

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION NO. 2018-00845

HENRY AND EVA HIRVI,

Plaintiffs,

v.

MARYLOU SUDDERS, et al.,

Defendants.

CONSOLIDATED WITH

SUFFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION NO. 2018-000129

JEAN MAAS,

Plaintiff,

v.

MARYLOU SUDDERS, et al.,

Defendants.

**DEFENDANTS' MEMORANDUM OF LAW**

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## INTRODUCTION

This case presents two consolidated complaints for injunctive relief concerning the notices that the Executive Office of Health and Human Services, Office of Medicaid (“MassHealth”), sends to applicants for coverage of long-term care services in a nursing facility, where the applicants have been denied benefits due to countable assets that are held in a trust and that are in excess of federal and state asset limits for Medicaid eligibility. As discussed below, the notices comport with federal and state Medicaid law and with due process principles, because the notices explain that the applicants were denied benefits due to excess assets, provide individualized calculations of the assets that MassHealth determined were countable, and provide information as to how applicants may pursue an appeal. To the extent that applicants desire additional information about the reasons for their denials, they have opportunities for this through the application and fair hearing processes.

The plaintiffs have also raised claims concerning the practices of the MassHealth Board of Hearings (“BOH”) regarding subpoena requests and hearing officer decisions. However, for the reasons discussed below, these claims are either moot or premature. In addition, although the plaintiffs have made several subpoena requests, these requests have generally restated the same demands that the plaintiffs appear to be making regarding the sufficiency of denial notices; thus, the plaintiffs’ subpoena claims are effectively subsumed under their notice claims. And, even if the plaintiffs had a claim regarding subpoenas that was ripe for review, the subpoenas that they have requested are improper.

In sum, the plaintiffs are not entitled to relief under any of the claims that they have raised, and judgment should therefore enter in favor of the defendants.

## FACTUAL AND PROCEDURAL HISTORY

To apply for MassHealth benefits, an applicant or his or her authorized representative completes an application that requires accurate disclosure of information regarding all of the applicant’s income and assets. *See* M.G. L. c. 118E, § 20; Maas Application for Health Coverage for Seniors and People Needing Long-Term Care Services (“Maas App.”) (**attached**

as **Exhibit A**); Eva E. Hirvi Application for Health Coverage for Seniors and People Needing Long-Term-Care Services (“E. Hirvi App.”) (**attached as Exhibit B**); Eva E. and Henry H. Hirvi Application for Health Coverage for Seniors and People Needing Long-Term-Care Services (“E. and H. Hirvi App.”) (**attached as Exhibit C**). The completed application is assigned to a MassHealth Enrollment Center (“MEC”) worker, who reviews the financial information provided and requests additional information from the applicant as needed to ensure that the applicant’s assets and income are not in excess of Medicaid eligibility limits. *See* Affidavit of Patricia Grant (“Grant Aff.”), ¶¶ 1-3 (**attached as Exhibit D**). The MEC worker then engages in written and telephonic communications with the applicant or representative, until all necessary information has been submitted. *Id.* at ¶ 4. The MEC worker then determines the applicant’s countable assets and income in various categories, which in turn determine the applicant’s eligibility for benefits. *Id.* at ¶ 5. If the application is denied, the MEC worker enters the applicant’s income, assets, and eligibility information into the MassHealth computer system, which generates a standardized denial notice that informs the applicant that they are not eligible for MassHealth; provides the reason(s) for the denial; provides the regulation(s) applicable to the denial; tells the applicant what they must do to qualify for benefits; identifies the amounts of the applicant’s countable assets and income; and instructs the applicant how to request an appeal. *Id.* at ¶ 6, 7; *see* Joint Stipulations of Fact (“Stip.”) ¶ 2 and attached Exhibit 1 (“Maas Denial Notice”), Exhibit 2 (“H. Hirvi Denial Notice”), Exhibit 3 (“E. Hirvi Denial Notice”). Throughout this process, the applicant or representative may contact the MEC worker to ask questions. Grant Aff. ¶ 8. An applicant who is denied benefits may appeal to the MassHealth Board of Hearings (“BOH”), *see* 130 C.M.R. § 610.032(A)(1), and an appellant is entitled to a “reasonable opportunity” to view the contents of his or her “case file.” *See* 130 C.M.R. § 610.050(A).

Following this process, each of the plaintiffs in these cases applied for Medicaid coverage of long-term care services in a nursing facility. Based on the financial information the plaintiffs provided—and, in one plaintiff’s case, on additional information that the plaintiff did not provide

(in violation of program rules) but that MassHealth discovered—the plaintiffs were denied benefits due to excess countable assets that were held in a trust. Each plaintiff received a denial notice that is representative of the standard notices that MassHealth issues to applicants in these circumstances, except as noted below. *See* Stip. ¶ 2. The plaintiffs appealed to the BOH, but while their appeals were still pending, they also sought judicial review in this Court of MassHealth’s practices concerning the sufficiency of the denial notices they received.

**1. Jean Maas**

The plaintiff in the first case, Jean Maas, applied for Medicaid coverage of long-term care services on or about July 18, 2017. *See* Maas App. In her application, her son, who serves as her authorized representative, disclosed Maas’s personal checking account and no other assets. *See id.* at 11-14; Maas Amended Complaint (“M. Am. Compl.”) ¶ 4. However, in the course of verifying the accuracy of the financial information that Maas provided on her application, MassHealth independently determined that Maas was the grantor of an irrevocable trust that she was required to have disclosed on her application. *See* Maas Request for Information dated July 27, 2017, at 2 (**attached as Exhibit E**). MassHealth contacted Maas’s representative seeking additional information about the trust, *see id.*; *see also* Maas Request for Information dated September 11, 2017 (**attached as Exhibit F**), and eventually obtained the trust and a list of assets that were in the trust. *See* Maas List of Properties in Trust (**attached as Exhibit G**). The assets in the trust included real property located in Kinderhook, New York, worth \$249,800, and a bank account containing \$1,771.96.<sup>1</sup> *See id.*; Maas Trust Property Values (**attached as Exhibit H**).

On October 12, 2017, MassHealth issued Maas a notice indicating that her Medicaid application had been denied due to countable assets in excess of allowable amounts. *See* Maas Denial Notice. The denial notice stated that MassHealth had determined that Maas had

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<sup>1</sup> Maas’s personal representative listed an additional bank account, containing \$2,616.51, as additional property in the trust. *See* Maas List of Properties in Trust. However, this bank account was ultimately determined not to be part of the trust.

\$251,796.96 in countable assets; of these, \$100 was in a personal needs allowance account, \$125 was in a bank account, and \$251,571.96 was designated as “other” assets. *See id.* at 4. As the denial notice stated, the federal and state countable asset limit for Medicaid eligibility for an individual is \$2,000. *See id.* at 1; *see also* 130 C.M.R. §§ 520.003(A), 520.004, 520.016(A); 42 U.S.C. § 1382(a)(1)(B), (3)(B). Thus, the denial notice made clear that Maas was found ineligible due to the \$251,571.96 in “other” countable assets. And while the denial notice did not specify that the “other” countable assets at issue were the assets held in Maas’s irrevocable trust, it was evident based on the financial information that Maas’s representative had provided to MassHealth that these were the trust assets, and that MassHealth had determined them to be countable for eligibility purposes. Nevertheless, to eliminate any potential ambiguity as to the source of excess countable assets in the future, effective April 28, 2018, MassHealth voluntarily and permanently changed its standard denial notice issued in trust cases like Maas’s so as to designate specifically the value of countable assets held in a trust as “trust” assets, rather than designating such assets as “other” assets. *See Grant Aff.* ¶ 9 and attachment.

On November 10, 2017, Maas appealed the denial of benefits to the BOH. M. Am. Compl. ¶ 10. Her administrative fair hearing occurred on March 5, 2018, at MassHealth’s Taunton office. M. Am. Compl. ¶ 24; M. Am. Compl. Exhibit I. Twenty days before the fair hearing, MassHealth voluntarily served on Maas a prehearing legal brief further detailing the reasons why MassHealth deemed the assets held in her trust to be countable, leading to the conclusion that her available assets exceeded eligibility limits. *See Memorandum of Law* dated February 13, 2018 (**attached as Exhibit I**).

While her administrative appeal was pending, Maas filed a complaint in this Court against the defendants alleging violations of state and federal Medicaid rules, due process, and Chapter 30A, § 12, and seeking declaratory and injunctive relief and damages. *See Plaintiff’s First Complaint* ¶¶ 22-44 and pp. 11-12. She also filed two motions for a temporary restraining order or for a preliminary injunction seeking, among other things, to force MassHealth to respond to subpoena requests that the BOH had denied. *See Docket Entry Nos.* 4, 12. The Court

denied both of these motions. *See* Order dated February 8, 2018; Order dated March 2, 2018. Maas filed an amended complaint on February 8, 2018, raising the same substantive claims and adding a putative class action claim. *See* M. Am. Compl. ¶¶ 25-51. The defendants moved to dismiss the amended complaint, and the Court allowed the motion in part, ruling that qualified immunity barred Maas's claims for damages. *See* Docket Entry No. 18; Order dated April 12, 2018. On April 27, 2018, Maas moved to certify a class; the Court has not ruled on that motion. *See* Docket Entry No. 22. On May 1, 2018, a BOH hearing officer issued a decision reversing MassHealth's determination and finding Maas eligible for coverage of her long-term care services. *See* BOH Decision dated May 1, 2018 (**attached as Exhibit J**).

## 2. **Henry and Eva Hirvi**

The plaintiffs in the second case, Henry and Eva Hirvi, applied for Medicaid coverage of long-term care services on or about November 9, 2017.<sup>2</sup> *See* E. Hirvi App.; E. and H. Hirvi App. Their applications disclosed assets including bank accounts and real property held in an irrevocable trust, for which the Hirvis were the donors. *See* E. Hirvi App. at 15; E. and H. Hirvi App. at 15. MassHealth contacted their authorized representative seeking additional information about the trust and obtained documentation showing that there were three properties in the trust: one in Paxton, Massachusetts, and two in Rutland, Massachusetts. *See* Hirvi Trust Property Values (**attached as Exhibit K**). The total value of these properties was \$407,900. *See id.* However, when the Hirvis transferred the Paxton property to the trust, they retained life estates in the property that reduced the value of the property that was transferred to the trust.<sup>3</sup>

On January 22, 2018, and February 12, 2018, MassHealth issued the Hirvis notices stating that their Medicaid applications had been denied due to countable assets in excess of

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<sup>2</sup> An application on behalf of Eva Hirvi only was submitted on November 9, 2017; less than one month later, a second application naming both Eva and Henry Hirvi was submitted. *See* E. Hirvi App.; E. and H. Hirvi App.

<sup>3</sup> The Hirvis' retained life estates were recorded in the deed for the Paxton property, which is located at Worcester County, book 49300, page 297 (dated July 18, 2012).

allowable amounts.<sup>4</sup> *See* H. Hirvi Denial Notice; E. Hirvi Denial Notice. Each of the Hirvis was found to have more than \$380,000 in countable assets, comprising cash held in bank accounts; \$34,843.86 in real estate, which was the value of their retained life estates in the Paxton property; and \$347,793.30, which was designated as “other” assets. *See* H. Hirvi Denial Notice at 4; E. Hirvi Denial Notice at 3. Like the notice issued to Maas, the Hirvis’ denial notices stated that the countable asset limit for eligibility was \$2,000. *See* H. Hirvi Denial Notice at 1; E. Hirvi Denial Notice at 1; *see also* 130 C.M.R. § 520.003(A); 520.004, 520.016(A). Likewise, although the Hirvis’ denial notices did not state explicitly that the \$347,793.30 was the value of the property held in trust and that MassHealth had determined these assets to be countable, this was clear from context, because the only properties that the Hirvis had disclosed to MassHealth that were worth that much were the three real properties in the trust.<sup>5</sup> *See* H. Hirvi Denial Notice; E. Hirvi Denial Notice. Again, as noted above, in similar cases, MassHealth’s standard denial notices now designate the value of countable assets held in a trust as “trust” assets, rather than designating such assets as “other” assets. *See* Grant Aff. ¶ 9 and attachment.

Henry and Eva Hirvi also appealed MassHealth’s denials of their Medicaid applications to the BOH, but before their administrative hearing occurred, they filed a complaint in this Court raising substantially the same issues and claims as Maas raises in her amended complaint and seeking the same relief. *See* Hirvi Complaint (“H. Compl.”) ¶ 3, 42-65 and pp. 16-17; *cf.* M. Am. Compl. ¶¶ 25-51 and pp. 13-15. On March 26, 2018, with the parties’ agreement, the Court consolidated Maas’s amended complaint with the Hirvis’ complaint. *See* Order dated March 22, 2018. The Hirvis also moved for a preliminary injunction seeking to prevent their administrative fair hearings from moving forward. *See* Docket Entry No. 4. The Court did not rule on that

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<sup>4</sup> MassHealth issued Eva Hirvi an earlier denial notice on January 17, 2018, indicating that she had failed to provide necessary information in support of her application within the required timeframe. *See* H. Compl. Exhibit 2.

<sup>5</sup> MassHealth found the property in trust to be worth only \$347,793.30, rather than \$407,900, because the value of the property in trust was reduced by the value of the life estates as well as the value of current mortgages on the property. *See* Hirvi Trust Property Values.



motion, but the parties agreed in court that the Hirvis' fair hearings would not move forward until resolution of the issues raised in the consolidated complaints. The Court therefore ordered the parties to submit a joint stipulation and simultaneous briefing on the merits. *See* order dated March 27, 2018 ("After hearing, the issue of preliminary relief is consolidated with a hearing on the merits of the legality of the Office's practices regarding notice, as discussed on the record.").<sup>6</sup>

## ARGUMENT

### **I. Maas's Claims Are Moot.**

As a preliminary matter, the defendants note that all of Maas's claims are moot. As the Court observed early in this case, a plaintiff who has not yet had her administrative hearing "may prevail at the hearing and may receive the equivalent of the procedural protections she seeks." *See* order dated February 8, 2018 (denying Maas's first request for a preliminary injunction). That occurred here: MassHealth voluntarily provided Maas with a legal brief 20 days in advance of her hearing, a MassHealth representative attended Maas's hearing and was available for questions, and Maas ultimately won her appeal. *See* Memorandum of Law dated February 13, 2018; BOH Decision dated May 1, 2018. Maas's claims are therefore moot, since she has "cease[d] to have a personal stake in [the] outcome" of this case. *See Blake v. Massachusetts Parole Bd.*, 369 Mass. 701, 703 (1976).

### **II. Notice to the Plaintiffs of Why They Were Denied Medicaid Benefits Complies with Medicaid Law and Due Process.**

The primary thrust of the two consolidated complaints is that MassHealth has failed to provide the plaintiffs with adequate notice of the reasons for MassHealth's initial determinations

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<sup>6</sup> Although the Court's March 27, 2018, order suggests that the Court may have intended the parties to brief only the notice issue, at a subsequent hearing on April 11, 2018, the Court appeared to indicate that the parties should brief all of the issues raised in the plaintiffs' complaints. And, in any event, as discussed below, the Court should deny the subpoena and consistency of decision claims at this time. Further, although the Court did not specify the procedural mechanism by which it will adjudicate the issues raised in the parties' simultaneously filed memoranda, the Court should treat these memoranda as cross-motions for summary judgment, viewing the evidence in the light most favorable to the nonmoving party. *See, e.g., Massachusetts Bay Transp. Auth. v. City of Somerville*, 451 Mass. 80, 84 (2008).

that they were ineligible for benefits. *See* M. Am. Compl. ¶¶ 9, 21, 26, 28, 29, 31; H. Compl. ¶¶ 11, 13, 15, 17, 20, 28, 30, 43, 46, 47, 49. But, as discussed above, MassHealth did provide a notice to each plaintiff advising them that their countable assets exceeded the allowable limit under Medicaid law for coverage of their long-term care services. This notice complied with the federal and state regulations governing Medicaid notices, and due process does not require more.

Federal and state Medicaid regulations mandate that a notice denying eligibility provide “[a] clear statement of the specific reasons supporting the [denial]” and citations to “[t]he specific regulations that support, or the change in Federal or State law that requires, the [denial].” 42 C.F.R. § 431.210; *see* 42 C.F.R. § 435.917(a), (b)(2) (Medicaid denial notices must be “timely and adequate” and must comply with § 431.210); *see also* 130 C.M.R. § 610.026(A) (requiring “adequate” notice of an intended agency action, including the reasons for the action and citations to regulations).<sup>7</sup> The notices that the plaintiffs received met these requirements. As discussed above, each plaintiff received a notice that (1) indicated that the plaintiff was denied for having excess countable assets, (2) provided the relevant asset limit with citations to regulations, and (3) provided a summary of the plaintiff’s assets that MassHealth had determined were countable, leading to the determination of ineligibility. *See* Maas Denial Notice; E. Hirvi Denial Notice; H. Hirvi Denial Notice. Although the plaintiffs’ denial notices did not state explicitly that the bulk of the plaintiffs’ countable assets were held in their irrevocable trusts, this was unmistakably clear in context, given the financial documents that the plaintiffs had provided in support of their applications; further, MassHealth has recently changed its standardized notices so as to eliminate any conceivable confusion for future applicants as to whether countable assets are held in a trust by clearly labeling such assets as “trust” assets. *See* Grant Aff. ¶ 9 and attachment.

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<sup>7</sup> Written notice of MassHealth eligibility determinations, including notice of an applicant’s appeal rights, is also required under 130 C.M.R. § 516.008. That regulation similarly requires that the notice “either provide[] information so the applicant or member can determine the reason for any adverse decision or direct[] the applicant or member to such information.” 130 C.M.R. § 516.008(A).

The denial notices that MassHealth mails to applicants like the plaintiffs are relatively straightforward, but that is by design. In addition to the explanation of why the applicant was denied benefits and citations to supporting regulations, federal regulations require that such notices include a statement of the action that the agency intends to take (i.e., denial of eligibility), the effective date of the agency's action, and an explanation of the applicant's appeal rights; the notices at issue here provide all of this information. *See* 42 C.F.R. § 431.210; *see also* Maas Denial Notice; H. Hirvi Denial Notice; E. Hirvi Denial Notice. At the same time, the notices must still be simple and clear enough so that applicants with and without legal representation may understand them; accordingly, federal regulations also require that notices be "written in plain language" and be accessible to persons with limited English proficiency and with disabilities. *See* 42 C.F.R. § 435.917(a). It would be contrary to these principles to further complicate the notices by adding detailed legal information to them.<sup>8</sup>

Insofar as the plaintiffs ground their arguments regarding the insufficiency of MassHealth's denial notices in due process principles, the plaintiffs have never articulated specifically what additional notice they believe due process requires and why. Instead, they have repeatedly reiterated their demand for "the reasons for the denial of eligibility," relying on the general principle that a public benefits recipient must have "timely and adequate notice detailing the reasons" for the agency's eligibility determination, including the "factual premises" for the

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<sup>8</sup> As an example, in 2017, a working group that included the federal Centers for Medicare and Medicaid Services ("CMS") released a set of model notices that states may customize for use in developing standardized notices to send to Medicaid applicants in a variety of circumstances. *See* Medicaid and CHIP Learning Collaboratives, "Eligibility-Related Determination Notices State Toolkit: Tool #4, Model Notices," available at <https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/learning-collaborative-state-toolbox/downloads/tool-4-model-notices.pdf> (**attached as Exhibit L**). Although none of the model notices are for applicants who have been denied coverage of long-term care services due to assets in countable trusts, two of the model notices are for persons who have been denied benefits on another basis. *See id.* at Notice 6, Notice 7. In these model notices, the reason provided for the denial is simply that the applicant is ineligible due to income in excess of allowed amounts; no legal analysis is included other than the applicant's income, the maximum amount allowed for eligibility, and citations to regulations. *See id.* at Notice 6, Notice 7.

decision. See M. Am. Compl. ¶ 29; H. Compl. ¶ 47; Plaintiffs' Opposition to Defendants' Motion to Dismiss Amended Complaint ("Motion to Dismiss Opp.") at 2, 8-9; see also *Goldberg v. Kelly*, 397 U.S. 254, 267-68 (1970). But the defendants have already provided each plaintiff with the reason that they were found ineligible: as discussed above, the notices stated that the plaintiffs were found ineligible due to excess assets, largely held in trusts. See Maas Denial Notice; H. Hirvi Denial Notice; E. Hirvi Denial Notice. And although courts have generally required state Medicaid agencies to provide applicants with individualized denial notices showing calculations of the applicants' countable income and assets, see, e.g., *Ortiz v. Eichler*, 794 F.2d 889, 892-93 (3rd Cir. 1986); *Dilda v. Quern*, 612 F.2d 1055, 157 (7th Cir. 1980),<sup>9</sup> MassHealth has already done that by including in each denial notice the total amount of the applicant's countable assets as well as a breakdown of the value of each type of asset found countable. See Maas Denial Notice; H. Hirvi Denial Notice; E. Hirvi Denial Notice. To the extent that the plaintiffs remained at all unclear as to the "factual premises" for any of this information, any ambiguities could have been resolved through informal communications with their assigned MEC workers, see Grant Aff. ¶¶ 4, 8, and through review of their case files. See 130 C.M.R. § 610.050(A) (fair hearing appellants are entitled to a "reasonable opportunity to examine the entire contents of [their] case file[s], as well as all documents and records to be used by the MassHealth agency ... at the hearing").

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<sup>9</sup> For example, the Third Circuit affirmed an order requiring that, in notices denying or terminating public benefits, "[i]f calculations of a claimant's income or resources are involved, [the agency] must set forth the calculations it used to arrive at its decision, i.e., explain what funds it considers the claimant to have and what the relevant eligibility limits are." *Ortiz*, 794 F.2d at 892-95 (emphasis omitted). Similarly, the Seventh Circuit found that a reduction or cancellation of welfare benefits required the beneficiary to be provided with a "breakdown of income and allowable deductions"; simply stating that a change had been made to a recipient's benefits was not enough. *Dilda*, 612 F.2d 1056-57; cf. *Correia v. Department of Pub. Welfare*, 414 Mass. 157, 166-67 (1993) (notice to applicants for disability benefits stating that they had "failed to provide information necessary to determine eligibility" was inadequate, but a two-page standard form listing medical issues for which applicants had failed to provide information was adequate). As noted above, the notices at issue in this case met these standards by providing more than simply a statement that applicant was denied due to excess assets; rather, they provided a total amount and calculation of those assets.

