to provide the 2024 US 1040 tax return with all schedules to MassHealth. Her request was granted and the record remained open for her submission. No submission was made during the record open period.

The appellant has not met her burden of showing that MassHealth's determination was incorrect. Accordingly, MassHealth's decision is supported by the regulations and the material facts in the hearing record. This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: [REDACTED]

MassHealth Representative: Quincy MEC, Attn: Appeals Coordinator, 100 Hancock Street, 6th Floor, Quincy, MA 021

¹ See 130 CMR 520.007(G).