Moreover, if what the plaintiffs seek is a court order requiring MassHealth to serve a legal memorandum or brief in advance of an appellant's fair hearing, then that claim fails. *See* Motion to Dismiss Opp. at 2-3 (arguing that Maas learned the "specific reasons" for her denial 20 days prior to her fair hearing, when MassHealth served its brief). MassHealth is not aware of any authority, nor have the plaintiffs cited any, to support a claim that due process requires MassHealth to provide appellants with a brief or similar memorandum in support of its legal arguments in advance of fair hearings. To the contrary, the Supreme Judicial Court has held that, in the context of agency adjudicatory proceedings, due process requires only that "notice must be given that is reasonably calculated to apprise an interested party of the proceeding and to afford him an opportunity to present his case"; the agency is "not required to turn over all of the evidence it will introduce to support those grounds" in advance of the hearing. *Strasnick v. Board of Registration in Pharm.*, 408 Mass. 654, 660-61 (1990) (no due process violation where agency did not specify prior to fair hearing which prescriptions out of approximately 13,000 were alleged to be improper, but pharmacists had time to review board's evidence and analysis and respond before hearing record closed). For the reasons discussed above, in the present cases, it is clear that, in order to prevail at their fair hearings, the plaintiffs must demonstrate that the assets held in their trusts are not countable. They have all that they need in order to be able to make their arguments on this issue at their fair hearings: they have access to their own trusts or can get them by requesting their case files, *see* 130 C.M.R. § 610.050(A), and they know or can research the law as it applies to the provisions of their trusts.<sup>10</sup> Placing this burden on appellants in the first instance is appropriate given that, in general, the burden to demonstrate Medicaid eligibility falls on the applicant; the burden is not on the agency to demonstrate an applicant's ineligibility. *See Lavine v. Milne*, 424 U.S. 577, 582-83 (1976) (applicants for most

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<sup>10</sup> In Medicaid cases involving an applicant's self-settled irrevocable trust, it is settled that if, under any circumstances described in the terms of the trust, any of the trust assets can be paid to or for the benefit of the applicant, then the assets are countable for purposes of determining the applicant's Medicaid eligibility. *See* 42 U.S.C. § 1396p(d)(3)(B)(i); 130 C.M.R. § 520.023; *Daley v. Secretary of Executive Office of Health and Human Servs.*, 477 Mass. 188, 193 (2017).

governmental benefits “bear the burden of showing their eligibility in all respects”); *cf. Smith v. Director of Division of Employment Security*, 384 Mass. 758, 761 (applicants for unemployment insurance bear burden of demonstrating eligibility for unemployment benefits); *Learned v. Department of Public Welfare*, 15 Mass. App. Ct. 923, 923 (1983) (same for applicants for Aid to Families with Dependent Children).<sup>11</sup>

Finally, although the plaintiffs are not entitled to a MassHealth prehearing brief or other memorandum detailing MassHealth’s legal reasoning, they have a panoply of rights throughout the fair hearing process that ensure them an opportunity to learn the complete legal basis for the denial and to respond. *Cf. Strasnick*, 408 Mass. at 661 (plaintiff had adequate notice and opportunity to respond when entire administrative proceeding taken into consideration). As noted above, the plaintiffs may review the contents of their case file prior to the hearing. 130 C.M.R. § 610.050(A). They also have the right to be represented at the hearing, *see* 130 C.M.R. § 610.016, and to present testimony, introduce evidence, and cross-examine adverse witnesses. *See* 130 C.M.R. § 610.061. MassHealth has similar rights and is required to designate a staff person or representative to appear at the evidentiary hearing and “to submit to the hearing officer at or before the hearing all evidence on which any action at issue is based.” *See* 130 C.M.R. § 610.062; *see also* M. Am. Compl. Exhibit H (noting that Maas had an opportunity at her fair hearing to ask the MassHealth representative present about any changes in the agency’s policy). And, if the plaintiffs believe the exchange of prehearing legal briefs may help clarify the legal or factual issues to be presented at the hearing, they may request an order from the hearing officer requiring such an exchange. *See* 130 C.M.R. § 610.065(B)(3), (11) (Board hearing officers may order prehearing activities, such as a prehearing conference, or may order the parties to submit written briefs). If MassHealth presents evidence or legal arguments at the hearing to which the plaintiffs believe they need more time to respond, they can request that the hearing record be

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<sup>11</sup> Insofar as the plaintiffs seek release of internal legal memoranda created by MassHealth attorneys for other MassHealth staff, these memoranda are protected by the attorney-client privilege and work product doctrines, as discussed in Section III.C. below.

kept open to allow them to submit additional material. Thus, although the plaintiffs are entitled only to a straightforward written notice of the reasons that they were initially found ineligible for benefits, they have ample opportunity throughout the course of the application and the fair hearing process to have answered any remaining questions that they might have as to MassHealth's legal reasoning and to address any errors that they believe may have occurred.

### **III. The Plaintiffs' Subpoena Claims Must Be Denied.**

#### **A. None of the Plaintiffs Have Live Controversies Concerning Subpoenas that Are Ripe for Judicial Review.**

As discussed above, all of Maas's claims are moot, because she has had her administrative hearing and received a favorable decision. The Hirvis, as discussed below, have submitted several subpoena requests to the BOH, but the BOH has not acted on those requests because the parties agreed to stay the Hirvis' administrative appeals pending the outcome of this case. Accordingly, there are no named plaintiffs in this case who have requested subpoenas and had their requests denied and whose cases are not moot. Therefore, the Court should decline to consider the plaintiffs' claims regarding subpoenas.<sup>12</sup> Moreover, even if the Court were to address the plaintiffs' subpoena claims, the claims fail for the reasons discussed below.

#### **B. The Plaintiffs' Subpoena Claims Are Indistinguishable from Their Notice Claims.**

In addition to their claims regarding MassHealth's notices, the plaintiffs have also challenged the BOH's refusal to issue subpoenas in response to the plaintiffs' requests. But although the plaintiffs have made multiple demands couched as subpoena requests, they are not seeking subpoenas as contemplated under G.L. c. 30A, § 12. Rather, they appear to be invoking their right to subpoenas under that statute as an attempt to force the BOH to require MassHealth

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<sup>12</sup> As noted above, the Court has not yet ruled on the plaintiffs' motion for certification of a class action. For the reasons set forth in the defendants' memorandum in opposition to the plaintiffs' motion, the defendants oppose class action certification. But even if the Court were to allow class certification on one or more of the plaintiffs' claims, there remain no examples before this Court of subpoena requests that the BOH has improperly denied. Therefore, the Court should still decline to address the plaintiffs' subpoena claims.

to provide the same vaguely defined “reasons” for the plaintiffs’ denial of eligibility to which the plaintiffs have claimed entitlement under their notice arguments. The plaintiffs’ claims concerning their right to subpoenas are thus subsumed under their notice claims.

General Laws c. 30A authorizes an agency conducting an adjudicatory hearing to issue subpoenas “requiring the attendance and testimony of witnesses and the production of any *evidence*, including books, records, correspondence or documents, relating to any matter in question in the proceeding.” G.L. c. 30A, § 12(1) (emphasis added). Evidence is not legal argument; rather, it is the relevant factual material upon which the parties’ arguments may be based. But the plaintiffs’ subpoena requests are not targeted at obtaining factual material, for good reason: such requests would be unnecessary because, as discussed above, the plaintiffs have opportunities to learn the facts relevant to their cases through review of their case files and discussions with their eligibility workers. *See* 130 C.M.R. § 610.050(A); Grant Aff. ¶¶ 4, 8. And, insofar as the plaintiffs need copies of documents such as their irrevocable trusts in order to pursue their appeals, such documents are presumably already in the plaintiffs’ possession.

Instead, the only subpoena requests that the plaintiffs have made to the BOH have been demands for further details as to the agency’s legal reasoning. For example, Maas requested that the BOH issue an “order or subpoena” directed at MassHealth that would require the agency to provide “all of the reasons for the denial” as well as any fair hearing decisions that appear to have resulted in a contrary outcome “along with an explanation of any of the agency’s changes in position.”<sup>13</sup> *See* M. Am. Compl. Exhibit D. Likewise, the Hirvis attached to their administrative

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<sup>13</sup> Maas later attempted to rework her subpoena request so that instead of demanding the reasons for the decision, Maas sought to require MassHealth to simply provide copies of all fair hearing decisions within a designated period of time that contained certain factual scenarios. *See* Maas Subpoena Request dated February 13, 2018 (attached to Maas’s February 27, 2018, motion to compel) (**attached as Exhibit M**). But prior fair hearing decisions are already available to the public at the BOH office, as required under federal regulations. *See* 42 C.F.R. 431.244(g). And, as this Court noted in its March 2, 2018, order denying Maas’s second request for a preliminary injunction, “a subpoena is not an appropriate vehicle to force [MassHealth] to do plaintiff’s legal research, particularly where [MassHealth] has represented that it has no better way than the general public to do an electronic search of the database of decisions.”



appeal request a demand for the BOH to issue an “order or subpoena” compelling MassHealth to “1. Set forth the reasons for their Denial; 2. Provide an explanation of the Agency determination relative to ‘countable assets’; and 3. Provide the Agency Legal Memorandum relative to this appeal... no less than ten (10) days before the date of the appeal.” *See* H. Compl. Exhibit 7. On April 10, 2018, the Hirvis’ counsel made an additional demand for subpoenas seeking documents that “describe[d] the FACTS” underlying MassHealth’s decisions on the Hirvis’ applications, but these again were not requests for actual facts.<sup>14</sup> *See* Stip. ¶ 3 and Exhibit 4. Rather, these were yet more requests seeking further details as to the legal reasoning behind the Hirvis’ eligibility decisions, including “[a]ll fair hearing decisions or court decisions which were considered as relevant to the [Hirvis’] application[s], including but not limited to any such decisions which reject or support the legal basis or theory upon which [the] application[s] [were] denied.” *See* Stip. ¶ 3 and Exhibit 4. The plaintiffs’ subpoena requests therefore read as various attempts to restate the same demands that the plaintiffs have made in their notice claims and do not form the basis of a separate claim for relief.

**C. The Plaintiffs’ Subpoena Requests Are Improper and Unnecessary.**

The plaintiffs’ subpoena claims should also be denied because their subpoena requests are improper. A subpoena is not an appropriate way of obtaining an opponent’s legal reasoning or analysis. First, it is “inappropriate” to use an administrative hearing or litigation to “[i]nquir[e] into the mental processes of administrative decision makers.” *New England Med. Ctr., Inc. v. Rate Setting Comm’n*, 384 Mass. 46, 56 (1981) (citing, *e.g.*, *United States v. Morgan*, 313 U.S. 409, 422 (1941)). And second, insofar as the plaintiffs’ subpoena requests are targeted at obtaining written memoranda from MassHealth’s attorneys to other agency staff, and/or the mental impressions or analysis of MassHealth’s attorneys regarding eligibility decisions that

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<sup>14</sup> The April 10 request also sought the appearance and testimony of the Director or Custodian of Records of the Medicaid Enrollment Center in Springfield, Massachusetts. *See* Stip. ¶ 3 and Exhibit 4. But, as noted above, MassHealth’s regulations already provide that MassHealth shall “designate a staff person or representative to appear at [a fair] hearing” and shall “ensure that the case file is present at the hearing.” 130 C.M.R. § 610.062(C),(D).

have been or could be subject to litigation, the requests run afoul of the attorney-client privilege and work product doctrines. *See Suffolk Constr. Co. v. Division of Capital Asset Mgmt.*, 449 Mass. 444, 450-51 (2007) (attorney-client privilege protects confidential legal advice given by agency counsel); *DaRosa v. City of New Bedford*, 471 Mass. 446, 458-60 (2015) (discussing protections from disclosure for attorney work product in litigation and public records contexts).

Furthermore, “[i]n general, administrative agencies have broad discretion over procedural aspects of matters before them.” *Zachs v. Department of Pub. Util.*, 406 Mass. 217, 227 (1989). Although G.L. c. 30A, § 12, states that “[a]ny party to an adjudicatory proceeding shall be entitled as of right to the issue of subpoenas,” *see* G.L. c. 30A, § 12(3), the statute also provides a mechanism whereby the agency may evaluate whether a requested subpoena relates “with reasonable directness to any matter in question,” or whether it is “unreasonable or oppressive.” *See* G.L. c. 30A, § 12(4). Similarly, both the formal and informal Standard Adjudicatory Rules of Practice and Procedure recognize that hearing officers have some discretion in whether to issue subpoenas. *See* 801 C.M.R. § 1.01(g) (agencies “*may* issue, vacate or modify subpoenas”) (emphasis added), § 1.02(i) (same). These rules do not apply to hearings before the BOH, which has its own regulations governing fair hearings, but the discretion afforded to other hearing officers in issuing subpoenas under the Standard rules is consistent with that which is provided to hearing officers under the BOH rules.<sup>15</sup> *See* 130 C.M.R. § 610.052(B).

Here, even if the plaintiffs’ requests were interpreted in a manner that does not run afoul of any of attorney-client privilege or work product principles, the subpoena requests remain unnecessary and burdensome, and may be appropriately denied on that basis. As discussed above, the plaintiffs may review their case files and have conversations with their eligibility worker prior to their hearings. *See* 130 C.M.R. § 610.050(A); Grant Aff. ¶¶ 4, 8. A MassHealth representative will also be available at the plaintiffs’ hearings to answer any appropriate

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<sup>15</sup> This discretion to exercise some control over subpoenas is particularly important in the BOH context, because the BOH must have authority to ensure compliance with specific privacy rules governing Medicaid applications and appeals. *See* G.L. c. 118E, § 49 (limiting use or disclosure of information concerning applicants and recipients of MassHealth benefits).

questions, *see* M. Am. Compl. Exhibit H; 130 C.M.R. § 610.062(B), and the plaintiffs may request the exchange of prehearing briefs, *see* 130 C.M.R. § 610.065(B)(3), (11), or to have the record kept open after the hearing for further submissions. Insofar as the plaintiffs are seeking prior fair hearing decisions, these are also available to the public at the BOH office, in accordance with federal regulations. *See* 42 C.F.R. 431.244(g) (“The public must have access to all agency hearing decisions, subject to ... requirements ... for safeguarding of information.”). In short, where the plaintiffs’ subpoena requests are not aimed at producing anything to which the plaintiffs are entitled and to which they do not already have access, their subpoena claims should be denied.

#### **IV. The Plaintiffs Are Not Entitled to an Advisory Opinion on the Claims They Raise Regarding Reasoned Consistency in Hearing Decisions.**

As with the plaintiffs’ claims concerning subpoenas, insofar as the plaintiffs have raised claims concerning the consistency of fair hearing decisions from the BOH, none of these claims are ripe for the Court’s review. *See* M. Am. Compl. ¶ 33; H. Compl. ¶ 51. As discussed above, Maas won her administrative appeal; therefore, she cannot possibly be harmed due to any alleged failure of the hearing officer to engage in reasoned consistency, and her claims to this effect are moot. Regarding the Hirvis, because they have yet to receive their administrative hearing, let alone a decision, their claim of entitlement to consistent decision making cannot be adjudicated except in the abstract. Thus, any decision on this issue would be an improper advisory opinion rendered without the assistance of any example of the type of final agency decision that the plaintiffs believe offends due process.<sup>16</sup> *See* M. Am. Compl. ¶ 33; H. Compl. ¶ 51.

The plaintiffs cannot avoid this conclusion by styling their claim as a request for declaratory and injunctive relief. It is settled that courts should not adjudicate abstract or hypothetical legal questions. *See Abdow v. Attorney General*, 468 Mass. 478, 507-08 (2014) and

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<sup>16</sup> Again, this conclusion remains true even if the Court were to allow class certification on one or more of the plaintiffs’ claims; in the absence of any adverse hearing decision, the Court can only address the plaintiffs’ consistency claims in an abstract and hypothetical manner.

cases cited (courts do not evaluate constitutionality or legal effect of initiative petitions that have not yet passed); *Answer of the Justices to the Governor*, 364 Mass. 838, 846 (1973) (Supreme Judicial Court “cannot answer abstract questions of law or hypothetical questions” posed by Governor). This is no less true where the plaintiffs seek a declaratory judgment. “In order for a court to provide declaratory relief, an actual controversy—that is, a controversy appropriate for judicial resolution—must exist. In the context of a dispute between an administrative agency and a party, there is no actual controversy in the absence of final agency action.” *Hingham v. Department of Hous. and Cmty. Dev.*, 451 Mass. 501, 505 (2008); see *East Chop Tennis Club v. Massachusetts Comm’n Against Discrimination*, 364 Mass. 444, 450 (1973) (“A proceeding for declaratory relief in itself does not operate to suspend the ordinary requirement that a plaintiff exhaust his administrative remedies before seeking judicial relief.”). In determinations of Medicaid eligibility, the hearing officer’s decision on an administrative appeal is considered the final decision of the agency. See 118E, § 48 (“The decision of the referee shall be the decision of the division.”). Therefore, in the absence of any hearing officer decisions that are adverse to one or more of the plaintiffs, any ruling regarding the required substance of such decisions or the analysis that hearing officers must undertake in their decisions would be premature.<sup>17</sup>

Finally, even if one of the plaintiffs had received an adverse hearing decision that the Court could evaluate for consistency with other decisions, that alone would not entitle the plaintiffs to a blanket ruling regarding reasoned consistency in agency decisions. Although “[a] party to a proceeding before a regulatory agency ... has a right to expect and obtain reasoned consistency in the agency’s decisions[,]” this rule has generally applied to exercises of an

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<sup>17</sup> The plaintiffs have at times suggested in court that they are challenging alleged inconsistencies in the determinations of MassHealth’s eligibility workers, rather than in the decisions of BOH hearing officers. However, plaintiffs are required to exhaust their administrative remedies before resorting to the courts. See *Gill v. Board of Registration of Psychologists*, 399 Mass. 724, 726 (1987). In the context of challenges to MassHealth eligibility determinations, this principle requires an administrative appeal and a decision from a BOH hearing officer, which is the final agency decision, before an aggrieved party may seek judicial review of the agency’s action. See 118E, § 48. Thus, any legal challenges to MassHealth eligibility determinations must be directed against hearing officer decisions, not against the decisions of eligibility workers.

agency's regulatory authority, not to individual adjudications by independent hearing officers. See *Boston Gas Co. v. Department of Pub. Util.*, 367 Mass. 92, 104 (1975) (reviewing regulatory decision by utility company); cf. *Davila-Bardeles v. Immigration and Naturalization Service*, 27 F.3d 1 (1st Cir. 1994) (reviewing decision of Board of Immigration Appeals, which has appellate authority over U.S. immigration courts). And even if the plaintiffs are entitled to some level of consistency among hearing officer decisions, this "does not mean that an agency may never deviate from its original position, but rather means only that any change from an established pattern of conduct must be explained." *Tofias v. Energy Facilities Siting Bd.*, 435 Mass. 340, 349 (2001) (internal citations and quotations omitted). Here, the plaintiffs seek to apply these principles to Medicaid eligibility determinations in trust cases, which are inherently fact specific and dependent on the language of the particular trusts at issue; thus, they are susceptible to reasoned explanation for why hearing officers might reach different results in different cases. Moreover, each hearing officer is treated as an independent "referee" under the BOH's statute and is directed to "base his or her decision solely on the testimony, evidence, materials and legal rules adduced at the hearing." See G.L. c. 118E, § 48. Should a hearing officer make an error in one case, no other hearing officer is bound to repeat that error in another case. See *Ford v. Commissioner of Div. of Med. Assistance*, 2009 WL 3334842, at \*2 (Mass. App. Ct. Oct. 19, 2009) (Rule 1:28 decision), *rev. denied*, 455 Mass. 1106 (2009) (**attached as addendum**). These nuances are all the more reason why the Court should decline to address the plaintiffs' claims regarding reasoned consistency in the abstract, particularly given that any individual who has received an adverse decision from a hearing officer may challenge that decision in the context of an appeal under G.L. c. 30A, § 14.

CONCLUSION

For the foregoing reasons, defendants respectfully request that the Court deny on the merits or dismiss all of the plaintiffs' substantive claims and enter judgment for the defendants.

Respectfully submitted,

MARYLOU SUDDERS, Secretary of the Executive Office of Health and Human Services; and KIM LARKIN, Director of the Board of Hearings of the Office of Medicaid of the Executive Office of Health and Human Services,

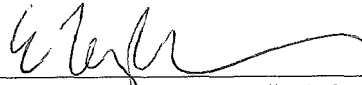
By their attorney,

MAURA HEALEY  
ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by ~~mail~~ (by hand) on 5.25.18

Eugenia Luis



Elizabeth Kaplan, BBO#568911  
Assistant Attorney General  
Government Bureau  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2075  
Elizabeth.Kaplan@state.ma.us

DATE: May 25, 2018

# EXHIBIT A

# Application for Health Coverage for Seniors and People Needing Long-Term-Care Services



Please Print Clearly. Be sure to answer all questions. Fill out all parts of the application, along with all supplements that apply. If you need more space, attach a separate piece of paper to the application. Put Person 1's name and social security number at the top of any attached paper.

For each member in your household, please put the name(s) of the individual(s) under the program or programs he or she wants to apply for. Please see the Senior Guide to learn more about coverage under these programs.

Please list the names of everyone who is applying for health coverage on this application.

**MassHealth or the Health Safety Net**  
 (If living at home, or in a rest home, an assisted living facility, a continuing care retirement community, or life care community, fill out this application and any supplements that apply to you or any household member.) MassHealth will check if anyone applying for health coverage on this application is eligible for MassHealth or the Health Safety Net.

You: \_\_\_\_\_

Spouse: \_\_\_\_\_

**Long-Term Care and/or Home- and Community-Based Services Waiver**  
 (If applying for or getting long-term-care services at home under an HCBS Waiver, or in a nursing home or chronic hospital, fill out this application and any supplements that apply to you or any household member, including all or part of the Long-Term-Care Supplement.)

You: Jean Maas

Spouse: \_\_\_\_\_

**Health Connector Programs**  
 Health coverage through the Massachusetts Health Connector is not MassHealth. If you have Medicare, you will not be eligible for any cost sharing or Advance Premium Tax Credits, and you cannot purchase a plan through the Health Connector, unless you were enrolled in a Health Connector plan when you became eligible for Medicare. The only time you should apply for Health Connector programs if you have Medicare is if you are not enrolled in Medicare yet but would have to pay for your Medicare Part A premium. In this case, you may be eligible for a Health Connector plan.

You: \_\_\_\_\_

Spouse: \_\_\_\_\_

**RECEIVED**

JUL 18 2017

## STEP 1 Person 1 (YOU) - Tell us about YOURSELF.

**MASSHEALTH**

We need one adult in the household to be the contact person for your application. Please note that this should be someone who appears on the application, not a third party who wishes to serve as a contact for the applicant(s). Please see the Authorized Representative Designation (ARD) Form after page 29 to establish a third-party contact.

1. First name, middle name, last name, and suffix <b>Jean Maas</b>			2. Date of birth <b>1935</b>	
3. Home address <input type="checkbox"/> Check this box if homeless. You must provide a mailing address. [REDACTED]			4. Apartment or suite number	
5. City <b>Lenox, MA</b>	6. State [REDACTED]	7. ZIP code [REDACTED]	8. County <b>Berkshire</b>	
9. Is this a hospital, nursing facility, or other institution? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, facility name				
10. Mailing address <input checked="" type="checkbox"/> Check if same as home address.			11. Apartment or suite number	
12. City	13. State	14. ZIP code	15. County	
16. Phone number <b>2355</b>		17. Other phone number		
18. E mail [REDACTED]			19. # of people listed on the application <b>1</b>	
20. What is your preferred spoken or written language (if not English)?				



21. Is anyone on this application in prison or jail?  Yes  No  
If yes, who? Enter the name here: \_\_\_\_\_

### FOR ENROLLMENT ASSISTERS ONLY

Complete this section if you are an enrollment assister and are filling out this application for someone else. Navigators must fill out a Navigator Designation Form if they have not done so already. Certified Application Counselors must fill out a Certified Application Counselor Designation Form if they have not done so already.

Check one  Navigator  Certified Application Counselor

First name, middle name, last name and suffix		E-mail address
Organization name	Organization identification number	Organization phone number

### STEP 2 Person 1

1. First name, middle name, last name, and suffix  
Jean Mass

2. Gender  Male  Female

3. Relationship to you  
SELF

4. Are you applying for health or dental coverage for YOURSELF?  Yes  No  
If yes, answer all the questions below in Step 2 for Person 1 (yourself).  
If no, answer Question 13 (accommodations), then go to the Income Information section on page 4.

5. Are you married?  Yes  No  
If yes, name and DOB of spouse \_\_\_\_\_

6. We need a social security number (SSN) for every person applying for health coverage who has one. An SSN is optional for persons not applying for health coverage, but giving us an SSN can speed up the application process. We use SSNs to check income and other information to see who is eligible for help with health coverage costs. If someone needs help getting an SSN, call the Social Security Administration at 1-800-772-1213 (TTY: 1-800-325-0778 for people who are deaf, hard of hearing, or speech disabled), or go to [socialsecurity.gov](http://socialsecurity.gov). Please see the Senior Guide for more information.

- a. Do you have a social security number (SSN)?  Yes  No  
If yes, give us the number (optional if not applying) 9601  
If no, check one of the following reasons.  Just applied  Noncitizen exception  Religious exception
- b. Is your name on this application the same as your name on your social security card?  Yes  No  
If no, what name is on your social security card? \_\_\_\_\_

First name, middle name, last name, and suffix

7. If you get an Advance Premium Tax Credit for 2017, do you agree to file a federal tax return for tax year 2017?  Yes  No  
You may not have needed or chosen to file a tax return in the past, but you will have to file a federal income tax return for any year that you get an Advance Premium Tax Credit. You must check "Yes" to be eligible for ConnectorCare or Advance Premium Tax Credits to help pay for your health insurance. You do NOT need to file a tax return to get MassHealth benefits.

If yes, please answer questions a-d. If no, skip to question d.

a. Are you considered married for tax filing purposes?  Yes  No  
See IRS Publication 501 or consult a tax professional for tax filing information.  
If yes, list name of spouse and date of birth. \_\_\_\_\_

b. Do you plan to file a joint federal tax return with your spouse for 2017?  Yes  No  
You must file a joint federal tax return with your spouse for 2017 to get certain programs unless you are a victim of domestic abuse or abandonment. If you are a victim of domestic abuse or are an abandoned spouse, you should answer "No" to question 7a ("are you considered married for tax filing purposes") and "No" to question 7b ("do you plan to file with your spouse"), even if that is not how you actually file. You will only need to include yourself and any dependents on this application.

c. Will you claim any dependents on your federal income tax return for 2017?  Yes  No.  
You will claim a personal exemption deduction on your 2017 federal income tax return for any individual listed on this application as a dependent who is enrolled in coverage through the Massachusetts Health Connector and whose premium for coverage is paid in whole or in part by advance payments.

If yes, list name(s) and date(s) of birth of dependents.

d. Will you be claimed as a dependent on someone else's federal income tax return for 2017?  Yes  No  
If you are claimed by someone else as a dependent on their 2017 federal income tax return, this may affect your ability to receive an Advance Premium Tax Credit. Do not answer "Yes" to this question if you are a child under 21 years of age being claimed by a noncustodial parent.

If yes, please list the name of the tax filer.

Tax filer date of birth \_\_\_\_\_ How are you related to the tax filer? \_\_\_\_\_

Is the tax filer married, filing a joint return?  Yes  No

If yes, list name of spouse and date of birth. \_\_\_\_\_

Who else does the tax filer claim as dependents? \_\_\_\_\_

8. Are you a U.S. citizen or U.S. national?  Yes  No

If yes, are you a naturalized citizen (not born in the US)?  Yes  No

Alien number \_\_\_\_\_ Naturalization or citizenship certificate number \_\_\_\_\_

9. If you are a noncitizen, do you have an eligible immigration status?  Yes  No

See page 20, "Immigration Statuses and Document Types" for help. If no or no response, you may get only one or more of the following: MassHealth Standard (if pregnant), MassHealth Limited, the Children's Medical Security Plan (CMSP), or the Health Safety Net (HSN). Go to Question 10.

a. If yes, do you have an immigration document?  Yes  No

It may help us to process this application faster if you include a copy of your immigration document with the application. We will try to verify your immigration status through electronic data match. Please list all the immigration statuses and/or conditions that have applied to you since you entered the U.S. If you need more space, attach another sheet of paper.

Status award date (mm/dd/yyyy) \_\_\_\_\_ (For battered persons, enter the date the petition was approved.)

Immigration status \_\_\_\_\_ Immigration document type \_\_\_\_\_

Choose one or more document status and type from the list on page 20.

Document ID number \_\_\_\_\_ Alien number \_\_\_\_\_

Passport or document expiration date (mm/dd/yyyy) \_\_\_\_\_ Country \_\_\_\_\_

b. Did you use the same name on this application that you did to get your immigration status?  Yes  No

If no, what name did you use? First, middle, last, and suffix \_\_\_\_\_

c. Did you arrive in the US after August 22, 1996?  Yes  No

d. Are you an honorably discharged veteran or active duty member of the U.S. military, or the spouse or child of an honorably discharged veteran or an active-duty member of the U.S. military?  Yes  No

10. Check the box below that best describes you (optional-check all that apply.)

Hispanic, Latino, or Spanish origin

Cuban

Mexican, Mexican-American, or Chicano

Puerto Rican

Other Hispanic/Latino/Spanish \_\_\_\_\_

American Indian or Alaska Native (complete Step 3 and Supplement B)

Asian Indian

Black or African American

Chinese

Filipino

Guamanian or Chamorro

Japanese

Korean

Native Hawaiian

Other Asian

Other Pacific Islander

Samoan

Vietnamese

White or Caucasian

Other \_\_\_\_\_

11. Are you living in Massachusetts and you either intend to reside here, even if you do not have a fixed address, or have entered Massachusetts with a job commitment or seeking employment?  Yes  No

If you are visiting in Massachusetts for personal pleasure or for the purposes of receiving medical care in a setting other than a nursing facility, you must answer no to this question.

12. Do you live with at least one child younger than age 19, and are you the main person taking care of this child or children?

Yes  No

Names(s) and date(s) of birth of child(ren) \_\_\_\_\_

13. Are you pregnant?  Yes  No

If yes, how many babies are you expecting? \_\_\_\_\_ What is the expected due date? \_\_\_\_\_

14. Were you ever in foster care?  Yes  No

a. If yes, in what state were you in foster care? \_\_\_\_\_

b. Were you getting health care through a state Medicaid program?  Yes  No

15. Do you rent or own your property?  Rent  Own

16. Do you need reasonable accommodation(s) because of a disability or injury?  Yes  No

If no, go to the next question. If yes, answer questions a and b.

a. Condition

Low vision  Blind  Deaf  Hard of hearing  Developmentally disabled  Intellectually disabled

Physically disabled  Other (Please explain.) \_\_\_\_\_

b. Accommodation

Text telephone (TTY)  Large-print publications  American Sign Language interpreter  Video Relay Service

Communication Access Real-time Translations (CART)  Publications in braille  Assistive listening device

Publications in electronic format  Other (Please explain.) \_\_\_\_\_

17. Are you applying because of an accident or injury that someone else might be responsible for?  Yes  No

a. Did someone else cause your injury, illness, or disability, or could someone else's insurance or your own insurance, other than health insurance (like homeowner's or auto insurance) cover it?  Yes  No

b. Have you filed a lawsuit, a workers' compensation claim, or an insurance claim for this accident or injury?  Yes  No

18. Did you ever get Supplemental Security Income (SSI)?  Yes  No

If no, go to Income Information. If yes, answer questions a and b.

a. When did you last get SSI? (mm/yyyy) \_\_\_\_\_

b. Do you (check one):  live alone?  live with a spouse?  live in a rest home?  live in someone else's home?

## INCOME INFORMATION

19. Do you have any income?  Yes  No

If yes, go to Current Job 1 for job income. Go to Self-Employment for self-employment income. For all other income, go to Other Income. If any income is not steady from month to month, please provide the average income for the time period (per week, per month, etc.).

If no, go to Person 2 if you have individuals to add. If this application is only for you, go to Step 3.

## CURRENT JOB 1

20. Employer name and address

Not Employed

21. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

22. Average number of hours worked each WEEK \_\_\_\_\_ 23. Is this job a sheltered workshop?  Yes  No

24. Are you seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?

Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

**CURRENT JOB 2** | If you have more jobs and need more space, attach another sheet of paper.

25. Employer name and address \_\_\_\_\_

26. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

27. Average number of hours worked each WEEK \_\_\_\_\_ 28. Is this job a sheltered workshop?  Yes  No

29. Are you seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

**SELF-EMPLOYMENT** | If self-employed, answer the following questions. If you need more space, attach another sheet of paper.

30. Are you self employed?  Yes  No
- a. If yes, what type of work do you do? \_\_\_\_\_
- b. On average, how much net income (profits after business expenses are paid) will you get from this self-employment each month, or, how much will you lose from this self-employment each month? \$ \_\_\_\_\_ /month profit OR \$ \_\_\_\_\_ /month loss?
- c. How many hours do you work per week? \_\_\_\_\_

**OTHER INCOME**

31. Check all that apply, and give the amount and how often you get it. If you receive a one-time payment, please include the month in which it was received. **NOTE: You do not need to tell us about child support, nontaxable veteran's payments, or Supplemental Security Income (SSI).**

- Social Security benefits \$ 1,800 How often/month received? MS
- Pension \$ 320.00 How often/month received? MO
- Annuities \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Trusts \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Unemployment \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Capital gains \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Interest, dividends, and other investment income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net royalty income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net farming or fishing income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Alimony received \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable veteran's benefits \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable military retirement pay (not paid through the Veterans' Administration) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Other taxable income (include type) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_ Type \_\_\_\_\_

**RENTAL INCOME**

32. Do you get rental income? (You must answer this question.)  Yes  No
- If yes, send proof of current rental income, such as a written statement from each tenant, a copy of the lease, or a current federal tax return. Also send proof of all of the following expenses, if applicable, for the last 12 months: mortgage, taxes, utilities (gas/electric), heat, water/sewer, insurance, condo or co-op fee, repairs and maintenance.
- a. What type of real estate do you own?  one-family  two-family  three-family  other (describe): \_\_\_\_\_
- b. How much monthly rental income do you get from each rental unit from the real estate indicated above? (List each rental unit and address separately.)
- |               |              |              |                 |  |
|---------------|--------------|--------------|-----------------|--|
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
- c. Do you pay for heat and/or utilities for your tenant?  Yes  No

**DEDUCTIONS**

33. Check all that apply. Give the amount and how often you get it.

If you pay for certain things that can be deducted on a federal income tax return, telling us about them could make the cost of health coverage a little lower. **NOTE:** You should not include a cost that you already considered in your answers to net self-employment income, net rental or royalty income, or net farming or fishing income.

Alimony paid \$ \_\_\_\_\_ How often? \_\_\_\_\_  Student loan interest \$ \_\_\_\_\_ How often? \_\_\_\_\_


Other tax deductions (educator expenses; certain business expenses of reservists, performing artists, or fee-based government officials; health savings account deduction; moving expenses; deductible part of self-employment tax; contribution to self-employed SEP, SIMPLE, and qualified plans; self-employed health insurance deduction; penalty on early withdrawal of savings; Individual Retirement Account (IRA) deduction; higher education tuition and fees; and domestic production activities deduction). **Do not include any type of deduction that is not listed above.**

Type \_\_\_\_\_ \$ \_\_\_\_\_ How often? \_\_\_\_\_

**YEARLY INCOME**

34. What is your total expected income for the current calendar year?

35. What is your total expected income for next calendar year, if different?

 **THANKS!** This is all we need to know about you. Go to Step 2 Person 2 to add another household member, if needed. Otherwise, go to Step 3 American Indian or Alaska Native (AI/AN) Household Member(s).

**STEP 2 Person 2—Spouse or other people in this household**

Fill out this part for your spouse who lives with you or anyone included on your federal income tax return, if you file one.

If you have to include more than two people on this application, make a copy of blank information pages for Step 2 Person 2 BEFORE you fill them out. When filling out the additional pages please be sure to tell us how each person is related to each other person on the application. We need this information to determine eligibility. You can also download pages for additional persons at [mass.gov/masshealth](http://mass.gov/masshealth). Click on Apply for Health Coverage. Under the Individuals and Families, Including People with Disabilities section, click on Apply by Mail or Fax, then Applications for Individuals and Families (ACA-3), then on Massachusetts Application for Health and Dental Coverage and Help Paying Costs – Additional Persons.

1. First name, middle name, last name, and suffix		2. Date of birth	3. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
4. Relationship to Person 1	5. Does this person live with Person 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, provide home address		
<input type="checkbox"/> No home address. Note: if you check this box, you must provide a mailing address.			
6. Is this a hospital, nursing facility, or other institution? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, facility name			
7. Mailing address <input type="checkbox"/> Check if same as home address.			8. Apartment or suite number
9. City	10. State	11. ZIP code	12. County
13. What is this person's preferred spoken or written language (if not English)?			
14. Is this person applying for health or dental coverage? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, answer all the questions below in Step 2 for Person 2 If no, answer Question 27 (accommodations), then go to the Income Information section on page 9.			
15. Is this person married? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name and DOB of spouse			

16. We need a social security number (SSN) for every person applying for health coverage who has one. An SSN is optional for persons not applying for health coverage, but giving us an SSN can speed up the application process. We use SSNs to check income and other information to see who is eligible for help with health coverage costs. If someone needs help getting an SSN, call the Social Security Administration at 1-800-772-1213 (TTY: 1-800-325-0778 for people who are deaf, hard of hearing, or speech disabled), or go to [socialsecurity.gov](http://socialsecurity.gov). Please see the Senior Guide for more information.

a. Does this person have a social security number (SSN)?  Yes  No

If yes, give us the number (optional if not applying) \_\_\_\_\_

If no, check one of the following reasons.  Just applied  Noncitizen exception  Religious exception

b. Is this person's name on this application the same as the name on his or her social security card?  Yes  No

If no, what name is on your social security card? \_\_\_\_\_

First name, middle name, last name, and suffix

17. If this person gets an Advance Premium Tax Credit for 2017, does he or she agree to file a federal tax return for tax year 2017?  Yes  No

He or she may not have needed or chosen to file a tax return in the past, but will have to file a federal income tax return for any year that he or she gets an Advance Premium Tax Credit. You must check "Yes" to be eligible for ConnectorCare or Advance Premium Tax Credits to help pay for his or her health insurance. You do NOT need to file a tax return to get MassHealth benefits.

If yes, please answer questions a-d. If no, skip to question d.

a. Is this person considered married for tax filing purposes?  Yes  No

See IRS Publication 501 or consult a tax professional for tax filing information.

If yes, list name of spouse and date of birth. \_\_\_\_\_

b. Does this person plan to file a joint federal tax return with his or her spouse for 2017?  Yes  No

He or she must file a joint federal tax return with his or her spouse for 2016 to get certain programs unless he or she is a victim of domestic abuse or abandonment. If he or she is a victim of domestic abuse or is an abandoned spouse, you should answer "No" to question 21a ("Is this person considered married for tax filing purposes?") and "No" to question 21b ("Does this person plan to file with a spouse?"), even if that is not how he or she actually file. He or she will only need to include him- or herself and any dependents on this application.

c. Will this person claim any dependents on his or her federal income tax return for 2017?  Yes  No

He or she will claim a personal exemption deduction on his or her 2017 federal income tax return for any individual listed on this application as a dependent who is enrolled in coverage through the Massachusetts Health Connector and whose premium for coverage is paid in whole or in part by advance payments.

d. Will this person be claimed as a dependent on someone else's federal income tax return for 2017?  Yes  No.

If he or she is claimed by someone else as a dependent on their 2017 federal income tax return, this may affect his or her ability to receive an Advance Premium Tax Credit. Do not answer "Yes" to this question if this person is a child under 21 years of age being claimed by a noncustodial parent.

If yes, please list the name of the tax filer. \_\_\_\_\_

Tax filer date of birth \_\_\_\_\_ How are you related to the tax filer? \_\_\_\_\_

Is the tax filer married, filing a joint return?  Yes  No

If yes, list name of spouse and date of birth. \_\_\_\_\_

Who else does the tax filer claim as dependents? \_\_\_\_\_

18. Is this person a U.S. citizen or U.S. national?  Yes  No

If yes, is he or she a naturalized citizen (not born in the U.S.)?  Yes  No

Alien number \_\_\_\_\_ Naturalization or citizenship certificate number \_\_\_\_\_

19. If this person is a noncitizen, does he or she have an eligible immigration status?  Yes  No

See page 20, "Immigration Statuses and Document Types" for help. If no or no response, you may get only one or more of the following: MassHealth Standard (if pregnant), MassHealth Limited, the Children's Medical Security Plan (CMSP), or the Health Safety Net (HSN). Go to Question 24.

a. If yes, does this person have an immigration document?  Yes  No

It may help us to process this application faster if you include a copy of his or her immigration document with the application. We will try to verify this person's immigration status through electronic data match. Please list all the immigrations statuses and/or conditions that have applied to this person since he or she entered the U.S. If you need more space, attach another sheet of paper. For immigration status, choose one or more statuses from the list on page 20. Status award date (mm/dd/yyyy) \_\_\_\_\_ (For battered persons, enter the date the petition was approved.)

Immigration status \_\_\_\_\_ Immigration document type \_\_\_\_\_

Choose one or more document status and types from the list on page 20.

Document ID number \_\_\_\_\_ Alien number \_\_\_\_\_

Passport or document expiration date (mm/dd/yyyy) \_\_\_\_\_ Country \_\_\_\_\_

b. Did this person use the same name on this application to get his or her immigration status?  Yes  No

If no, what name did this person use? First, middle, last and suffix \_\_\_\_\_

c. Did this person arrive in the U.S. after August 22, 1996?  Yes  No

d. Is this person an honorably discharged veteran or active duty member of the U.S. military, or the spouse or child of an honorably discharged veteran or an active-duty member of the U.S. military?  Yes  No

20. Check the box below that best describes this person (optional - check all that apply.)

- Hispanic, Latino, or Spanish origin
- Cuban
- Mexican, Mexican-American, or Chicano
- Puerto Rican
- Other Hispanic/Latino/Spanish

- American Indian or Alaska Native (complete Step 3 and Supplement B)
- Asian Indian
- Black or African American
- Chinese
- Filipino
- Guamanian or Chamorro
- Japanese

- Korean
- Native Hawaiian
- Other Asian
- Other Pacific Islander
- Samoan
- Vietnamese
- White or Caucasian
- Other

21. Does this person live in Massachusetts and this person either intend to reside here, even if this person do not have a fixed address, or have entered Massachusetts with a job commitment or seeking employment?  Yes  No

If this person is visiting in Massachusetts for personal pleasure or for the purposes of receiving medical care in a setting other than a nursing facility, you must answer no to this question.

22. Does this person live with at least one child younger than age 19, and are you the main person taking care of this child or children?  Yes  No

Names(s) and date(s) of birth of child(ren) \_\_\_\_\_

23. Is this person pregnant?  Yes  No

If yes, how many babies is she expecting? \_\_\_\_\_ What is the expected due date? \_\_\_\_\_

24. Was this person ever in foster care?  Yes  No

a. If yes, in what state was this person in foster care? \_\_\_\_\_

b. Was this person getting health care through a state Medicaid program?  Yes  No

25. Does this person rent or own his or her property?  Rent  Own

26. Does this person need reasonable accommodation(s) because of a disability or injury?  Yes  No

If no, go to the next question. If yes, answer questions a and b.

a. Condition

- Low vision
- Blind
- Deaf
- Hard of hearing
- Developmentally disabled
- Intellectually disabled
- Physically disabled
- Other (Please explain.) \_\_\_\_\_

b. Accommodation

- Text telephone (TTY)  Large-print publications  American Sign Language interpreter  Video-Relay Service  
 Communication Access Real-time Translations (CART)  Publications in braille  Assistive listening device  
 Publications in electronic format  Other (Please explain.) \_\_\_\_\_

27. Is this person applying because of an accident or injury that someone else might be responsible for?  Yes  No

- a. Did someone else cause this person's injury, illness, or disability, or could someone else's insurance or this person's own insurance, other than health insurance (like homeowner's or auto insurance) cover it?  Yes  No
- b. Has this person filed a lawsuit, a workers' compensation claim, or an insurance claim for this accident or injury?  
 Yes  No

28. Did this person ever get Supplemental Security Income (SSI)?  Yes  No

If no, go to Income Information. If yes, answer questions a and b.

- a. When did this person last get SSI? (mm/yyyy) \_\_\_\_\_
- b. Does this person (check one):  live alone?  live with a spouse?  live in a rest home?  live in someone else's home?

### INCOME INFORMATION

29. Does this person have any income?  Yes  No

If yes, go to Current Job 1 for job income. Go to Self-Employment for self-employment income. For all other income, go to Other Income. If any income is not steady from month to month, please provide the average income for the time period (per week, per month, etc.).

If no, go to Step 3, American Indian or Alaska Native.

### CURRENT JOB 1

30. Employer name and address \_\_\_\_\_

31. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

32. Average number of hours worked each WEEK \_\_\_\_\_ 33. Is this job a sheltered workshop?  Yes  No

34. Is this person seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

### CURRENT JOB 2 | If this person has more jobs and needs more space, attach another sheet of paper.

35. Employer name and address \_\_\_\_\_

36. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

37. Average number of hours worked each WEEK \_\_\_\_\_ 38. Is this job a sheltered workshop?  Yes  No

39. Is this person seasonally employed?  Yes  No. If yes, which months does he or she work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.



**SELF-EMPLOYMENT** | If self-employed, answer the following questions. If you need more space, attach another sheet of paper.

40. Is this person self employed?  Yes  No
- a. If yes, what type of work does he or she do?  
\_\_\_\_\_
- b. On average, how much net income (profits after business expenses are paid) will this person get from this self-employment each month, or, how much will he or she lose from this self-employment each month? \$ \_\_\_\_\_/month profit OR \$ \_\_\_\_\_/month loss?
- c. How many hours does this person work per week? \_\_\_\_\_

**OTHER INCOME**

41. Check all that apply, and give the amount and how often you get it. If you receive a one-time payment, please include the month in which it was received. **NOTE: You do not need to tell us about child support, nontaxable veteran's payments, or Supplemental Security Income (SSI).**

- Social Security benefits \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Pension \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Annuities \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Trusts \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Unemployment \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Capital gains \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Interest, dividends, and other investment income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net royalty income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net farming or fishing income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Alimony received \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable veteran's benefits \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable military retirement pay (not paid through the Veterans' Administration) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Other taxable income (include type) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_ Type \_\_\_\_\_

**RENTAL INCOME**

42. Does this person get rental income?  Yes  No
- If yes, send proof of current rental income, such as a written statement from each tenant, a copy of the lease, or a current federal tax return. Also send proof of all of the following expenses, if applicable, for the last 12 months: mortgage, taxes, utilities (gas/electric), heat, water/sewer, insurance, condo or co-op fee, repairs and maintenance.
- a. What type of real estate does this person own?  one-family  two-family  three-family  
 other (describe): \_\_\_\_\_
- b. How much monthly rental income does this person get from each rental unit from the real estate indicated above? (List each rental unit and address separately.)
- |               |              |              |  |
|---------------|--------------|--------------|--|
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
- c. Does this person pay for heat or utilities for his or her tenant?  Yes  No

**DEDUCTIONS**

43. Check all that apply. Give the amount and how often this person gets it. If this person pays for certain things that can be deducted on a federal income tax return, telling us about them could make the cost of health coverage a little lower. **NOTE: Do not include a cost already considered in answers to net self-employment income, net rental or royalty income, or net farming or fishing income.**
- Alimony paid \$ \_\_\_\_\_ How often? \_\_\_\_\_  Student loan interest \$ \_\_\_\_\_ How often? \_\_\_\_\_


- Other tax deductions (educator expenses; certain business expenses of reservists, performing artists, or fee-based government officials; health savings account deduction; moving expenses; deductible part of self-employment tax; contribution to self-employed SEP, SIMPLE, and qualified plans; self-employed health insurance deduction; penalty on early withdrawal of savings; Individual Retirement Account (IRA) deduction; higher education tuition and fees; and domestic production activities deduction). **Do not include any type of deduction that is not listed above.**

Type \_\_\_\_\_ \$ \_\_\_\_\_ How often? \_\_\_\_\_

### YEARLY INCOME

44. What is this person's total expected income for the current calendar year?

45. What is this person's total expected income for next calendar year, if different?

 **THANKS!** This is all we need to know about this person.

### STEP 3 American Indian or Alaska Native (AI/AN) Household Member(s)

Are you or is anyone in your household an American Indian or Alaska Native?  Yes  No

If no, skip to Step 4. If yes, complete the rest of this application, including Supplement B: American Indian or Alaska Native Household Member.

Names(s) of person(s) \_\_\_\_\_

American Indians and Alaska Natives who enroll in health coverage can also get services from the Indian Health Service, tribal health programs, or Urban Indian Health Programs. If you or any household members are American Indians or Alaska Natives, you may not have to pay premiums or copayments, and may get special monthly enrollment periods.

### STEP 4 Previous Medical Bills

Do you or your spouse have bills for medical services you got in the three months before the month we got your application?

Yes  No

If no, go to Step 5: Assets. If yes, fill out the rest of this section. We may be able to pay for these bills.

Do you or your spouse want to apply for MassHealth for that time period?  Yes  No

If yes, what is the earliest date for which you need MassHealth? (mm/dd/yyyy) \_\_\_\_\_

(You must give us proof of all income and assets owned during that time period.)

### STEP 5 Assets | You must fill out all blocks for each asset you and/or your spouse own.

If you live in the community and you want help with medical bills up to three months before the month you apply, you must tell us about any open and closed accounts for that period. If you are applying for long-term care, you must also give us information about all assets you or your spouse owned in the past 60 months. If you need more space, attach another sheet of paper.

#### BANK ACCOUNTS

1. Do you or your spouse have any bank accounts or certificates of deposit, including checking, savings, credit union, NOW, money-market, and personal needs allowance (PNA) accounts?  Yes  No

a. Do you or your spouse have any retirement accounts, including individual retirement accounts (IRAs), Keogh, or pension funds?  Yes  No

b. Have you or your spouse or a joint owner closed any accounts in the past 60 months, including any accounts you had owned jointly with anyone else?  Yes  No

If you answered yes to any of these questions, fill out this section. If you answered no to all of these questions, go to the next section **REAL ESTATE**.

Send a copy of your passbooks updated within 45 days and/or a copy of your current account statements. Please see the Senior Guide for information about financial institutions charging for copies of statements. If applying for nursing facility coverage, please provide account statements for the past 60 months.

Name on account <u>Jean Maas</u>		Account type <u>Checking</u>	
Name of bank/institution <u>Knickerbocker</u>		Account number <u>un known</u>	
Current balance \$	Balance on admission date* \$	<input checked="" type="checkbox"/> Account open <input type="checkbox"/> Account closed	
Date account closed (mm/dd/yyyy)		Amount on the date account closed \$	
Name on account		Account type	
Name of bank/institution		Account number	
Current balance \$	Balance on admission date* \$	<input type="checkbox"/> Account open <input type="checkbox"/> Account closed	

\* Enter the account balance on the date of admission to medical institution, hospital, or nursing facility.

**REAL ESTATE**

2. Do you or your spouse own or have a legal interest in your primary residence?  
 You  Yes  No Your spouse  Yes  No
3. Do you or your spouse own or have a legal interest in any real estate other than your primary residence?  
 You  Yes  No Your spouse  Yes  No
- If you answered yes to any of these questions, fill out this section. If no, go to the next section **(LIFE INSURANCE)**.

Send a copy of the deed(s), current tax bill(s), and proof of amount owed on all property owned.

Address	
Type of property	Current value \$
Address	
Type of property	Current value \$

**LIFE INSURANCE**

4. Do you or your spouse own any life insurance?  Yes  No
- If yes, fill out this section. If no, go to the next section **(SECURITIES BROKERAGE ACCOUNTS (STOCKS/BONDS/OTHER))**.

Send a copy of the first page of all life-insurance policies. If total face value of all policies exceeds \$1,500 per person, also send a letter from the insurance company showing the current cash-surrender value (for all policies except term policies).

Name(s) of owner(s)		
Insurance company		
Policy number	Face value \$	Insurance type
Name(s) of owner(s)		
Insurance company		
Policy number	Face value \$	Insurance type

**SECURITIES BROKERAGE ACCOUNTS (STOCKS/BONDS/OTHER)**

5. Do you or your spouse own any stocks, bonds, savings bonds, mutual funds, securities, assets held in safe-deposit boxes, cash not in the bank, options, or future contracts?  Yes  No

If yes, fill out this section. If no, go to the next section **(ANNUITIES)**.

Send proof of current value (except cash).

	Owner(s) name(s)	Company name	Account number	Current value	Value on admission date*	Joint asset?
Cash				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Stocks				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Bonds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Savings bonds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Mutual funds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Options				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Future contracts				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Other				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

\* Enter the account balance on the date of admission to medical institution.

**ANNUITIES**

6. Did you or your spouse or someone on your or your spouse's behalf purchase or in any way change an annuity?  Yes  No

If yes, fill out this section. To be eligible, you may be required to name the Commonwealth as a remainder beneficiary. (See the Senior Guide for more information.) If no, go to the next section **(ASSISTED LIVING/OTHER)**.

Send a copy of the contract. For each annuity owned, give us proof from the annuity company of the full value of the annuity less any penalties and fees if it can be cashed in.

Name(s) of owner(s)	
Name of institution issuing the annuity	
Contract number	Date purchased (mm/dd/yyyy)
Name(s) of owner(s)	
Name of institution issuing the annuity	
Contract number	Date purchased (mm/dd/yyyy)

**ASSISTED LIVING/OTHER**

7. Have you, your spouse, or someone acting on your behalf given a deposit to any health-care or residential facility, like an assisted-living facility, a continuing-care retirement community, or life-care community?  Yes  No

If yes, fill out this section. If no, go to the next section **(VEHICLES/MOBILE HOMES)**.

Send a copy of the contract you signed with the facility and any documents about this deposit.

Name of facility	
Address of facility	
Amount of deposit \$	Date deposit given to facility (mm/dd/yyyy)

**VEHICLES/MOBILE HOMES**

8. Do you or your spouse own any vehicles, like cars, vans, trucks, recreational vehicles, mobile homes, or boats?  Yes  No

If yes, fill out this section. If no, go to the next section (**PREPAID BURIAL PLANS/TRUSTS**).

Send a copy of the registration for each vehicle, and proof of the outstanding loan balance. For mobile homes, send a copy of the bill of sale. If you have a spouse at home, send proof of the fair-market value of each vehicle as of the date of admission to the medical institution.

(You) Type of vehicle	Year/make/model	Fair-market value \$	Amount owed \$
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Mobile home address

(Your spouse) Type of vehicle	Year/make/model	Fair-market value \$	Amount owed \$
-------------------------------	-----------------	-------------------------	-------------------

Mobile home address

**PREPAID BURIAL PLANS**

9. Do you or your spouse have any prepaid burial contracts or trusts, life insurance set up for funeral and burial expenses, or bank accounts set aside for funeral expenses?  Yes  No

If yes, fill out this section. If no, go to the next section (**TRUSTS**).

Send a copy of the trust contract, trust instrument, insurance policy, or burial-only account.

(You) Burial contract <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial trust <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	--

Life insurance for burial <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial-only account <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	---

Burial plot <input type="checkbox"/> Yes <input type="checkbox"/> No	Insurance company	Policy number
--	-------------------	---------------

Bank name	Account number
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(Your spouse) Burial contract <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial trust <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	--

Life insurance for burial <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial-only account <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	---

Burial plot <input type="checkbox"/> Yes <input type="checkbox"/> No	Insurance company	Policy number
--	-------------------	---------------

Bank name	Account number
-----------	----------------

**TRUSTS**

10. Are you or your spouse the grantor/donor, trustee, or beneficiary of any trusts?  Yes  No

11. Have you, your spouse, or someone else on your behalf, including a court or administrative body, contributed income or assets owned by you or your spouse to a trust?  Yes  No

If you answered yes to any of these questions, fill out this section.

If you answered no to these questions, go to **STEP 6: Health Insurance Information**

Send a copy of the trust document(s), any amendments, documents showing financial activity, and the schedule of beneficiaries.

Trust name	Revocable? <input type="checkbox"/> Yes <input type="checkbox"/> No	Current trust principal \$
------------	---	----------------------------

Trust principal on admission date* \$	Trustee(s)
---------------------------------------	------------

Grantor(s)/Donor(s)	Beneficiaries
---------------------	---------------

Trust name	Revocable? <input type="checkbox"/> Yes <input type="checkbox"/> No	Current trust principal \$
------------	---	----------------------------

Trust principal on admission date* \$	Trustee(s)
---------------------------------------	------------

Grantor(s)/Donor(s)	Beneficiaries
---------------------	---------------

\* Enter the trust principal on the date of admission to medical institution.

**STEP 6 Health Insurance Information**

Complete **Question 1** about health coverage that any person in the household **has now**. Complete **Question 2** about health insurance **available** to a household member from a job, whether or not the employed person lives in the household.

1. Is anyone enrolled now in any type of health coverage?  Yes  No  
If yes, check the type of coverage and provide details.

Medicare  
Name Jean Maas Medicare claim number [REDACTED] 9601A

When did coverage start? (mm/dd/yyyy) \_\_\_\_\_

- a. Does this person have a Medicare Part D plan?  Yes  No

If yes, when did coverage start? (mm/dd/yyyy) \_\_\_\_\_

- b. Does this person have a Medigap/Medicare supplemental policy?  Yes  No

If yes, name of coverage plan BCBS When did coverage start? (mm/dd/yyyy) \_\_\_\_\_

Name \_\_\_\_\_ Medicare claim number \_\_\_\_\_

When did coverage start? (mm/dd/yyyy) \_\_\_\_\_

- a. Does this person have a Medicare Part D plan?  Yes  No

If yes, when did coverage start? (mm/dd/yyyy) \_\_\_\_\_

- b. Does this person have a Medigap/Medicare supplemental policy?  Yes  No

If yes, name of coverage plan \_\_\_\_\_

When did coverage start? (mm/dd/yyyy) \_\_\_\_\_

Do any of the persons above want to apply for help paying for the Medicare Part B premiums?  Yes  No

If yes, name(s) \_\_\_\_\_

If you check any of the following programs provide details below.

- TRICARE (Do not check if you have direct care or Line of Duty.)  Veterans Affairs (VA) health programs  
 Peace Corps  Employer Insurance  COBRA coverage  Retiree health plan  
 Other coverage

Name of insurance plan or policy \_\_\_\_\_

Policyholder name \_\_\_\_\_ Policy number \_\_\_\_\_

Date of birth (mm/dd/yyyy) \_\_\_\_\_ SSN (if you know) \_\_\_\_\_

Is this a limited-benefit plan (like a school accident policy)?  Yes  No Premium cost \$ \_\_\_\_\_

Names of covered household members \_\_\_\_\_

Group number (if you know) \_\_\_\_\_ When did coverage start? (mm/dd/yyyy) \_\_\_\_\_

Premium frequency (Check one.)  Weekly  Every two weeks  Twice a month  Monthly  Quarterly  Yearly

Type of coverage this plan provides (Check all that apply.)

- Doctor's visits and hospitalizations  Vision coverage  Dental coverage  Pharmacy coverage  Catastrophic only

2. Is anyone listed on this application offered health coverage from a job but not enrolled in it?  Yes  No  
This includes a job for a household member or an individual who is not in the household, such as a noncustodial parent. This question is about coverage that is available but in which eligible household members are not enrolled.

If yes, you will need to complete and include Supplement D: Health Coverage from Jobs.

Is this a state employee benefit plan?  Yes  No

## STEP 7 Personal-Care-Attendant Services

### For people 65 years of age or older who are not going to be in a long-term-care facility

To get more information about personal-care-attendant (PCA) services and how filling out this PCA section could affect the way we decide if you can get MassHealth if you do need PCA services, read the PCA section in the Senior Guide that is enclosed.

1. Do you or your spouse need the services of a personal-care attendant?  Yes  No  
If yes, fill out this section and answer all questions. If no, go to STEP 9: Read and sign this application.
2. Have you or your spouse had the services of a personal-care attendant paid for by MassHealth within the last six months?  Yes  No  
If yes, go to STEP 9: Read and sign this application. If no, answer the following questions in this section.
3. Do you or your spouse have a permanent or long-lasting disability? You  Yes  No Your spouse  Yes  No
  - a. If yes, does your (or your spouse's) disability keep you (or your spouse) from being able to do your (or your spouse's) daily living activities, like bathing, eating, toileting, dressing, etc., unless someone physically helps you (or your spouse)? You  Yes  No Your spouse  Yes  No
  - b. If yes, do you (or your spouse) plan to contact a MassHealth personal-care-management (PCM) agency to ask for personal-care-attendant services? You  Yes  No Your spouse  Yes  No

**Note:** You must contact the PCM agency within 90 days of the date that MassHealth decides you are eligible for MassHealth or you will not be able to benefit from the special PCA rules.

MassHealth may not pay certain members of your family to be your personal-care attendant.

Each spouse who answered "Yes" to all parts of Question 3 above must fill out his or her own Supplement C: Personal-Care Attendant. One copy is enclosed. If you need a second copy, call MassHealth Customer Service at 1-800-841-2900 (TTY: 1-888-665-9997 for people who are deaf, hard of hearing, or speech disabled) to ask for one. If you (or your spouse) do not send us your filled-out PCA supplement(s), we will determine your MassHealth eligibility as if you do not need PCA services.

## STEP 8 Additional (Optional) Coverage – For married persons under 65 years of age

Fill out this section ONLY if you are married and living with your spouse. One spouse applying must be under 65 years of age, with no children under 19 years of age in the household. Answer these questions for the spouse who is under 65 years of age.

If this section applies to you and you want more information about income standards and other information that may apply, call us at 1-800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled) to get a Senior Guide. If this section does not apply, go to Step 9: Read and sign this application.

### BREAST OR CERVICAL CANCER (OPTIONAL) (Only for persons under 65 years of age.)

1. Do you have breast or cervical cancer?  Yes  No  
MassHealth has special coverage rules for people who need treatment for breast or cervical cancer.  
If yes, we will send you a certificate to be filled out by your doctor to prove your breast or cervical cancer diagnosis. Then MassHealth can see if your MassHealth benefits give you the most coverage possible.  
Name: \_\_\_\_\_

### HIV INFORMATION (OPTIONAL) (Only for persons under 65 years of age.)

2. Are you HIV positive?  Yes  No  
If you are HIV positive, you may be eligible for additional coverage or benefits.  
Name: \_\_\_\_\_

### DISABILITY (Only for persons under 65 years of age.)

3. Do you have a disability (including a disabling mental health condition) that has lasted or is expected to last for at least 12 months? (If legally blind, answer yes.)  Yes  No  
Name: \_\_\_\_\_

## STEP 9 Read and sign this application

On behalf of myself and all persons listed on this application, I understand, represent, and agree as follows.

1. MassHealth may require eligible persons to enroll in available employer-sponsored health insurance if that insurance meets the criteria for MassHealth payment of premium assistance.
2. Employers of eligible persons may be notified and billed in accordance with MassHealth regulations for any services that hospitals or community health centers provide to such persons that are paid for by the Health Safety Net.
3. Eligible persons may have to pay a premium for health coverage for themselves and others listed on this application. Failure to pay any premium due may result in the state deducting the amount owed from the tax refunds of responsible persons. If an eligible person is a certain American Indian or Alaska Native, such person may not have to pay premiums for MassHealth.
4. MassHealth has the right to pursue and get money from third parties who may be obligated to pay for health services provided to eligible persons enrolled in MassHealth programs. Such third parties may include other health insurers, spouses, or parents obligated to pay for medical support, or individuals obligated to pay under accident settlements. Eligible persons must cooperate with MassHealth in establishing third-party support and obtaining third-party payments for themselves and anyone whose rights they can legally assign. Eligible persons may be exempted from this obligation if they believe and tell MassHealth that cooperation could result in harm to them or anyone whose rights they can legally assign.
5. A parent and/or guardian of minor children must agree to cooperate with state efforts to collect medical support from an absent parent unless they believe and tell MassHealth that cooperation will harm the children or the parent or guardian.
6. Eligible persons who are injured in an accident, or in some other way, and get money from a third party because of that accident or injury must use that money to repay MassHealth or the Health Safety Net for certain services provided.
7. Eligible persons must tell MassHealth or the Health Safety Net, in writing, within 10 calendar days, or as soon as possible, about any insurance claims or lawsuits filed because of an accident or injury.
8. The status of this application may be shared with a hospital, community health center, other medical provider, or federal or state agencies when necessary for treatment, payment, operations, or the administration of the programs listed above.
9. To the extent permitted by law, MassHealth may place a lien against any real estate owned by eligible persons or in which eligible persons have a legal interest. If MassHealth puts a lien against such property and it is sold, money from the sale of that property may be used to repay MassHealth for medical services provided.
10. To the extent permitted by law, and unless exceptions apply, for any eligible person 55 years of age or older, or any eligible person for whom MassHealth helps pay for care in a nursing home, MassHealth will seek money from the eligible person's estate after death.
11. MassHealth, the Health Connector, and the Health Safety Net will obtain from eligible persons' current and former employers and health insurers all information about health insurance coverage for such persons. This includes, but is not limited to, information about policies, premiums, coinsurance, deductibles, and covered benefits that are, may be, or should have been available to such persons or members of their household.
12. MassHealth, the Health Connector, and the Health Safety Net may get records or data about persons listed on this application from federal and state data sources and programs, such as the Social Security Administration, the Internal Revenue Service, the Department of Homeland Security, the Department of Revenue, and the Registry of Motor Vehicles, as well as private data sources including financial institutions, 1) to prove any information given on this application and any supplements, or other information given once a person becomes a member, 2) to document medical services claimed or provided to such persons, and 3) to support continued eligibility.
13. To make it easier to determine my eligibility for help paying for health coverage in future years, I agree to allow the Health Connector to use income data, including information from tax returns for the next three coverage years. The Health Connector will send me a notice, let me make changes, and I can opt out at any time. I understand that if I am eligible for an Advance Premium Tax Credit (APTC) and/or Reduced Copays and Deductibles these payments will be made directly to my selected insurance carrier(s). Acceptance of APTC and/or Reduced Copays and Deductibles may impact my 2017 tax liability. I will be given the option to apply all, some, or none of any APTC amount I may be eligible for to my monthly premium.
14. In connection with the eligibility and enrollment process, MassHealth, the Health Connector, and the Health Safety Net may send notices that contain personal information about persons listed on this application to other persons on this application, or otherwise communicate such information to such persons.
15. Under federal law, discrimination is not permitted on the basis of race, color, national origin, sex, age, sexual orientation, gender identity, or disability. I can file a complaint of discrimination by going to [www.hhs.gov/ocr/office/file](http://www.hhs.gov/ocr/office/file).



16. Eligible persons must tell the health care program(s) in which they enroll about any changes in their or their household's income or employment, household size, health insurance coverage, health insurance premiums, and immigration status, or about changes in any other information on this application and any supplements to it within 10 calendar days of learning of the change. Eligible persons can make changes by calling 1-800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled). A change in information could affect eligibility for such persons or for persons in their household

You can also report changes in any of the following ways.

- Sign on to your account at [MAhealthconnector.org](http://MAhealthconnector.org).  
You can create an online account if you do not already have one.
- Send the change information to  
**Health Insurance Processing Center**  
**P.O. Box 4405**  
**Taunton, MA 02780.**
- Fax the change information to **1-857-323-8300.**

17. No one applying for health coverage on this application is in prison or in jail except as set forth below. If someone applying for health coverage is in prison or jail, write their name below and answer the following three questions.

\_\_\_\_\_ is in prison or jail.

Is this person awaiting trial?  Yes  No

Is this person being released within 30 days of submitting this application?  Yes  No

**I AGREE TO THE FOLLOWING STATEMENTS.**

- I have read or have had read to me the information on this application, including any supplements and instruction pages, and I understand that the Senior Guide contains important information.
- I have permission from all persons listed on this application (or their parent or other legally authorized representative) to submit this application and to act on their behalf to complete this application and any ongoing or subsequent eligibility process and activity, including, for example:
  - providing personal information about them, including health, health coverage, and income information, seeing such information as may be provided by the Health Connector, MassHealth, and the Health Safety Net, and providing consent on their behalf to the use and disclosure of their information as described in this application;
  - making choices about coverage options and methods of communication with the Health Connector, MassHealth, and the Health Safety Net;
  - making changes to the application or related eligibility documents and providing information about any change in their circumstances; and
- providing consent on their behalf to use government and private sources to verify information as described in this application.
- I understand my rights and responsibilities and the rights and responsibilities of all persons listed on this application as explained in STEP 9.
- I have told or will tell all such persons (or their parent or legally authorized representative, if applicable) about these rights and responsibilities so they understand them.
- I understand and agree that MassHealth, the Health Safety Net, and the Health Connector will treat electronic, faxed, or copies of signatures with the same force and effect as an original signature(s).
- The information I have supplied is correct and complete to the best of my knowledge about myself and other persons listed on this application.
- I may be subject to penalties under federal law if I intentionally provide false or untrue information.

**Sign this application.**

By signing this application below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this application are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

**Important:** If you are submitting this application as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us or have a form on record for us to process this application. The ARD is at the end of this application.

Signature of Person 1 or authorized representative	Print name	Date

**VOTER REGISTRATION INFORMATION ON NEXT PAGE**

16. Eligible persons must tell the health care program(s) in which they enroll about any changes in their or their household's income or employment, household size, health insurance coverage, health insurance premiums, and immigration status, or about changes in any other information on this application and any supplements to it within 10 calendar days of learning of the change. Eligible persons can make changes by calling 1-888-665-9993 (TTY: 1-888-665-9997 for people who are deaf, hard of hearing, or speech disabled). A change in information could affect eligibility for such persons or for persons in their household.

You can also report changes in any of the following ways.

- Sign on to your account at MAhealthconnector.org.  
You can create an online account if you do not already have one.
- Send the change information to  
Health Insurance Processing Center  
P.O. Box 4405  
Taunton, MA 02780.
- Fax the change information to 1-857-323-8300.

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is in prison or jail.

Is this person awaiting trial?  Yes  No

Is this person being released within 30 days of submitting this application?  Yes  No

**I AGREE TO THE FOLLOWING STATEMENTS.**

- I have read or have had read to me the information on this application, including any supplements and instruction pages, and I understand that the Senior Guide contains important information.
- I have permission from all persons listed on this application (or their parent or other legally authorized representative) to submit this application and to act on their behalf to complete this application and any ongoing or subsequent eligibility process and activity, including, for example:
  - providing personal information about them, including health, health coverage, and income information, seeing such information as may be provided by the Health Connector, MassHealth, and the Health Safety Net, and providing consent on their behalf to the use and disclosure of their information as described in this application;
  - making choices about coverage options and methods of communication with the Health Connector, MassHealth, and the Health Safety Net;
  - making changes to the application or related eligibility documents and providing information about any change in their circumstances; and
- I understand my rights and responsibilities and the rights and responsibilities of all persons listed on this application as explained in STEP 9.
- I have told or will tell all such persons (or their parent or legally authorized representative, if applicable) about these rights and responsibilities so they understand them.
- I understand and agree that MassHealth, the Health Safety Net, and the Health Connector will treat electronic, faxed, or copies of signatures with the same force and effect as an original signature(s).
- The information I have supplied is correct and complete to the best of my knowledge about myself and other persons listed on this application.
- I may be subject to penalties under federal law if I intentionally provide false or untrue information.

**Sign this application.**

By signing this application below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this application are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

**Important:** If you are submitting this application as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us or have a form on record for us to process this application. The ARD is at the end of this application.

Signature of Person 1 or authorized representative    Print name

Date

*[Handwritten Signature]*

DOUGLAS R. MASS

7/12/17

VOTER REGISTRATION INFORMATION ON NEXT PAGE

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## Send us your completed application.



Mail your signed application to:

**MassHealth Enrollment Center  
Central Processing Unit  
PO Box 290794  
Charlestown, MA 02129-0214; or  
Fax: 617-887-8799**



Hand deliver your signed application to:

**MassHealth Enrollment Center  
Central Processing Unit  
The Shrafft Center  
529 Main Street, Suite 1M  
Charlestown, MA 02129**

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## Voter Registration

The form to register to vote is included with this application or can be found at [www.sec.state.ma.us](http://www.sec.state.ma.us). More information on how to register to vote can also be found at [www.sec.state.ma.us](http://www.sec.state.ma.us). If you have any questions about the voter registration process, or if you need help filling out the form, please visit a local MassHealth Enrollment Center or call the MassHealth Customer Service Center at 1-800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled).

Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency. If you would like help in filling out the voter registration application form, we will help you. The decision to seek or accept help is yours. You may fill out the application form in private.

If you believe that someone has interfered with your right to register or to decline to register to vote, with your right to privacy in deciding to register or in applying to register to vote, or with your right to choose your own political party or other political preference, you may file a complaint with:

**Secretary of the Commonwealth, Elections Division  
One Ashburton Place  
Room 1705  
Boston, MA 02108**

**Tel: 617-727-2828 or 1-800-462-8683.**

If you or anyone else in your application are not registered to vote where you live now, would you like to apply to register to vote today?  Yes  No

IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.

## **IMMIGRATION STATUSES AND DOCUMENT TYPES**

Question 9a (19a for person 2) on the application asks noncitizens about their immigration status and about the type or types of immigration documents they have to support their immigration status. Please refer to the following lists to fill out Question 9a/19a. If you need further help, details can be found online at <https://www.mahealthconnector.org/immigration-document-types>.

### **Eligible Immigration Statuses**

In the "Immigration Status" section of Question 9a/19a, write in any status that applies to you or members of your household. You may write in more than one status.

- Amerasian
- *Granted asylum*
- Cuban Haitian entrant
- Deportation withheld
- Native American born in Canada or non-U.S. territories
- Refugee
- Victim of severe trafficking or his or her spouse, child, sibling, or parent
- *Iraqi special immigrant*
- *Afghan special immigrant*
- Conditional entrant granted before 1980
- Veteran or active duty member of military or his or her spouse or dependent
- Lawful permanent resident
- *Granted parole for at least one year*
- *Battered spouse or child (or his or her parent or child)*
- Nonimmigrant status (visa)
- *Granted parole for less than one year*
- *Granted temporary resident status*

- *Granted Temporary Protected Status (TPS) or applicant for TPS with employment authorization*
- *Granted employment authorization under 8 CFR 274a(12)(c)*
- *Family unity beneficiaries*
- *Deferred enforced departure*
- *Deferred Action Status except for Deferred Action for Childhood Arrivals Process (DACA)*
- *Granted an administrative stay of removal under 8 CFR 241*
- *Approved visa petition with a pending application for adjustment of status*
- *Applicant for asylum or for withholding of removal with employment authorization*
- *Applicant (for at least 180 days) under 14 years of age for asylum or for withholding of removal*
- *Granted withholding of removal under the Convention Against Torture*
- *Applicant for Special Immigrant Juvenile (SIJ) status*
- *Applicant or granted status under Deferred Action for Childhood Arrivals (DACA)*
- *I have a document but do not have any status listed above (Person Residing Under Color of Law, PRUCOL)*

### **Immigration Document Types**

In the "Immigration Document Type" section of Question 9a/19a, write in any document type you or members of your household have. You may list more than one immigration document type.

- *Reentry Permit (I-327)*
- *Permanent Resident Card ("green card" I-551)*
- *Refugee Travel Document (I-571)*
- *Employment Authorization Card (I-766)*
- *Machine Readable Immigrant Visa (with temporary I-551 language)*
- *Temporary I-551 stamp (on passport or I-94, I-94A)*
- *Arrival Departure Record (I-94, I-94A) issued by US Citizenship and Immigration Services*
- *Arrival Departure Record in unexpired foreign passport (I-94)*
- *Unexpired foreign passport*
- *Certificate of Eligibility for Nonimmigrant (F1) Student Status (I-20)*
- *Certificate of Eligibility for Exchange Visitor (J1) Status (DS2019)*
- *Notice of Action (I-797)/Other-with Alien Number*
- *Notice of Action (I-797)/Other-with I-94 Number*

# SUPPLEMENT A Long-Term Care



- Do you need long-term-care services in a nursing home type facility?  Yes  No  
If yes, you must answer all questions and fill out all sections of this supplement.
- Are you applying for or getting long-term-care services at home under a Home- and Community-Based Services Waiver?  
 Yes  No If yes, you only need to fill out the "Resource Transfers" section on page 22.

Please print clearly. Answer all questions and fill out all sections. If you need more space to finish any section, please use a separate sheet of paper (include your name and social security number), and attach it to this supplement.

## Applicant/Member Information

Last name, first name, middle initial <u>Maas Jean</u>		Social security number <u>[REDACTED] 9601</u>
Name and address of hospital, nursing facility, or other institution <u>Kimball Farms 40 Sunset Ave. Lenox, MA 01240</u>		
Date of admission (mm/dd/yyyy) <u>[REDACTED] /1935</u>	Were you placed here by another state? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, what state?	

1. Do you have to pay guardianship expenses for a court-appointed guardian?  Yes  No

## Living expenses of the spouse and family members living at home

Your spouse living at home may be able to keep some of your income. Fill out the following information about your spouse's current living expenses. If you do not have a spouse, go to the next section (Resource Transfers).

Send proof of your spouse's current living expenses.

Spouse's last name, first name, middle initial		Social security number
2. How much does your spouse pay each month for: Rent? _____ Mortgage (principal and interest)? _____ Homeowner's/tenant's insurance? _____ Real estate taxes? _____ Required maintenance charge for a condo or co-op? _____ Room and board for assisted living? _____		
3. Does your spouse pay for heat? <input type="checkbox"/> Yes <input type="checkbox"/> No		
4. Does your spouse pay for utilities? <input type="checkbox"/> Yes <input type="checkbox"/> No		
5. Is a child, parent, brother, and/or sister living with your spouse? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, fill out this section. If no, go to the next section (Resource Transfers). Send proof of their monthly income before deductions. A deduction may be allowed for their maintenance needs. These persons must be related to you or your spouse, and one of you must claim them as dependents on your federal income tax return.		
Name		Social security number
Relationship	Date of birth (mm/dd/yyyy)	Monthly income before deductions \$
Name		Social security number
Relationship	Date of birth (mm/dd/yyyy)	Monthly income before deductions \$

**Resource Transfers (resources include both income and assets)**

6. In the past 60 months:

- a. Has any property that was available or belonged to you or your spouse been transferred into or out of a trust?  Yes  No
- b. Did you, your spouse, or someone on your behalf transfer income or the right to income?  Yes  No
- c. Did you, your spouse, or someone on your behalf transfer, change ownership in, give away, or sell any assets, including your home or other real estate?  Yes  No
- d. Did you, your spouse, or someone on your behalf change the deed or the ownership of any real estate, including creating a life estate, even if the life estate was purchased in another person's residence?  Yes  No
- e. If you purchased a life estate in another person's home, did you live in the home for at least one year after you purchased the life estate?  Yes  No
- f. Did you, your spouse, or someone on your behalf add another name to the deed of any property you own?  Yes  No
- g. Did you, your spouse, or someone on your behalf receive or give anyone a mortgage, loan, or promissory note on any property or other asset?  Yes  No
- h. Did you, your spouse, or someone on your behalf purchase or in any way change an annuity?  Yes  No

If you answered yes to any of the questions above, you must fill out the following, and send us proof of this information.

Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$
Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$
Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$

7. Have you, your spouse, or someone acting on your behalf given a deposit to any health care or residential facility, like an assisted living facility, a continuing care retirement community, or life care community?  Yes  No

If yes, give us the name and address of the facility, the amount of the deposit, answer the following questions, and send us a copy of the contract you signed with the facility and any documents about this deposit.

Name of facility \_\_\_\_\_

Address of facility \_\_\_\_\_ Amount \$ \_\_\_\_\_

- a. Does the facility still have the deposit?  Yes  No
- b. Did the facility return the deposit?  Yes  No

If yes, give us the name and address of the person who got the deposit from the facility.

Name of person \_\_\_\_\_

Address \_\_\_\_\_

**Real Estate**

The answers to the following questions will be used to decide if: (1) your real estate will be counted as an asset; or (2) a lien will be placed against your real estate.

**Note:** If the equity interest in your principal place of residence is over a certain limit, you may be ineligible for payment of long-term-care services, unless certain conditions are met.

8. Do you or your spouse own or have a legal interest in your home, including a life estate?  Yes  No

If yes, fill out the following information and answer questions 9 through 15. If no, answer question 15 only.

Name and address of person(s) on ownership papers \_\_\_\_\_

Description and address of property location \_\_\_\_\_

Type of ownership (Check one.)

Individual (Fair-market value) \$ \_\_\_\_\_  Tenancy in common (Fair-market value) \$ \_\_\_\_\_

Joint tenancy (Fair-market value) \$ \_\_\_\_\_  Life estate (Fair-market value) \$ \_\_\_\_\_

Name and address of person(s) on ownership papers \_\_\_\_\_

Description and address of property location \_\_\_\_\_

Type of ownership (Check one.)

Individual (Fair-market value) \$ \_\_\_\_\_  Tenancy in common (Fair-market value) \$ \_\_\_\_\_

Joint tenancy (Fair-market value) \$ \_\_\_\_\_  Life estate (Fair-market value) \$ \_\_\_\_\_

9. Do you have a spouse?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

10. Do you have a permanently and totally disabled or blind child?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

11. Do you have a child under 21 years of age?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Date of birth (mm/dd/yyyy) \_\_\_\_\_ Is this person living in your home?  Yes  No

12. Do you have a brother or sister with a legal interest in the home who was living in the home for at least one year immediately before your admission to the medical institution?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

13. Do you have a son or daughter who has lived in the home for at least the last two years before your admission to the medical institution and has provided care to you that allowed you to live in the home?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

14. Do you have a dependent relative?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

Describe the relationship and the nature of the dependency: \_\_\_\_\_

15. Do you intend to return to your home?  Yes  No

16. Do you or your spouse own or have a legal interest in **other** real estate not listed in #8 above?  Yes  No

If yes, please describe the property and list its address below.

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If you need more space, please use a separate sheet of paper.

### Long-Term-Care Insurance

17. Do you or your spouse have long-term-care insurance?  Yes  No

If yes, fill out this section. If no, go to the next section (Tax Returns).

Send a copy of the policy.

Company name/Policy number

Policyholder name	Effective date (mm/dd/yyyy)	Premium amount \$
-------------------	-----------------------------	-------------------

Company name/Policy number

Policyholder name	Effective date (mm/dd/yyyy)	Premium amount \$
-------------------	-----------------------------	-------------------

### Tax Returns

18. Did you or your spouse file U.S. income tax returns in the last two years? (Check one.)

Yes, both years  Yes, one of these years  No, neither year

If yes, you must send copies of these returns. If you did not keep copies of one or more of these returns, you must send in a filled-out and signed IRS Form 4506. Form 4506 is included at the end of this application.

### SIGN THIS SUPPLEMENT.

By signing this supplement below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this supplement are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

**Important: If you are submitting this supplement as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us for us to process this application. It is important to complete this form as this is the only way we may speak to you about this application.**

Signature of applicant/member or authorized representative	Print name	Date
--	------------	------



16. Do you or your spouse own or have a legal interest in other real estate not listed in #8 above?  Yes  No  
If yes, please describe the property and list its address below.

AS RECEIVED

If you need more space, please use a separate sheet of paper.

### Long-Term Care Insurance

17. Do you or your spouse have long-term-care insurance?  Yes  No  
If yes, fill out this section. If no, go to the next section (Tax Returns).

Send a copy of the policy.

Company name/Policy number

Policyholder name

Effective date (mm/dd/yyyy)

Premium amount \$

Company name/Policy number

Policyholder name

Effective date (mm/dd/yyyy)

Premium amount \$

### Tax Returns

18. Did you or your spouse file U.S. income tax returns in the last two years? (Check one.)  
 Yes, both years  Yes, one of these years  No, neither year

If yes, you must send copies of these returns. If you did not keep copies of one or more of these returns, you must send in a filled-out and signed IRS Form 4506. Form 4506 is included at the end of this application.

### SIGN THIS SUPPLEMENT.

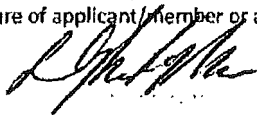
By signing this supplement below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this supplement are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

**Important: If you are submitting this supplement as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us for us to process this application. It is important to complete this form as this is the only way we may speak to you about this application.**

Signature of applicant/member or authorized representative

Print name

Date



DOUGLAS R. MASS

7/12/17

# **EXHIBIT B**

# Application for Health Coverage for Seniors and People Needing Long-Term-Care Services



Please Print Clearly. Be sure to answer all questions. Fill out all parts of the application, along with all supplements that apply. If you need more space, attach a separate piece of paper to the application. Put Person 1's name and social security number at the top of any attached paper.

For each member in your household, please put the name(s) of the individual(s) under the program or programs he or she wants to apply for. Please see the Senior Guide to learn more about coverage under these programs.

Please list the names of everyone who is applying for health coverage on this application.

**MassHealth or the Health Safety Net**  
(If living at home, or in a rest home, an assisted living facility, a continuing care retirement community, or life care community, fill out this application and any supplements that apply to you or any household member.) MassHealth will check if anyone applying for health coverage on this application is eligible for MassHealth or the Health Safety Net.

You: \_\_\_\_\_

Spouse: \_\_\_\_\_

**Long-Term Care and/or Home- and Community-Based Services Waiver**  
(If applying for or getting long-term-care services at home under an HCBS Waiver, or in a nursing home or chronic hospital, fill out this application and any supplements that apply to you or any household member, including all or part of the Long-Term-Care Supplement.)

You: EVA E. HICVI

Spouse: \_\_\_\_\_

**Health Connector Programs**  
Health coverage through the Massachusetts Health Connector is not MassHealth. If you have Medicare, you will not be eligible for any cost sharing or Advance Premium Tax Credits, and you cannot purchase a plan through the Health Connector, unless you were enrolled in a Health Connector plan when you became eligible for Medicare. The only time you should apply for Health Connector programs if you have Medicare is if you are not enrolled in Medicare yet but would have to pay for your Medicare Part A premium. In this case, you may be eligible for a Health Connector plan.

You: **RECEIVED**

Spouse: NOV 09 2017

## STEP 1 Person 1 (YOU)—Tell us about YOURSELF.

PPM

We need one adult in the household to be the contact person for your application. Please note that this should be someone who appears on the application, not a third party who wishes to serve as a contact for the applicant(s). Please see the Authorized Representative Designation (ARD) Form after page 29 to establish a third-party contact.

1. First name, middle name, last name, and suffix <u>Eva E. Hicvi</u>			2. Date of birth <u>1933</u>	
3. Home address <input type="checkbox"/> Check this box if homeless. You must provide a mailing address. [REDACTED]			4. Apartment or suite number	
5. City <u>Paxton</u>	6. State <u>MA</u>	7. ZIP code [REDACTED]	8. County	
9. Is this a hospital, nursing facility, or other institution? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, facility name				
10. Mailing address <input type="checkbox"/> Check if same as home address.			11. Apartment or suite number	
12. City	13. State	14. ZIP code	15. County	
16. Phone number		17. Other phone number		
18. E-mail			19. # of people listed on the application <u>1</u>	
20. What is your preferred spoken or written language (if not English)?				

21. Is anyone on this application in prison or jail?  Yes  No

If yes, who? Enter the name here: \_\_\_\_\_

### FOR ENROLLMENT ASSISTERS ONLY

Complete this section if you are an enrollment assister and are filling out this application for someone else. Navigators must fill out a Navigator Designation Form if they have not done so already. Certified Application Counselors must fill out a Certified Application Counselor Designation Form if they have not done so already.

Check one  Navigator  Certified Application Counselor

First name, middle name, last name and suffix

E-mail address

Organization name

Organization identification number

Organization phone number

### STEP 2 Person 1

1. First name, middle name, last name, and suffix

Eva E Hirvi

2. Gender

Male  Female

3. Relationship to you

SELF

4. Are you applying for health or dental coverage for YOURSELF?  Yes  No

If yes, answer all the questions below in Step 2 for Person 1 (yourself).

If no, answer Question 13 (accommodations), then go to the Income Information section on page 4.

5. Are you married?  Yes  No

If yes, name and DOB of spouse

Henry E. Hirvi

30

6. We need a social security number (SSN) for every person applying for health coverage who has one. An SSN is optional for persons not applying for health coverage, but giving us an SSN can speed up the application process. We use SSNs to check income and other information to see who is eligible for help with health coverage costs. If someone needs help getting an SSN, call the Social Security Administration at 1-800-772-1213 (TTY: 1-800-325-0778 for people who are deaf, hard of hearing, or speech disabled), or go to [socialsecurity.gov](http://socialsecurity.gov). Please see the Senior Guide for more information.

a. Do you have a social security number (SSN)?  Yes  No

If yes, give us the number (optional if not applying)

4570

If no, check one of the following reasons.  Just applied  Noncitizen exception  Religious exception

b. Is your name on this application the same as your name on your social security card?  Yes  No

If no, what name is on your social security card? \_\_\_\_\_

First name, middle name, last name, and suffix

7. If you get an Advance Premium Tax Credit for 2017, do you agree to file a federal tax return for tax year 2017?  Yes  No

You may not have needed or chosen to file a tax return in the past, but you will have to file a federal income tax return for any year that you get an Advance Premium Tax Credit. You must check "Yes" to be eligible for ConnectorCare or Advance Premium Tax Credits to help pay for your health insurance. You do NOT need to file a tax return to get MassHealth benefits.

If yes, please answer questions a-d. If no, skip to question d.

a. Are you considered married for tax filing purposes?  Yes  No

See IRS Publication 501 or consult a tax professional for tax filing information.

If yes, list name of spouse and date of birth.

Henry E. Hirvi

30

b. Do you plan to file a joint federal tax return with your spouse for 2017?  Yes  No

You must file a joint federal tax return with your spouse for 2017 to get certain programs unless you are a victim of domestic abuse or abandonment. If you are a victim of domestic abuse or are an abandoned spouse, you should answer "No" to question 7a ("are you considered married for tax filing purposes") and "No" to question 7b ("do you plan to file with your spouse"), even if that is not how you actually file. You will only need to include yourself and any dependents on this application.

- c. Will you claim any dependents on your federal income tax return for 2017?  Yes  No  
 You will claim a personal exemption deduction on your 2017 federal income tax return for any individual listed on this application as a dependent who is enrolled in coverage through the Massachusetts Health Connector and whose premium for coverage is paid in whole or in part by advance payments.

If yes, list name(s) and date(s) of birth of dependents. \_\_\_\_\_

- d. Will you be claimed as a dependent on someone else's federal income tax return for 2017?  Yes  No  
 If you are claimed by someone else as a dependent on their 2017 federal income tax return, this may affect your ability to receive an Advance Premium Tax Credit. Do not answer "Yes" to this question if you are a child under 21 years of age being claimed by a noncustodial parent.

If yes, please list the name of the tax filer. \_\_\_\_\_

Tax filer date of birth \_\_\_\_\_ How are you related to the tax filer? \_\_\_\_\_

Is the tax filer married, filing a joint return?  Yes  No

If yes, list name of spouse and date of birth. \_\_\_\_\_

Who else does the tax filer claim as dependents? \_\_\_\_\_

8. Are you a U.S. citizen or U.S. national?  Yes  No

If yes, are you a naturalized citizen (not born in the US)?  Yes  No

Alien number \_\_\_\_\_ Naturalization or citizenship certificate number \_\_\_\_\_

9. If you are a noncitizen, do you have an eligible immigration status?  Yes  No

See page 20, "Immigration Statuses and Document Types" for help. If **no** or **no response**, you may get only one or more of the following: MassHealth Standard (if pregnant), MassHealth Limited, the Children's Medical Security Plan (CMSP), or the Health Safety Net (HSN). Go to Question 10.

- a. If yes, do you have an immigration document?  Yes  No

It may help us to process this application faster if you include a copy of your immigration document with the application. We will try to verify your immigration status through electronic data match. Please list all the immigrations statuses and/or conditions that have applied to you since you entered the U.S. If you need more space, attach another sheet of paper.

Status award date (mm/dd/yyyy) \_\_\_\_\_ (For battered persons, enter the date the petition was approved.)

Immigration status \_\_\_\_\_ Immigration document type \_\_\_\_\_

Choose one or more document status and type from the list on page 20.

Document ID number \_\_\_\_\_ Alien number \_\_\_\_\_

Passport or document expiration date (mm/dd/yyyy) \_\_\_\_\_ Country \_\_\_\_\_

- b. Did you use the same name on this application that you did to get your immigration status?  Yes  No

If no, what name did you use? First, middle, last, and suffix \_\_\_\_\_

- c. Did you arrive in the US after August 22, 1996?  Yes  No

- d. Are you an honorably discharged veteran or active duty member of the U.S. military, or the spouse or child of an honorably discharged veteran or an active-duty member of the U.S. military?  Yes  No

10. Check the box below that best describes you (optional-check all that apply.)

Hispanic, Latino, or Spanish origin

Cuban

Mexican, Mexican-American, or Chicano

Puerto Rican

Other Hispanic/Latino/Spanish \_\_\_\_\_

American Indian or Alaska Native (complete Step 3 and Supplement B)

Asian Indian

Black or African American

Chinese

Filipino

Guamanian or Chamorro

Japanese

Korean

Native Hawaiian

Other Asian

Other Pacific Islander

Samoan

Vietnamese

White or Caucasian

Other \_\_\_\_\_

11. Are you living in Massachusetts and you either intend to reside here, even if you do not have a fixed address, or have entered Massachusetts with a job commitment or seeking employment?  Yes  No

If you are visiting in Massachusetts for personal pleasure or for the purposes of receiving medical care in a setting other than a nursing facility, you must answer no to this question.

12. Do you live with at least one child younger than age 19, and are you the main person taking care of this child or children?  Yes  No

Names(s) and date(s) of birth of child(ren) \_\_\_\_\_

13. Are you pregnant?  Yes  No

If yes, how many babies are you expecting? \_\_\_\_\_ What is the expected due date? \_\_\_\_\_

14. Were you ever in foster care?  Yes  No

a. If yes, in what state were you in foster care? \_\_\_\_\_

b. Were you getting health care through a state Medicaid program?  Yes  No

15. Do you rent or own your property?  Rent  Own

16. Do you need reasonable accommodation(s) because of a disability or injury?  Yes  No

If no, go to the next question. If yes, answer questions a and b.

a. Condition

Low vision  Blind  Deaf  Hard of hearing  Developmentally disabled  Intellectually disabled  
 Physically disabled  Other (Please explain.) \_\_\_\_\_

b. Accommodation

Text telephone (TTY)  Large-print publications  American Sign Language interpreter  Video Relay Service  
 Communication Access Real-time Translations (CART)  Publications in braille  Assistive listening device  
 Publications in electronic format  Other (Please explain.) \_\_\_\_\_

17. Are you applying because of an accident or injury that someone else might be responsible for?  Yes  No

a. Did someone else cause your injury, illness, or disability, or could someone else's insurance or your own insurance, other than health insurance (like homeowner's or auto insurance) cover it?  Yes  No

b. Have you filed a lawsuit, a workers' compensation claim, or an insurance claim for this accident or injury?  Yes  No

18. Did you ever get Supplemental Security Income (SSI)?  Yes  No

If no, go to Income Information. If yes, answer questions a and b.

a. When did you last get SSI? (mm/yyyy) \_\_\_\_\_

b. Do you (check one):  live alone?  live with a spouse?  live in a rest home?  live in someone else's home?

## INCOME INFORMATION

19. Do you have any income?  Yes  No

If yes, go to Current Job 1 for job income. Go to Self-Employment for self-employment income. For all other income, go to Other Income. If any income is not steady from month to month, please provide the average income for the time period (per week, per month, etc.).

If no, go to Person 2 if you have individuals to add. If this application is only for you, go to Step 3.

## CURRENT JOB 1

20. Employer name and address \_\_\_\_\_

21. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

22. Average number of hours worked each WEEK \_\_\_\_\_ 23. Is this job a sheltered workshop?  Yes  No

24. Are you seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?

Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

**CURRENT JOB 2** | If you have more jobs and need more space, attach another sheet of paper.

25. Employer name and address \_\_\_\_\_

26. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

27. Average number of hours worked each WEEK \_\_\_\_\_ 28. Is this job a sheltered workshop?  Yes  No

29. Are you seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?

Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

**SELF-EMPLOYMENT** | If self-employed, answer the following questions. If you need more space, attach another sheet of paper.

30. Are you self employed?  Yes  No

- a. If yes, what type of work do you do? \_\_\_\_\_
- b. On average, how much net income (profits after business expenses are paid) will you get from this self-employment each month, or, how much will you lose from this self-employment each month? \$ \_\_\_\_\_/month profit OR \$ \_\_\_\_\_/month loss?
- c. How many hours do you work per week? \_\_\_\_\_

**OTHER INCOME**

31. Check all that apply, and give the amount and how often you get it. If you receive a one-time payment, please include the month in which it was received. NOTE: You do not need to tell us about child support, nontaxable veteran's payments, or Supplemental Security Income (SSI).

- Social Security benefits \$ 717.<sup>00</sup> How often/month received? Monthly
- Pension \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Annuities \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Trusts \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Unemployment \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Capital gains \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Interest, dividends, and other investment income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net royalty income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net farming or fishing income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Alimony received \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable veteran's benefits \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable military retirement pay (not paid through the Veterans' Administration) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Other taxable income (Include type) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_ Type \_\_\_\_\_

**RENTAL INCOME**

32. Do you get rental income? (You must answer this question.)  Yes  No

If yes, send proof of current rental income, such as a written statement from each tenant, a copy of the lease, or a current federal tax return. Also send proof of all of the following expenses, if applicable, for the last 12 months: mortgage, taxes, utilities (gas/electric), heat, water/sewer, insurance, condo or co-op fee, repairs and maintenance.

- a. What type of real estate do you own?  one-family  two-family  three-family  other (describe): \_\_\_\_\_
- b. How much monthly rental income do you get from each rental unit from the real estate indicated above?  
(List each rental unit and address separately.)
- |               |              |              |  |
|---------------|--------------|--------------|--|
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
- c. Do you pay for heat and/or utilities for your tenant?  Yes  No

**DEDUCTIONS**

33. Check all that apply. Give the amount and how often you get it.

If you pay for certain things that can be deducted on a federal income tax return, telling us about them could make the cost of health coverage a little lower. **NOTE:** You should not include a cost that you already considered in your answers to net self-employment income, net rental or royalty income, or net farming or fishing income.

Alimony paid \$ \_\_\_\_\_ How often? \_\_\_\_\_  Student loan interest \$ \_\_\_\_\_ How often? \_\_\_\_\_


Other tax deductions (educator expenses; certain business expenses of reservists, performing artists, or fee-based government officials; health savings account deduction; moving expenses; deductible part of self-employment tax; contribution to self-employed SEP, SIMPLE, and qualified plans; self-employed health insurance deduction; penalty on early withdrawal of savings; Individual Retirement Account (IRA) deduction; higher education tuition and fees; and domestic production activities deduction). **Do not include any type of deduction that is not listed above.**

Type \_\_\_\_\_ \$ \_\_\_\_\_ How often? \_\_\_\_\_

**YEARLY INCOME**

34. What is your total expected income for the current calendar year? 8604,-

35. What is your total expected income for next calendar year, if different? 8604,-

 **THANKS!** This is all we need to know about you. Go to Step 2 Person 2 to add another household member, if needed. Otherwise, go to Step 3 American Indian or Alaska Native (AI/AN) Household Member(s).

**STEP 2 Person 2—Spouse or other people in this household**

Fill out this part for your spouse who lives with you or anyone included on your federal income tax return, if you file one.

If you have to include more than two people on this application, make a copy of blank information pages for Step 2 Person 2 BEFORE you fill them out. When filling out the additional pages please be sure to tell us how each person is related to each other person on the application. We need this information to determine eligibility. You can also download pages for additional persons at [mass.gov/masshealth](http://mass.gov/masshealth). Click on Apply for Health Coverage. Under the Individuals and Families, Including People with Disabilities section, click on Apply by Mail or Fax, then Applications for Individuals and Families (ACA-3), then on Massachusetts Application for Health and Dental Coverage and Help Paying Costs – Additional Persons.

1. First name, middle name, last name, and suffix Henry E. Hirvi 2. Date of birth 30 3. Gender  Male  Female

4. Relationship to Person 1 Husband 5. Does this person live with Person 1?  Yes  No If no, provide home address

No home address. Note: if you check this box, you must provide a mailing address.

6. Is this a hospital, nursing facility, or other institution?  Yes  No  
If yes, facility name

7. Mailing address  Check if same as home address. 8. Apartment or suite number

9. City 10. State 11. ZIP code 12. County

13. What is this person's preferred spoken or written language (if not English)?

14. Is this person applying for health or dental coverage?  Yes  No  
If yes, answer all the questions below in Step 2 for Person 2  
If no, answer Question 27 (accommodations), then go to the Income Information section on page 9.

15. Is this person married?  Yes  No Eva E. Hirvi 1933  
If yes, name and DOB of spouse



16. We need a social security number (SSN) for every person applying for health coverage who has one. An SSN is optional for persons not applying for health coverage, but giving us an SSN can speed up the application process. We use SSNs to check income and other information to see who is eligible for help with health coverage costs. If someone needs help getting an SSN, call the Social Security Administration at 1-800-772-1213 (TTY: 1-800-325-0778 for people who are deaf, hard of hearing, or speech disabled), or go to [socialsecurity.gov](http://socialsecurity.gov). Please see the Senior Guide for more information.

a. Does this person have a social security number (SSN)?  Yes  No

If yes, give us the number (optional if not applying) \_\_\_\_\_

6478

If no, check one of the following reasons:  Just applied  Noncitizen exception  Religious exception

b. Is this person's name on this application the same as the name on his or her social security card?  Yes  No

If no, what name is on your social security card? \_\_\_\_\_

First name, middle name, last name, and suffix

17. If this person gets an Advance Premium Tax Credit for 2017, does he or she agree to file a federal tax return for tax year 2017?  Yes  No

He or she may not have needed or chosen to file a tax return in the past, but will have to file a federal income tax return for any year that he or she gets an Advance Premium Tax Credit. You must check "Yes" to be eligible for ConnectorCare or Advance Premium Tax Credits to help pay for his or her health insurance. You do NOT need to file a tax return to get MassHealth benefits.

If yes, please answer questions a-d. If no, skip to question d.

a. Is this person considered married for tax filing purposes?  Yes  No

See IRS Publication 501 or consult a tax professional for tax filing information.

If yes, list name of spouse and date of birth. \_\_\_\_\_

Eva E Hirvi 1933

b. Does this person plan to file a joint federal tax return with his or her spouse for 2017?  Yes  No

He or she must file a joint federal tax return with his or her spouse for 2016 to get certain programs unless he or she is a victim of domestic abuse or abandonment. If he or she is a victim of domestic abuse or is an abandoned spouse, you should answer "No" to question 21a ("Is this person considered married for tax filing purposes?") and "No" to question 21b ("Does this person plan to file with a spouse?"), even if that is not how he or she actually file. He or she will only need to include him- or herself and any dependents on this application.

c. Will this person claim any dependents on his or her federal income tax return for 2017?  Yes  No

He or she will claim a personal exemption deduction on his or her 2017 federal income tax return for any individual listed on this application as a dependent who is enrolled in coverage through the Massachusetts Health Connector and whose premium for coverage is paid in whole or in part by advance payments.

d. Will this person be claimed as a dependent on someone else's federal income tax return for 2017?  Yes  No

If he or she is claimed by someone else as a dependent on their 2017 federal income tax return, this may affect his or her ability to receive an Advance Premium Tax Credit. Do not answer "Yes" to this question if this person is a child under 21 years of age being claimed by a noncustodial parent.

If yes, please list the name of the tax filer: \_\_\_\_\_

Tax filer date of birth \_\_\_\_\_

How are you related to the tax filer? \_\_\_\_\_

Is the tax filer married, filing a joint return?  Yes  No

If yes, list name of spouse and date of birth. \_\_\_\_\_

Who else does the tax filer claim as dependents? \_\_\_\_\_

18. Is this person a U.S. citizen or U.S. national?  Yes  No

If yes, is he or she a naturalized citizen (not born in the U.S.)?  Yes  No

Alien number \_\_\_\_\_

Naturalization or citizenship certificate number \_\_\_\_\_

19. If this person is a noncitizen, does he or she have an eligible immigration status?  Yes  No  
 See page 20, "Immigration Statuses and Document Types" for help. If **no** or **no response**, you may get only one or more of the following: MassHealth Standard (if pregnant), MassHealth Limited, the Children's Medical Security Plan (CMSP), or the Health Safety Net (HSN). Go to Question 24.
- a. If **yes**, does this person have an immigration document?  Yes  No  
 It may help us to process this application faster if you include a copy of his or her immigration document with the application. We will try to verify this person's immigration status through electronic data match. Please list all the immigrations statuses and/or conditions that have applied to this person since he or she entered the U.S. if you need more space, attach another sheet of paper. For immigration status, choose one or more statuses from the list on page 20. Status award date (mm/dd/yyyy) \_\_\_\_\_ (For battered persons, enter the date the petition was approved.)  
 Immigration status \_\_\_\_\_ Immigration document type \_\_\_\_\_  
 Choose one or more document status and types from the list on page 20.  
 Document ID number \_\_\_\_\_ Alien number \_\_\_\_\_  
 Passport or document expiration date (mm/dd/yyyy) \_\_\_\_\_ Country \_\_\_\_\_
- b. Did this person use the same name on this application to get his or her immigration status?  Yes  No  
 If **no**, what name did this person use? First, middle, last and suffix \_\_\_\_\_
- c. Did this person arrive in the U.S. after August 22, 1996?  Yes  No
- d. Is this person an honorably discharged veteran or active duty member of the U.S. military, or the spouse or child of an honorably discharged veteran or an active-duty member of the U.S. military?  Yes  No

20. Check the box below that best describes this person (optional-check all that apply.)

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Hispanic, Latino, or Spanish origin      | <input type="checkbox"/> American Indian or Alaska Native<br>(complete Step 3 and Supplement B) | <input type="checkbox"/> Korean                 |
| <input type="checkbox"/> Cuban                                    | <input type="checkbox"/> Asian Indian   | <input type="checkbox"/> Native Hawaiian        |
| <input type="checkbox"/> Mexican, Mexican-American,<br>or Chicano | <input type="checkbox"/> Black or African American  | <input type="checkbox"/> Other Asian            |
| <input type="checkbox"/> Puerto Rican                             | <input type="checkbox"/> Chinese  | <input type="checkbox"/> Other Pacific Islander |
| <input type="checkbox"/> Other Hispanic/Latino/Spanish<br>_____   | <input type="checkbox"/> Filipino   | <input type="checkbox"/> Samoan                 |
|   | <input type="checkbox"/> Guamanian or Chamorro  | <input type="checkbox"/> Vietnamese             |
|   | <input type="checkbox"/> Japanese   | <input type="checkbox"/> White or Caucasian     |
|   |   | <input type="checkbox"/> Other _____            |

21. Does this person live in Massachusetts and this person either intend to reside here, even if this person do not have a fixed address, or have entered Massachusetts with a job commitment or seeking employment?  Yes  No  
 If this person is visiting in Massachusetts for personal pleasure or for the purposes of receiving medical care in a setting other than a nursing facility, you must answer no to this question.

22. Does this person live with at least one child younger than age 19, and are you the main person taking care of this child or children?  Yes  No  
 Names(s) and date(s) of birth of child(ren) \_\_\_\_\_

23. Is this person pregnant?  Yes  No  
 If **yes**, how many babies is she expecting? \_\_\_\_\_ What is the expected due date? \_\_\_\_\_

24. Was this person ever in foster care?  Yes  No  
 a. If **yes**, in what state was this person in foster care? \_\_\_\_\_  
 b. Was this person getting health care through a state Medicaid program?  Yes  No

25. Does this person rent or own his or her property?  Rent  Own

26. Does this person need reasonable accommodation(s) because of a disability or injury?  Yes  No  
 If **no**, go to the next question. If **yes**, answer questions a and b.

- a. Condition
- Low vision  Blind  Deaf  Hard of hearing  Developmentally disabled  Intellectually disabled  
 Physically disabled  Other (Please explain.) \_\_\_\_\_

b. Accommodation

- Text telephone (TTY)  Large-print publications  American Sign Language interpreter  Video Relay Service
- Communication Access Real-time Translations (CART)  Publications in braille  Assistive listening device
- Publications in electronic format  Other (Please explain.) \_\_\_\_\_

27. Is this person applying because of an accident or injury that someone else might be responsible for?  Yes  No

a. Did someone else cause this person's injury, illness, or disability, or could someone else's insurance or this person's own insurance, other than health insurance (like homeowner's or auto insurance) cover it?  Yes  No

b. Has this person filed a lawsuit, a workers' compensation claim, or an insurance claim for this accident or injury?  Yes  No

28. Did this person ever get Supplemental Security Income (SSI)?  Yes  No

If no, go to Income Information. If yes, answer questions a and b.

a. When did this person last get SSI? (mm/yyyy) \_\_\_\_\_

b. Does this person (check one):  live alone?  live with a spouse?  live in a rest home?  live in someone else's home?

**INCOME INFORMATION**

29. Does this person have any income?  Yes  No

If yes, go to Current Job 1 for job income. Go to Self-Employment for self-employment income. For all other income, go to Other Income. If any income is not steady from month to month, please provide the average income for the time period (per week, per month, etc.).

If no, go to Step 3, American Indian or Alaska Native.

**CURRENT JOB 1**

30. Employer name and address \_\_\_\_\_

31. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

32. Average number of hours worked each WEEK \_\_\_\_\_ 33. Is this job a sheltered workshop?  Yes  No

34. Is this person seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct  Nov.  Dec.

**CURRENT JOB 2 | If this person has more jobs and needs more space, attach another sheet of paper.**

35. Employer name and address \_\_\_\_\_

36. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

37. Average number of hours worked each WEEK \_\_\_\_\_ 38. Is this job a sheltered workshop?  Yes  No

39. Is this person seasonally employed?  Yes  No. If yes, which months does he or she work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct  Nov.  Dec.

**SELF-EMPLOYMENT** | If self-employed, answer the following questions. If you need more space, attach another sheet of paper.

40. Is this person self employed?  Yes  No
- a. If yes, what type of work does he or she do?  
\_\_\_\_\_
- b. On average, how much net income (profits after business expenses are paid) will this person get from this self-employment each month, or, how much will he or she lose from this self-employment each month? \$ \_\_\_\_\_/month profit OR \$ \_\_\_\_\_/month loss?
- c. How many hours does this person work per week? \_\_\_\_\_

**OTHER INCOME**

41. Check all that apply, and give the amount and how often you get it. If you receive a one-time payment, please include the month in which it was received. **NOTE: You do not need to tell us about child support, nontaxable veteran's payments, or Supplemental Security Income (SSI).**

- Social Security benefits \$ 1956.00 How often/month received? \_\_\_\_\_
- Pension \$ 421.41 How often/month received? \_\_\_\_\_
- Annuities \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Trusts \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Unemployment \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Capital gains \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Interest, dividends, and other investment income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net royalty income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net farming or fishing income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Alimony received \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable veteran's benefits \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable military retirement pay (not paid through the Veterans' Administration) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Other taxable income (include type) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_ Type \_\_\_\_\_

**RENTAL INCOME**

42. Does this person get rental income?  Yes  No

If yes, send proof of current rental income, such as a written statement from each tenant, a copy of the lease, or a current federal tax return. Also send proof of all of the following expenses, if applicable, for the last 12 months: mortgage, taxes, utilities (gas/electric), heat, water/sewer, insurance, condo or co-op fee, repairs and maintenance.

- a. What type of real estate does this person own?  one-family  two-family  three-family  
 other (describe): \_\_\_\_\_
- b. How much monthly rental income does this person get from each rental unit from the real estate indicated above? (List each rental unit and address separately.)
- |               |              |              |  |
|---------------|--------------|--------------|--|
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
- c. Does this person pay for heat or utilities for his or her tenant?  Yes  No

**DEDUCTIONS**

43. Check all that apply. Give the amount and how often this person gets it.

If this person pays for certain things that can be deducted on a federal income tax return, telling us about them could make the cost of health coverage a little lower. **NOTE: Do not include a cost already considered in answers to net self-employment income, net rental or royalty income, or net farming or fishing income.**

- Alimony paid \$ \_\_\_\_\_ How often? \_\_\_\_\_  Student loan interest \$ \_\_\_\_\_ How often? \_\_\_\_\_

- Other tax deductions (educator expenses; certain business expenses of reservists, performing artists, or fee-based government officials; health savings account deduction; moving expenses; deductible part of self-employment tax; contribution to self-employed SEP, SIMPLE, and qualified plans; self-employed health insurance deduction; penalty on early withdrawal of savings; Individual Retirement Account (IRA) deduction; higher education tuition and fees; and domestic production activities deduction). **Do not include any type of deduction that is not listed above.**

Type \_\_\_\_\_ \$ \_\_\_\_\_ How often? \_\_\_\_\_

### YEARLY INCOME

44. What is this person's total expected income for the current calendar year? 28,648.92
45. What is this person's total expected income for next calendar year, if different? \_\_\_\_\_



**THANKS!** This is all we need to know about this person.

### STEP 3 American Indian or Alaska Native (AI/AN) Household Member(s)

Are you or is anyone in your household an American Indian or Alaska Native?  Yes  No

If no, skip to Step 4. If yes, complete the rest of this application, including **Supplement B: American Indian or Alaska Native Household Member**.

Names(s) of person(s) \_\_\_\_\_

American Indians and Alaska Natives who enroll in health coverage can also get services from the Indian Health Service, tribal health programs, or Urban Indian Health Programs. If you or any household members are American Indians or Alaska Natives, you may not have to pay premiums or copayments, and may get special monthly enrollment periods.

### STEP 4 Previous Medical Bills

Do you or your spouse have bills for medical services you got in the three months before the month we got your application?  Yes  No

If no, go to **Step 5: Assets**. If yes, fill out the rest of this section. We may be able to pay for these bills.

Do you or your spouse want to apply for MassHealth for that time period?  Yes  No

If yes, what is the earliest date for which you need MassHealth? (mm/dd/yyyy) 8/3/17  
(You must give us proof of all income and assets owned during that time period.)

### STEP 5 Assets | You must fill out all blocks for each asset you and/or your spouse own.

If you live in the community and you want help with medical bills up to three months before the month you apply, you must tell us about any open and closed accounts for that period. If you are applying for long-term care, you must also give us information about all assets you or your spouse owned in the past 60 months. If you need more space, attach another sheet of paper.

#### BANK ACCOUNTS

1. Do you or your spouse have any bank accounts or certificates of deposit, including checking, savings, credit union, NOW, money-market, and personal needs allowance (PNA) accounts?  Yes  No
- a. Do you or your spouse have any retirement accounts, including individual retirement accounts (IRAs), Keogh, or pension funds?  Yes  No
- b. Have you or your spouse or a joint owner closed any accounts in the past 60 months, including any accounts you had owned jointly with anyone else?  Yes  No

If you answered **yes** to any of these questions, fill out this section. If you answered **no** to all of these questions, go to the next section (**REAL ESTATE**).

Send a copy of your passbooks updated within 45 days and/or a copy of your current account statements. Please see the Senior Guide for information about financial institutions charging for copies of statements. If applying for nursing facility coverage, please provide account statements for the past 60 months.

Name on account Henry E Hirvi Eva E Hirvi Ann E Gwyther		Account type Checking
Name of bank/institution Cornerstone Bank		Account number [REDACTED]
Current balance \$ 4,074.49	Balance on admission date* \$	<input checked="" type="checkbox"/> Account open <input type="checkbox"/> Account closed
Date account closed (mm/dd/yyyy)	Amount on the date account closed \$	
Name on account Henry E Hirvi Eva E Hirvi Ann E Gwyther		Account type Savings
Name of bank/institution Cornerstone Bank		Account number [REDACTED]
Current balance \$ 1,041.01	Balance on admission date* \$	<input type="checkbox"/> Account open <input type="checkbox"/> Account closed

\* Enter the account balance on the date of admission to medical institution, hospital, or nursing facility.

**REAL ESTATE**

2. Do you or your spouse own or have a legal interest in your primary residence? *see*  
 You  Yes  No Your spouse  Yes  No *irrevocable Trust*
3. Do you or your spouse own or have a legal interest in any real estate other than your primary residence?  
 You  Yes  No Your spouse  Yes  No

If you answered yes to any of these questions, fill out this section. If no, go to the next section (LIFE INSURANCE).

Send a copy of the deed(s), current tax bill(s), and proof of amount owed on all property owned.

Address [REDACTED] Paxton MA [REDACTED]	
Type of property Single Family	Current value \$
Address	
Type of property	Current value \$

**LIFE INSURANCE**

4. Do you or your spouse own any life insurance?  Yes  No

If yes, fill out this section. If no, go to the next section (SECURITIES BROKERAGE ACCOUNTS (STOCKS/BONDS/OTHER)).

Send a copy of the first page of all life-insurance policies. If total face value of all policies exceeds \$1,500 per person, also send a letter from the insurance company showing the current cash-surrender value (for all policies except term policies).

Name(s) of owner(s)		
Insurance company		
Policy number	Face value \$	Insurance type
Name(s) of owner(s)		
Insurance company		
Policy number	Face value \$	Insurance type

## Bank Accounts


Name on account: Henry E. Hirvi or Account type: Savings  
Eva E. Hirvi

Name of Bank: Country bank Account number 

Current balance \$ 486.16  Account open

---

Name on account: Henry E. Hirvi or Account type: Checking  
Eva E. Hirvi

Name of Bank: Country bank Account number 

Current balance \$: \$ 869.91  Account open

---

Name on account Henry E. Hirvi Account type: checking  
Eva E. Hirvi Account number:

Name of Bank: DCU Credit Union

Current balance \$:  Account open

---

Name on account: Henry E. Hirvi; Account type: Savings  
Eva E. Hirvi Account number:

Name of Bank: DCU Credit Union

Current balance \$:  Account open

**SECURITIES BROKERAGE ACCOUNTS (STOCKS/BONDS/OTHER)**

5. Do you or your spouse own any stocks, bonds, savings bonds, mutual funds, securities, assets held in safe-deposit boxes, cash not in the bank, options, or future contracts?  Yes  No

If yes, fill out this section. If no, go to the next section **(ANNUITIES)**.

Send proof of current value (except cash).

	Owner(s) name(s)	Company name	Account number	Current value	Value on admission date*	Joint asset?
Cash				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Stocks				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Bonds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Savings bonds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Mutual funds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Options				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Future contracts				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Other				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

\* Enter the account balance on the date of admission to medical institution.

**ANNUITIES**

6. Did you or your spouse or someone on your or your spouse's behalf purchase or in any way change an annuity?  Yes  No

If yes, fill out this section. To be eligible, you may be required to name the Commonwealth as a remainder beneficiary. (See the Senior Guide for more information.) If no, go to the next section **(ASSISTED LIVING/OTHER)**.

Send a copy of the contract. For each annuity owned, give us proof from the annuity company of the full value of the annuity less any penalties and fees if it can be cashed in.

Name(s) of owner(s)

Name of institution issuing the annuity

Contract number

Date purchased (mm/dd/yyyy)

Name(s) of owner(s)

Name of institution issuing the annuity

Contract number

Date purchased (mm/dd/yyyy)

**ASSISTED LIVING/OTHER**

7. Have you, your spouse, or someone acting on your behalf given a deposit to any health-care or residential facility, like an assisted-living facility, a continuing-care retirement community, or life-care community?  Yes  No

If yes, fill out this section. If no, go to the next section **(VEHICLES/MOBILE HOMES)**.

Send a copy of the contract you signed with the facility and any documents about this deposit.

Name of facility

Address of facility

Amount of deposit \$

Date deposit given to facility (mm/dd/yyyy)



**VEHICLES/MOBILE HOMES**

8. Do you or your spouse own any vehicles, like cars, vans, trucks, recreational vehicles, mobile homes, or boats?  Yes  No

If yes, fill out this section. If no, go to the next section (**PREPAID BURIAL PLANS/TRUSTS**).

Send a copy of the registration for each vehicle, and proof of the outstanding loan balance. For mobile homes, send a copy of the bill of sale. If you have a spouse at home, send proof of the fair-market value of each vehicle as of the date of admission to the medical institution.

(You) Type of vehicle	Year/make/model	Fair-market value	Amount owed
	<del>2010 Subaru Forester</del>	\$	\$

Mobile home address

(Your spouse) Type of vehicle	Year/make/model	Fair-market value	Amount owed
	2010 Subaru Forester	\$	\$

Mobile home address

**PREPAID BURIAL PLANS**

9. Do you or your spouse have any prepaid burial contracts or trusts, life insurance set up for funeral and burial expenses, or bank accounts set aside for funeral expenses?  Yes  No

If yes, fill out this section. If no, go to the next section (**TRUSTS**).

Send a copy of the trust contract, trust instrument, insurance policy, or burial-only account.

(You) Burial contract <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial trust <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	--

Life insurance for burial <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial-only account <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	---

Burial plot <input type="checkbox"/> Yes <input type="checkbox"/> No	Insurance company	Policy number
--	-------------------	---------------

Bank name	Account number
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(Your spouse) Burial contract <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial trust <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	--

Life insurance for burial <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial-only account <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	---

Burial plot <input type="checkbox"/> Yes <input type="checkbox"/> No	Insurance company	Policy number
--	-------------------	---------------

Bank name	Account number
-----------	----------------

**TRUSTS**

10. Are you or your spouse the grantor/donor, trustee, or beneficiary of any trusts?  Yes  No

11. Have you, your spouse, or someone else on your behalf, including a court or administrative body, contributed income or assets owned by you or your spouse to a trust?  Yes  No

If you answered yes to any of these questions, fill out this section.

If you answered no to these questions, go to **STEP 6: Health Insurance Information**

Send a copy of the trust document(s), any amendments, documents showing financial activity, and the schedule of beneficiaries.

Trust name <u>The Henry F. Harvi and Eva E. Harvi Irrevocable Trust</u>	Revocable? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Current trust principal \$
---	--	----------------------------

Trust principal on admission date* \$	Trustee(s) <u>Ann E. Gwyther</u>
---------------------------------------	----------------------------------

Grantor(s)/Donor(s) <u>Henry F. Harvi, Eva E. Harvi</u>	Beneficiaries
---	---------------

Trust name	Revocable? <input type="checkbox"/> Yes <input type="checkbox"/> No	Current trust principal \$
------------	---	----------------------------

Trust principal on admission date* \$	Trustee(s)
---------------------------------------	------------

Grantor(s)/Donor(s)	Beneficiaries
---------------------	---------------

\* Enter the trust principal on the date of admission to medical institution.

## STEP 6 Health Insurance Information

Complete **Question 1** about health coverage that any person in the household has now. Complete **Question 2** about health insurance available to a household member from a job, whether or not the employed person lives in the household.

1. Is anyone enrolled now in any type of health coverage?  Yes  No  
If yes, check the type of coverage and provide details.

Medicare

Name Eva E. Hirvi Medicare claim number [REDACTED] 6478B

When did coverage start? (mm/dd/yyyy) 06/01/1998

- a. Does this person have a Medicare Part D plan?  Yes  No

If yes, when did coverage start? (mm/dd/yyyy)

- b. Does this person have a Medigap/Medicare supplemental policy?  Yes  No

If yes, name of coverage plan Cigna # [REDACTED] When did coverage start? (mm/dd/yyyy)

Name Henry E. Hirvi Medicare claim number [REDACTED] 6478A

When did coverage start? (mm/dd/yyyy)

- a. Does this person have a Medicare Part D plan?  Yes  No

If yes, when did coverage start? (mm/dd/yyyy)

- b. Does this person have a Medigap/Medicare supplemental policy?  Yes  No

If yes, name of coverage plan Cigna

When did coverage start? (mm/dd/yyyy)

Do any of the persons above want to apply for help paying for the Medicare Part B premiums?  Yes  No

If yes, name(s) Eva E. Hirvi

If you check any of the following programs provide details below.

- TRICARE (Do not check if you have direct care or Line of Duty).  Veterans Affairs (VA) health programs  
 Peace Corps  Employer insurance  COBRA coverage  Retiree health plan  
 Other coverage

Name of insurance plan or policy

Policyholder name

Policy number

Date of birth (mm/dd/yyyy)

SSN (if you know)

Is this a limited-benefit plan (like a school accident policy)?  Yes  No Premium cost \$

Names of covered household members

Group number (if you know)

When did coverage start? (mm/dd/yyyy)

Premium frequency (Check one.)  Weekly  Every two weeks  Twice a month  Monthly  Quarterly  Yearly

Type of coverage this plan provides (Check all that apply.)

- Doctor's visits and hospitalizations  Vision coverage  Dental coverage  Pharmacy coverage  Catastrophic only

2. Is anyone listed on this application offered health coverage from a job but not enrolled in it?  Yes  No

This includes a job for a household member or an individual who is not in the household, such as a noncustodial parent. This question is about coverage that is available but in which eligible household members are not enrolled.

If yes, you will need to complete and include Supplement D: Health Coverage from Jobs.

Is this a state employee benefit plan?  Yes  No

## STEP 7 Personal-Care-Attendant Services

### For people 65 years of age or older who are not going to be in a long-term-care facility

To get more information about personal-care-attendant (PCA) services and how filling out this PCA section could affect the way we decide if you can get MassHealth if you do need PCA services, read the PCA section in the Senior Guide that is enclosed.

1. Do you or your spouse need the services of a personal-care attendant?  Yes  No  
If yes, fill out this section and answer all questions. If no, go to STEP 9: Read and sign this application.
2. Have you or your spouse had the services of a personal-care attendant paid for by MassHealth within the last six months?  Yes  No  
If yes, go to STEP 9: Read and sign this application. If no, answer the following questions in this section.
3. Do you or your spouse have a permanent or long-lasting disability? You  Yes  No Your spouse  Yes  No
  - a. If yes, does your (or your spouse's) disability keep you (or your spouse) from being able to do your (or your spouse's) daily living activities, like bathing, eating, toileting, dressing, etc., unless someone physically helps you (or your spouse)? You  Yes  No Your spouse  Yes  No
  - b. If yes, do you (or your spouse) plan to contact a MassHealth personal-care-management (PCM) agency to ask for personal-care-attendant services? You  Yes  No Your spouse  Yes  No

Note: You must contact the PCM agency within 90 days of the date that MassHealth decides you are eligible for MassHealth or you will not be able to benefit from the special PCA rules.

MassHealth may not pay certain members of your family to be your personal-care attendant.

Each spouse who answered "Yes" to all parts of Question 3 above must fill out his or her own Supplement C: Personal-Care Attendant. One copy is enclosed. If you need a second copy, call MassHealth Customer Service at 1-800-841-2900 (TTY: 1-888-665-9997 for people who are deaf, hard of hearing, or speech disabled) to ask for one. If you (or your spouse) do not send us your filled-out PCA supplement(s), we will determine your MassHealth eligibility as if you do not need PCA services.

## STEP 8 Additional (Optional) Coverage – For married persons under 65 years of age

Fill out this section ONLY if you are married and living with your spouse. One spouse applying must be under 65 years of age, with no children under 19 years of age in the household. Answer these questions for the spouse who is under 65 years of age.

If this section applies to you and you want more information about income standards and other information that may apply, call us at 1-800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled) to get a Senior Guide. If this section does not apply, go to Step 9: Read and sign this application.

### BREAST OR CERVICAL CANCER (OPTIONAL) (Only for persons under 65 years of age.)

1. Do you have breast or cervical cancer?  Yes  No  
MassHealth has special coverage rules for people who need treatment for breast or cervical cancer.  
If yes, we will send you a certificate to be filled out by your doctor to prove your breast or cervical cancer diagnosis. Then MassHealth can see if your MassHealth benefits give you the most coverage possible.  
Name: \_\_\_\_\_

### HIV INFORMATION (OPTIONAL) (Only for persons under 65 years of age.)

2. Are you HIV positive?  Yes  No  
If you are HIV positive, you may be eligible for additional coverage or benefits.  
Name: \_\_\_\_\_

### DISABILITY (Only for persons under 65 years of age.)

3. Do you have a disability (including a disabling mental health condition) that has lasted or is expected to last for at least 12 months? (If legally blind, answer yes.)  Yes  No  
Name: \_\_\_\_\_

## STEP 9 Read and sign this application

On behalf of myself and all persons listed on this application, I understand, represent, and agree as follows.

1. MassHealth may require eligible persons to enroll in available employer-sponsored health insurance if that insurance meets the criteria for MassHealth payment of premium assistance.
2. Employers of eligible persons may be notified and billed in accordance with MassHealth regulations for any services that hospitals or community health centers provide to such persons that are paid for by the Health Safety Net.
3. Eligible persons may have to pay a premium for health coverage for themselves and others listed on this application. Failure to pay any premium due may result in the state deducting the amount owed from the tax refunds of responsible persons. If an eligible person is a certain American Indian or Alaska Native, such person may not have to pay premiums for MassHealth.
4. MassHealth has the right to pursue and get money from third parties who may be obligated to pay for health services provided to eligible persons enrolled in MassHealth programs. Such third parties may include other health insurers, spouses, or parents obligated to pay for medical support, or individuals obligated to pay under accident settlements. Eligible persons must cooperate with MassHealth in establishing third-party support and obtaining third-party payments for themselves and anyone whose rights they can legally assign. Eligible persons may be exempted from this obligation if they believe and tell MassHealth that cooperation could result in harm to them or anyone whose rights they can legally assign.
5. A parent and/or guardian of minor children must agree to cooperate with state efforts to collect medical support from an absent parent unless they believe and tell MassHealth that cooperation will harm the children or the parent or guardian.
6. Eligible persons who are injured in an accident, or in some other way, and get money from a third party because of that accident or injury must use that money to repay MassHealth or the Health Safety Net for certain services provided.
7. Eligible persons must tell MassHealth or the Health Safety Net, in writing, within 10 calendar days, or as soon as possible, about any insurance claims or lawsuits filed because of an accident or injury.
8. The status of this application may be shared with a hospital, community health center, other medical provider, or federal or state agencies when necessary for treatment, payment, operations, or the administration of the programs listed above.
9. To the extent permitted by law, MassHealth may place a lien against any real estate owned by eligible persons or in which eligible persons have a legal interest. If MassHealth puts a lien against such property and it is sold, money from the sale of that property may be used to repay MassHealth for medical services provided.
10. To the extent permitted by law, and unless exceptions apply, for any eligible person 55 years of age or older, or any eligible person for whom MassHealth helps pay for care in a nursing home, MassHealth will seek money from the eligible person's estate after death.
11. MassHealth, the Health Connector, and the Health Safety Net will obtain from eligible persons' current and former employers and health insurers all information about health insurance coverage for such persons. This includes, but is not limited to, information about policies, premiums, coinsurance, deductibles, and covered benefits that are, may be, or should have been available to such persons or members of their household.
12. MassHealth, the Health Connector, and the Health Safety Net may get records or data about persons listed on this application from federal and state data sources and programs, such as the Social Security Administration, the Internal Revenue Service, the Department of Homeland Security, the Department of Revenue, and the Registry of Motor Vehicles, as well as private data sources including financial institutions, 1) to prove any information given on this application and any supplements, or other information given once a person becomes a member, 2) to document medical services claimed or provided to such persons, and 3) to support continued eligibility.
13. To make it easier to determine my eligibility for help paying for health coverage in future years, I agree to allow the Health Connector to use income data, including information from tax returns for the next three coverage years. The Health Connector will send me a notice, let me make changes, and I can opt out at any time. I understand that if I am eligible for an Advance Premium Tax Credit (APTC) and/or Reduced Copays and Deductibles these payments will be made directly to my selected insurance carrier(s). Acceptance of APTC and/or Reduced Copays and Deductibles may impact my 2017 tax liability. I will be given the option to apply all, some, or none of any APTC amount I may be eligible for to my monthly premium.
14. In connection with the eligibility and enrollment process, MassHealth, the Health Connector, and the Health Safety Net may send notices that contain personal information about persons listed on this application to other persons on this application, or otherwise communicate such information to such persons.
15. Under federal law, discrimination is not permitted on the basis of race, color, national origin, sex, age, sexual orientation, gender identity, or disability. I can file a complaint of discrimination by going to [www.hhs.gov/ocr/office/file](http://www.hhs.gov/ocr/office/file).

16. Eligible persons must tell the health care program(s) in which they enroll about any changes in their or their household's income or employment, household size, health insurance coverage, health insurance premiums, and immigration status, or about changes in any other information on this application and any supplements to it within 10 calendar days of learning of the change. Eligible persons can make changes by calling 1-800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled). A change in information could affect eligibility for such persons or for persons in their household

You can also report changes in any of the following ways.

- Sign on to your account at [MAhealthconnector.org](http://MAhealthconnector.org).  
You can create an online account if you do not already have one.
- Send the change information to  
Health Insurance Processing Center  
P.O. Box 4405  
Taunton, MA 02780.
- Fax the change information to 1-857-323-8300.

17. No one applying for health coverage on this application is in prison or in jail except as set forth below. If someone applying for health coverage is in prison or jail, write their name below and answer the following three questions.

\_\_\_\_\_ is in prison or jail.

Is this person awaiting trial?  Yes  No

Is this person being released within 30 days of submitting this application?  Yes  No

**I AGREE TO THE FOLLOWING STATEMENTS.**

- I have read or have had read to me the information on this application, including any supplements and instruction pages, and I understand that the Senior Guide contains important information.
- I have permission from all persons listed on this application (or their parent or other legally authorized representative) to submit this application and to act on their behalf to complete this application and any ongoing or subsequent eligibility process and activity, including, for example:
  - providing personal information about them, including health, health coverage, and income information, seeing such information as may be provided by the Health Connector, MassHealth, and the Health Safety Net, and providing consent on their behalf to the use and disclosure of their information as described in this application;
  - making choices about coverage options and methods of communication with the Health Connector, MassHealth, and the Health Safety Net;
  - making changes to the application or related eligibility documents and providing information about any change in their circumstances; and
- providing consent on their behalf to use government and private sources to verify information as described in this application.
- I understand my rights and responsibilities and the rights and responsibilities of all persons listed on this application as explained in STEP 9.
- I have told or will tell all such persons (or their parent or legally authorized representative, if applicable) about these rights and responsibilities so they understand them.
- I understand and agree that MassHealth, the Health Safety Net, and the Health Connector will treat electronic, faxed, or copies of signatures with the same force and effect as an original signature(s).
- The information I have supplied is correct and complete to the best of my knowledge about myself and other persons listed on this application.
- I may be subject to penalties under federal law if I intentionally provide false or untrue information.

**Sign this application.**

By signing this application below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this application are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

**Important:** If you are submitting this application as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us or have a form on record for us to process this application. The ARD is at the end of this application.

Signature of Person 1 or authorized representative	Print name	Date
<i>Ann Gayther</i> - HCP DWP	Ann Gayther	11-3-17

**VOTER REGISTRATION INFORMATION ON NEXT PAGE**

# SUPPLEMENT **A** Long-Term Care



- Do you need long-term-care services in a nursing home type facility?  Yes  No  
If yes, you must answer all questions and fill out all sections of this supplement.
- Are you applying for or getting long-term-care services at home under a Home- and Community-Based Services Waiver?  
 Yes  No If yes, you only need to fill out the "Resource Transfers" section on page 22.

Please print clearly. Answer all questions and fill out all sections. If you need more space to finish any section, please use a separate sheet of paper (include your name and social security number), and attach it to this supplement.

## Applicant/Member Information

Last name, first name, middle initial <u>Hirvi, Eva E.</u>	Social security number <u>[REDACTED]-4570</u>
Name and address of hospital, nursing facility, or other institution <u>Lutheran Rehab + Skilled Care Center 26 Harvard St Warr. MA 01609</u>	
Date of admission (mm/dd/yyyy) <u>10/15/17</u>	Were you placed here by another state? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, what state?

1. Do you have to pay guardianship expenses for a court-appointed guardian?  Yes  No

## Living expenses of the spouse and family members living at home

Your spouse living at home may be able to keep some of your income. Fill out the following information about your spouse's current living expenses. If you do not have a spouse, go to the next section (Resource Transfers).

Send proof of your spouse's current living expenses.

Spouse's last name, first name, middle initial <u>Hirvi, Henry E.</u>	Social security number <u>[REDACTED]-6478</u>
--	--

2. How much does your spouse pay each month for:
- Rent? \_\_\_\_\_ Mortgage (principal and interest)? \_\_\_\_\_
- Homeowner's/tenant's insurance? \_\_\_\_\_ Real estate taxes? \_\_\_\_\_
- Required maintenance charge for a condo or co-op? \_\_\_\_\_ Room and board for assisted living? \_\_\_\_\_
3. Does your spouse pay for heat?  Yes  No
4. Does your spouse pay for utilities?  Yes  No
5. Is a child, parent, brother, and/or sister living with your spouse?  Yes  No

If yes, fill out this section. If no, go to the next section (Resource Transfers).

Send proof of their monthly income before deductions.

A deduction may be allowed for their maintenance needs. These persons must be related to you or your spouse, and one of you must claim them as dependents on your federal income tax return.

Name		Social security number
Relationship	Date of birth (mm/dd/yyyy)	Monthly income before deductions \$
Name		Social security number
Relationship	Date of birth (mm/dd/yyyy)	Monthly income before deductions \$

**Resource Transfers (resources include both income and assets)**

6. In the past 60 months:

- a. Has any property that was available or belonged to you or your spouse been transferred into or out of a trust?  Yes  No
- b. Did you, your spouse, or someone on your behalf transfer income or the right to income?  Yes  No
- c. Did you, your spouse, or someone on your behalf transfer, change ownership in, give away, or sell any assets, including your home or other real estate?  Yes  No
- d. Did you, your spouse, or someone on your behalf change the deed or the ownership of any real estate, including creating a life estate, even if the life estate was purchased in another person's residence?  Yes  No
- e. If you purchased a life estate in another person's home, did you live in the home for at least one year after you purchased the life estate?  Yes  No
- f. Did you, your spouse, or someone on your behalf add another name to the deed of any property you own?  Yes  No
- g. Did you, your spouse, or someone on your behalf receive or give anyone a mortgage, loan, or promissory note on any property or other asset?  Yes  No
- h. Did you, your spouse, or someone on your behalf purchase or in any way change an annuity?  Yes  No

If you answered yes to any of the questions above, you must fill out the following, and send us proof of this information.

Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$
Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$
Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$

7. Have you, your spouse, or someone acting on your behalf given a deposit to any health care or residential facility, like an assisted living facility, a continuing care retirement community, or life care community?  Yes  No

If yes, give us the name and address of the facility, the amount of the deposit, answer the following questions, and send us a copy of the contract you signed with the facility and any documents about this deposit.

Name of facility \_\_\_\_\_

Address of facility \_\_\_\_\_ Amount \$ \_\_\_\_\_

- a. Does the facility still have the deposit?  Yes  No
- b. Did the facility return the deposit?  Yes  No

If yes, give us the name and address of the person who got the deposit from the facility.

Name of person \_\_\_\_\_

Address \_\_\_\_\_

16. Do you or your spouse own or have a legal interest in other real estate not listed in #8 above?  Yes  No

If yes, please describe the property and list its address below.

*see  
Irrevocable  
Trust*

If you need more space, please use a separate sheet of paper.

### Long-Term-Care Insurance

17. Do you or your spouse have long-term-care insurance?  Yes  No

If yes, fill out this section. If no, go to the next section (Tax Returns).

Send a copy of the policy.

Company name/Policy number

Policyholder name

Effective date (mm/dd/yyyy)

Premium amount \$

Company name/Policy number

Policyholder name

Effective date (mm/dd/yyyy)

Premium amount \$

### Tax Returns

18. Did you or your spouse file U.S. income tax returns in the last two years? (Check one.)

Yes, both years  Yes, one of these years  No, neither year

If yes, you must send copies of these returns. If you did not keep copies of one or more of these returns, you must send in a filled-out and signed IRS Form 4506. Form 4506 is included at the end of this application.

### SIGN THIS SUPPLEMENT.

By signing this supplement below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this supplement are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

**Important:** If you are submitting this supplement as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us for us to process this application. It is important to complete this form as this is the only way we may speak to you about this application.

Signature of applicant/member or authorized representative	Print name	Date
<i>Ann Gwyther</i> P.O.A. / DTR.	Ann Gwyther	11-3-07



**Real Estate**

The answers to the following questions will be used to decide if: (1) your real estate will be counted as an asset; or (2) a lien will be placed against your real estate.

**Note:** If the equity interest in your principal place of residence is over a certain limit, you may be ineligible for payment of long-term-care services, unless certain conditions are met.

8. Do you or your spouse own or have a legal interest in your home, including a life estate?  Yes  No *See irrevocable Trust*

If yes, fill out the following information and answer questions 9 through 15. If no, answer question 15 only.

Name and address of person(s) on ownership papers EE

Description and address of property location \_\_\_\_\_

Type of ownership (Check one.)

Individual (Fair-market value) \$ \_\_\_\_\_  Tenancy in common (Fair-market value) \$ \_\_\_\_\_

Joint tenancy (Fair-market value) \$ \_\_\_\_\_  Life estate (Fair-market value) \$ \_\_\_\_\_

Name and address of person(s) on ownership papers \_\_\_\_\_

Description and address of property location \_\_\_\_\_

Type of ownership (Check one.)

Individual (Fair-market value) \$ \_\_\_\_\_  Tenancy in common (Fair-market value) \$ \_\_\_\_\_

Joint tenancy (Fair-market value) \$ \_\_\_\_\_  Life estate (Fair-market value) \$ \_\_\_\_\_

9. Do you have a spouse?  Yes  No If yes, fill out this section.

Name Henry E. Hirvi Is this person living in your home?  Yes  No

10. Do you have a permanently and totally disabled or blind child?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

11. Do you have a child under 21 years of age?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Date of birth (mm/dd/yyyy) \_\_\_\_\_ Is this person living in your home?  Yes  No

12. Do you have a brother or sister with a legal interest in the home who was living in the home for at least one year immediately before your admission to the medical institution?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

13. Do you have a son or daughter who has lived in the home for at least the last two years before your admission to the medical institution and has provided care to you that allowed you to live in the home?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

14. Do you have a dependent relative?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

Describe the relationship and the nature of the dependency: \_\_\_\_\_

15. Do you intend to return to your home?  Yes  No

# EXHIBIT C

MISSING PAGES

# Application for Health Coverage for Seniors and People Needing Long-Term-Care Services



Please Print Clearly. Be sure to answer all questions. Fill out all parts of the application, along with all supplements that apply. If you need more space, attach a separate piece of paper to the application. Put Person 1's name and social security number at the top of any attached paper.

For each member in your household, please put the name(s) of the individual(s) under the program or programs he or she wants to apply for. Please see the Senior Guide to learn more about coverage under these programs.

Please list the names of everyone who is applying for health coverage on this application.

MassHealth or the Health Safety Net  
(If living at home, or in a rest home, an assisted living facility, a continuing care retirement community, or life care community, fill out this application and any supplements that apply to you or any household member.) MassHealth will check if anyone applying for health coverage on this application is eligible for MassHealth or the Health Safety Net.

You: \_\_\_\_\_

Spouse: \_\_\_\_\_

Long-Term Care and/or Home- and Community-Based Services Waiver  
(If applying for or getting long-term-care services at home under an HCBS Waiver, or in a nursing home or chronic hospital, fill out this application and any supplements that apply to you or any household member, including all or part of the Long-Term-Care Supplement.)

You: EVA E. Hirvi

Spouse: Henry E. Hirvi

Health Connector Programs  
Health coverage through the Massachusetts Health Connector is not MassHealth. If you have Medicare, you will not be eligible for any cost sharing or Advance Premium Tax Credits, and you cannot purchase a plan through the Health Connector, unless you were enrolled in a Health Connector plan when you became eligible for Medicare. The only time you should apply for Health Connector programs if you have Medicare is if you are not enrolled in Medicare yet but would have to pay for your Medicare Part A premium. In this case, you may be eligible for a Health Connector plan.

You: \_\_\_\_\_

Spouse: \_\_\_\_\_

AS RECEIVED

RECEIVED

DEC 1 2017

## STEP 1 Person 1 (YOU) — Tell us about YOURSELF

EDMC

We need one adult in the household to be the contact person for your application. Please note that this should be someone who appears on the application, not a third party who wishes to serve as a contact for the applicant(s). Please see the Authorized Representative Designation (ARD) Form after page 29 to establish a third-party contact.

1. First name, middle name, last name, and suffix Eva E. Hirvi 2. Date of birth 1933

3. Home address  Check this box if homeless. You must provide a mailing address. 4. Apartment or suite number

5. City Worcester 6. State MA 7. ZIP code 01601 8. County

9. Is this a hospital, nursing facility, or other institution?  Yes  No  
If yes, facility name

10. Mailing address  Check if same as home address. 11. Apartment or suite number

12. City 13. State 14. ZIP code 15. County

16. Phone number 17. Other phone number

18. E-mail 19. # of people listed on the application 3

20. What is your preferred spoken or written language (if not English)?

21. Is anyone on this application in prison or jail?  Yes  No

If yes, who? Enter the name here: \_\_\_\_\_

### FOR ENROLLMENT ASSISTERS ONLY

Complete this section if you are an enrollment assister and are filling out this application for someone else. Navigators must fill out a Navigator Designation Form if they have not done so already. Certified Application Counselors must fill out a Certified Application Counselor Designation Form if they have not done so already.

Check one  Navigator  Certified Application Counselor

First name, middle name, last name and suffix

E-mail address

Organization name

Organization identification number

Organization phone number

### STEP 2 Person 1

1. First name, middle name, last name, and suffix

Eva E. Hirvi

2. Gender

Male  Female

3. Relationship to you

SELF

4. Are you applying for health or dental coverage for YOURSELF?  Yes  No

If yes, answer all the questions below in Step 2 for Person 1 (yourself).

If no, answer Question 13 (accommodations), then go to the Income Information section on page 4.

5. Are you married?  Yes  No

If yes, name and DOB of spouse

Henry E. Hirvi [REDACTED] 30

6. We need a social security number (SSN) for every person applying for health coverage who has one. An SSN is optional for persons not applying for health coverage, but giving us an SSN can speed up the application process. We use SSNs to check income and other information to see who is eligible for help with health coverage costs. If someone needs help getting an SSN, call the Social Security Administration at 1-800-772-1213 (TTY: 1-800-325-0778 for people who are deaf, hard of hearing, or speech disabled), or go to [socialsecurity.gov](http://socialsecurity.gov). Please see the Senior Guide for more information.

a. Do you have a social security number (SSN)?  Yes  No

If yes, give us the number (optional if not applying)

[REDACTED] 4570

If no, check one of the following reasons.  Just applied  Noncitizen exception  Religious exception

b. Is your name on this application the same as your name on your social security card?  Yes  No

If no, what name is on your social security card? \_\_\_\_\_

First name, middle name, last name, and suffix

7. If you get an Advance Premium Tax Credit for 2017, do you agree to file a federal tax return for tax year 2017?  Yes  No  
You may not have needed or chosen to file a tax return in the past, but you will have to file a federal income tax return for any year that you get an Advance Premium Tax Credit. You must check "Yes" to be eligible for ConnectorCare or Advance Premium Tax Credits to help pay for your health insurance. You do NOT need to file a tax return to get MassHealth benefits.

If yes, please answer questions a-d. If no, skip to question d.

a. Are you considered married for tax filing purposes?  Yes  No

See IRS Publication 501 or consult a tax professional for tax filing information.

If yes, list name of spouse and date of birth.

Henry E. Hirvi [REDACTED] 30

b. Do you plan to file a joint federal tax return with your spouse for 2017?  Yes  No

You must file a joint federal tax return with your spouse for 2017 to get certain programs unless you are a victim of domestic abuse or abandonment. If you are a victim of domestic abuse or are an abandoned spouse, you should answer "No" to question 7a ("are you considered married for tax filing purposes") and "No" to question 7b ("do you plan to file with your spouse"), even if that is not how you actually file. You will only need to include yourself and any dependents on this application.

c. Will you claim any dependents on your federal income tax return for 2017?  Yes  No  
 You will claim a personal exemption deduction on your 2017 federal income tax return for any individual listed on this application as a dependent who is enrolled in coverage through the Massachusetts Health Connector and whose premium for coverage is paid in whole or in part by advance payments.

If yes, list name(s) and date(s) of birth of dependents.

d. Will you be claimed as a dependent on someone else's federal income tax return for 2017?  Yes  No  
 If you are claimed by someone else as a dependent on their 2017 federal income tax return, this may affect your ability to receive an Advance Premium Tax Credit. Do not answer "Yes" to this question if you are a child under 21 years of age being claimed by a noncustodial parent.

If yes, please list the name of the tax filer.

Tax filer date of birth \_\_\_\_\_ How are you related to the tax filer? \_\_\_\_\_

Is the tax filer married, filing a joint return?  Yes  No

If yes, list name of spouse and date of birth. \_\_\_\_\_

Who else does the tax filer claim as dependents? \_\_\_\_\_

8. Are you a U.S. citizen or U.S. national?  Yes  No

If yes, are you a naturalized citizen (not born in the US)?  Yes  No

Alien number \_\_\_\_\_ Naturalization or citizenship certificate number \_\_\_\_\_

9. If you are a noncitizen, do you have an eligible immigration status?  Yes  No

See page 20, "Immigration Statuses and Document Types" for help. If no or no response, you may get only one or more of the following: MassHealth Standard (if pregnant), MassHealth Limited, the Children's Medical Security Plan (CMSP), or the Health Safety Net (HSN). Go to Question 10.

a. If yes, do you have an immigration document?  Yes  No

It may help us to process this application faster if you include a copy of your immigration document with the application. We will try to verify your immigration status through electronic data match. Please list all the immigrations statuses and/or conditions that have applied to you since you entered the U.S. If you need more space, attach another sheet of paper.

Status award date (mm/dd/yyyy) \_\_\_\_\_ (For battered persons, enter the date the petition was approved.)

Immigration status \_\_\_\_\_ Immigration document type \_\_\_\_\_

Choose one or more document status and type from the list on page 20.

Document ID number \_\_\_\_\_ Alien number \_\_\_\_\_

Passport or document expiration date (mm/dd/yyyy) \_\_\_\_\_ Country \_\_\_\_\_

b. Did you use the same name on this application that you did to get your immigration status?  Yes  No

If no, what name did you use? First, middle, last, and suffix \_\_\_\_\_

c. Did you arrive in the US after August 22, 1996?  Yes  No

d. Are you an honorably discharged veteran or active duty member of the U.S. military, or the spouse or child of an honorably discharged veteran or an active-duty member of the U.S. military?  Yes  No

10. Check the box below that best describes you (optional-check all that apply.)

Hispanic, Latino, or Spanish origin

Cuban

Mexican, Mexican-American, or Chicano

Puerto Rican

Other Hispanic/Latino/Spanish

American Indian or Alaska Native (complete Step 3 and Supplement B)

Asian Indian

Black or African American

Chinese

Filipino

Guamanian or Chamorro

Japanese

Korean

Native Hawaiian

Other Asian

Other Pacific Islander

Samoan

Vietnamese

White or Caucasian

Other \_\_\_\_\_

11. Are you living in Massachusetts and you either intend to reside here, even if you do not have a fixed address, or have entered Massachusetts with a job commitment or seeking employment?  Yes  No

If you are visiting in Massachusetts for personal pleasure or for the purposes of receiving medical care in a setting other than a nursing facility, you must answer no to this question.

12. Do you live with at least one child younger than age 19, and are you the main person taking care of this child or children?  Yes  No

Names(s) and date(s) of birth of child(ren) \_\_\_\_\_

13. Are you pregnant?  Yes  No  
If yes, how many babies are you expecting? \_\_\_\_\_ What is the expected due date? \_\_\_\_\_

14. Were you ever in foster care?  Yes  No

a. If yes, in what state were you in foster care? \_\_\_\_\_

b. Were you getting health care through a state Medicaid program?  Yes  No

15. Do you rent or own your property?  Rent  Own

16. Do you need reasonable accommodation(s) because of a disability or injury?  Yes  No  
If no, go to the next question. If yes, answer questions a and b.

a. Condition

Low vision  Blind  Deaf  Hard of hearing  Developmentally disabled  Intellectually disabled  
 Physically disabled  Other (Please explain.) \_\_\_\_\_

b. Accommodation

Text telephone (TTY)  Large-print publications  American Sign Language interpreter  Video Relay Service  
 Communication Access Real-time Translations (CART)  Publications in braille  Assistive listening device  
 Publications in electronic format  Other (Please explain.) \_\_\_\_\_

17. Are you applying because of an accident or injury that someone else might be responsible for?  Yes  No

a. Did someone else cause your injury, illness, or disability, or could someone else's insurance or your own insurance, other than health insurance (like homeowner's or auto insurance) cover it?  Yes  No

b. Have you filed a lawsuit, a workers' compensation claim, or an insurance claim for this accident or injury?  Yes  No

18. Did you ever get Supplemental Security Income (SSI)?  Yes  No  
If no, go to Income Information. If yes, answer questions a and b.

a. When did you last get SSI? (mm/yyyy) \_\_\_\_\_

b. Do you (check one):  live alone?  live with a spouse?  live in a rest home?  live in someone else's home?

## INCOME INFORMATION

19. Do you have any income?  Yes  No

If yes, go to Current Job 1 for job income. Go to Self-Employment for self-employment income. For all other income, go to Other Income. If any income is not steady from month to month, please provide the average income for the time period (per week, per month, etc.).

If no, go to Person 2 if you have Individuals to add. If this application is only for you, go to Step 3.

## CURRENT JOB 1

20. Employer name and address \_\_\_\_\_

21. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

22. Average number of hours worked each WEEK \_\_\_\_\_ 23. Is this job a sheltered workshop?  Yes  No

24. Are you seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

**CURRENT JOB 2** | If you have more jobs and need more space, attach another sheet of paper.

25. Employer name and address \_\_\_\_\_

26. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

27. Average number of hours worked each WEEK \_\_\_\_\_ 28. Is this job a sheltered workshop?  Yes  No

29. Are you seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

**SELF-EMPLOYMENT** | If self-employed, answer the following questions. If you need more space, attach another sheet of paper.

30. Are you self employed?  Yes  No

- a. If yes, what type of work do you do? \_\_\_\_\_
- b. On average, how much net income (profits after business expenses are paid) will you get from this self-employment each month, or, how much will you lose from this self-employment each month? \$ \_\_\_\_\_ /month profit OR \$ \_\_\_\_\_ /month loss?
- c. How many hours do you work per week? \_\_\_\_\_

**OTHER INCOME**

31. Check all that apply, and give the amount and how often you get it. If you receive a one-time payment, please include the month in which it was received. NOTE: You do not need to tell us about child support, nontaxable veteran's payments, or Supplemental Security Income (SSI).

- Social Security benefits \$ 717.00 How often/month received? Monthly
- Pension \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Annuities \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Trusts \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Unemployment \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Capital gains \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Interest, dividends, and other investment income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net royalty income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net farming or fishing income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Alimony received \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable veteran's benefits \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable military retirement pay (not paid through the Veterans' Administration) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Other taxable income (include type) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_ Type \_\_\_\_\_

**RENTAL INCOME**

32. Do you get rental income? (You must answer this question.)  Yes  No.

If yes, send proof of current rental income, such as a written statement from each tenant, a copy of the lease, or a current federal tax return. Also send proof of all of the following expenses, if applicable, for the last 12 months: mortgage, taxes, utilities (gas/electric), heat, water/sewer, insurance, condo or co-op fee, repairs and maintenance.

a. What type of real estate do you own?  one-family  two-family  three-family  other (describe): \_\_\_\_\_

b. How much monthly rental income do you get from each rental unit from the real estate indicated above?  
(List each rental unit and address separately.)

Address \_\_\_\_\_ Unit # \_\_\_\_\_ Amount \_\_\_\_\_ Owner-occupied?  Yes  No

Address \_\_\_\_\_ Unit # \_\_\_\_\_ Amount \_\_\_\_\_ Owner-occupied?  Yes  No

c. Do you pay for heat and/or utilities for your tenant?  Yes  No

**DEDUCTIONS**

33. Check all that apply. Give the amount and how often you get it.

If you pay for certain things that can be deducted on a federal income tax return, telling us about them could make the cost of health coverage a little lower. NOTE: You should not include a cost that you already considered in your answers to net self-employment income, net rental or royalty income, or net farming or fishing income.

Alimony paid \$ \_\_\_\_\_ How often? \_\_\_\_\_  Student loan interest \$ \_\_\_\_\_ How often? \_\_\_\_\_

Other tax deductions (educator expenses; certain business expenses of reservists, performing artists, or fee-based government officials; health savings account deduction; moving expenses; deductible part of self-employment tax; contribution to self-employed SEP, SIMPLE, and qualified plans; self-employed health insurance deduction; penalty on early withdrawal of savings; Individual Retirement Account (IRA) deduction; higher education tuition and fees; and domestic production activities deduction). Do not include any type of deduction that is not listed above.

Type \_\_\_\_\_ \$ \_\_\_\_\_ How often? \_\_\_\_\_

**YEARLY INCOME**

34. What is your total expected income for the current calendar year?

35. What is your total expected income for next calendar year, if different?

**THANKS!** This is all we need to know about you. Go to Step 2 Person 2 to add another household member, if needed. Otherwise, go to Step 3 American Indian or Alaska Native (AI/AN) Household Member(s).

**STEP 2 Person 2—Spouse or other people in this household**

Fill out this part for your spouse who lives with you or anyone included on your federal income tax return, if you file one.

If you have to include more than two people on this application, make a copy of blank information pages for Step 2 Person 2 BEFORE you fill them out. When filling out the additional pages please be sure to tell us how each person is related to each other person on the application. We need this information to determine eligibility. You can also download pages for additional persons at [mass.gov/masshealth](http://mass.gov/masshealth). Click on Apply for Health Coverage. Under the Individuals and Families, Including People with Disabilities section, click on Apply by Mail or Fax, then Applications for Individuals and Families (ACA-3), then on Massachusetts Application for Health and Dental Coverage and Help Paying Costs – Additional Persons.

1. First name, middle name, last name, and suffix Henry E. Hirvi 2. Date of birth [redacted] 1930 3. Gender  Male  Female

4. Relationship to Person 1 Husband 5. Does this person live with Person 1?  Yes  No If no, provide home address

No home address. Note: If you check this box, you must provide a mailing address.

6. Is this a hospital, nursing facility, or other institution?  Yes  No  
If yes, facility name

7. Mailing address  Check if same as home address. 8. Apartment or suite number

9. City 10. State 11. ZIP code 12. County

13. What is this person's preferred spoken or written language (if not English)?

14. Is this person applying for health or dental coverage?  Yes  No  
If yes, answer all the questions below in Step 2 for Person 2  
If no, answer Question 27 (accommodations), then go to the Income Information section on page 9.

15. Is this person married?  Yes  No  
If yes, name and DOB of spouse Eva E. Hirvi [redacted] 1933



16. We need a social security number (SSN) for every person applying for health coverage who has one. An SSN is optional for persons not applying for health coverage, but giving us an SSN can speed up the application process. We use SSNs to check income and other information to see who is eligible for help with health coverage costs. If someone needs help getting an SSN, call the Social Security Administration at 1-800-772-1213 (TTY: 1-800-325-0778 for people who are deaf, hard of hearing, or speech disabled), or go to socialsecurity.gov. Please see the Senior Guide for more information.

- a. Does this person have a social security number (SSN)?  Yes  No  
If yes, give us the number (optional if not applying) [redacted] 6978  
If no, check one of the following reasons.  Just applied  Noncitizen exception  Religious exception
- b. Is this person's name on this application the same as the name on his or her social security card?  Yes  No  
If no, what name is on your social security card? \_\_\_\_\_

First name, middle name, last name, and suffix

17. If this person gets an Advance Premium Tax Credit for 2017, does he or she agree to file a federal tax return for tax year 2017?  Yes  No  
He or she may not have needed or chosen to file a tax return in the past, but will have to file a federal income tax return for any year that he or she gets an Advance Premium Tax Credit. You must check "Yes" to be eligible for ConnectorCare or Advance Premium Tax Credits to help pay for his or her health insurance. You do NOT need to file a tax return to get MassHealth benefits. If yes, please answer questions a-d. If no, skip to question d.

- a. Is this person considered married for tax filing purposes?  Yes  No  
See IRS Publication 501 or consult a tax professional for tax filing information.  
If yes, list name of spouse and date of birth. Eva E Hicli [redacted] 1933
- b. Does this person plan to file a joint federal tax return with his or her spouse for 2017?  Yes  No  
He or she must file a joint federal tax return with his or her spouse for 2016 to get certain programs unless he or she is a victim of domestic abuse or abandonment. If he or she is a victim of domestic abuse or is an abandoned spouse, you should answer "No" to question 21a ("Is this person considered married for tax filing purposes?") and "No" to question 21b ("Does this person plan to file with a spouse?"), even if that is not how he or she actually file. He or she will only need to include him- or herself and any dependents on this application.
- c. Will this person claim any dependents on his or her federal income tax return for 2017?  Yes  No  
He or she will claim a personal exemption deduction on his or her 2017 federal income tax return for any individual listed on this application as a dependent who is enrolled in coverage through the Massachusetts Health Connector and whose premium for coverage is paid in whole or in part by advance payments.
- d. Will this person be claimed as a dependent on someone else's federal income tax return for 2017?  Yes  No.  
If he or she is claimed by someone else as a dependent on their 2017 federal income tax return, this may affect his or her ability to receive an Advance Premium Tax Credit. Do not answer "Yes" to this question if this person is a child under 21 years of age being claimed by a noncustodial parent.

If yes, please list the name of the tax filer. \_\_\_\_\_

Tax filer date of birth \_\_\_\_\_ How are you related to the tax filer? \_\_\_\_\_

Is the tax filer married, filing a joint return?  Yes  No

If yes, list name of spouse and date of birth. \_\_\_\_\_

Who else does the tax filer claim as dependents? \_\_\_\_\_

18. Is this person a U.S. citizen or U.S. national?  Yes  No  
If yes, is he or she a naturalized citizen (not born in the U.S.)?  Yes  No  
Alien number \_\_\_\_\_ Naturalization or citizenship certificate number \_\_\_\_\_

19. If this person is a noncitizen, does he or she have an eligible immigration status?  Yes  No

See page 20, "Immigration Statuses and Document Types" for help. If no or no response, you may get only one or more of the following: MassHealth Standard (if pregnant), MassHealth Limited, the Children's Medical Security Plan (CMSP), or the Health Safety Net (HSN). Go to Question 24.

a. If yes, does this person have an immigration document?  Yes  No

It may help us to process this application faster if you include a copy of his or her immigration document with the application. We will try to verify this person's immigration status through electronic data match. Please list all the immigrations statuses and/or conditions that have applied to this person since he or she entered the U.S. If you need more space, attach another sheet of paper. For immigration status, choose one or more statuses from the list on page 20. Status award date (mm/dd/yyyy) \_\_\_\_\_ (For battered persons, enter the date the petition was approved.)

Immigration status \_\_\_\_\_ Immigration document type \_\_\_\_\_

Choose one or more document status and types from the list on page 20.

Document ID number \_\_\_\_\_ Alien number \_\_\_\_\_

Passport or document expiration date (mm/dd/yyyy) \_\_\_\_\_ Country \_\_\_\_\_

b. Did this person use the same name on this application to get his or her immigration status?  Yes  No

If no, what name did this person use? First, middle, last and suffix \_\_\_\_\_

c. Did this person arrive in the U.S. after August 22, 1996?  Yes  No

d. Is this person an honorably discharged veteran or active duty member of the U.S. military, or the spouse or child of an honorably discharged veteran or an active-duty member of the U.S. military?  Yes  No

20. Check the box below that best describes this person (optional-check all that apply.)

Hispanic, Latino, or Spanish origin

Cuban

Mexican, Mexican-American, or Chicano

Puerto Rican

Other Hispanic/Latino/Spanish \_\_\_\_\_

American Indian or Alaska Native (complete Step 3 and Supplement B)

Asian Indian

Black or African American

Chinese

Filipino

Guamanian or Chamorro

Japanese

Korean

Native Hawaiian

Other Asian

Other Pacific Islander

Samoan

Vietnamese

White or Caucasian

Other \_\_\_\_\_

21. Does this person live in Massachusetts and this person either intend to reside here, even if this person do not have a fixed address, or have entered Massachusetts with a job commitment or seeking employment?  Yes  No

If this person is visiting in Massachusetts for personal pleasure or for the purposes of receiving medical care in a setting other than a nursing facility, you must answer no to this question.

22. Does this person live with at least one child younger than age 19, and are you the main person taking care of this child or children?  Yes  No

Names(s) and date(s) of birth of child(ren) \_\_\_\_\_

23. Is this person pregnant?  Yes  No

If yes, how many babies is she expecting? \_\_\_\_\_ What is the expected due date? \_\_\_\_\_

24. Was this person ever in foster care?  Yes  No

a. If yes, in what state was this person in foster care? \_\_\_\_\_

b. Was this person getting health care through a state Medicaid program?  Yes  No

25. Does this person rent or own his or her property?  Rent  Own

26. Does this person need reasonable accommodation(s) because of a disability or injury?  Yes  No  
If no, go to the next question. If yes, answer questions a and b.

a. Condition

Low vision  Blind  Deaf  Hard of hearing  Developmentally disabled  Intellectually disabled

Physically disabled  Other (Please explain.) \_\_\_\_\_

b. Accommodation

- Text telephone (TTY)  Large-print publications  American Sign Language interpreter  Video Relay Service  
 Communication Access Real-time Translations (CART)  Publications in braille  Assistive listening device  
 Publications in electronic format  Other (Please explain.)

27. Is this person applying because of an accident or injury that someone else might be responsible for?  Yes  No

a. Did someone else cause this person's injury, illness, or disability, or could someone else's insurance or this person's own insurance, other than health insurance (like homeowner's or auto insurance) cover it?  Yes  No

b. Has this person filed a lawsuit, a workers' compensation claim, or an insurance claim for this accident or injury?  
 Yes  No

28. Did this person ever get Supplemental Security Income (SSI)?  Yes  No

If no, go to Income Information. If yes, answer questions a and b.

a. When did this person last get SSI? (mm/yyyy) \_\_\_\_\_

b. Does this person (check one):  live alone?  live with a spouse?  live in a rest home?  live in someone else's home?

### INCOME INFORMATION

29. Does this person have any income?  Yes  No

If yes, go to Current Job 1 for job income. Go to Self-Employment for self-employment income. For all other income, go to Other Income. If any income is not steady from month to month, please provide the average income for the time period (per week, per month, etc.).

If no, go to Step 3, American Indian or Alaska Native.

### CURRENT JOB 1

30. Employer name and address \_\_\_\_\_

31. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

32. Average number of hours worked each WEEK \_\_\_\_\_ 33. Is this job a sheltered workshop?  Yes  No

34. Is this person seasonally employed?  Yes  No. If yes, which months do you work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

### CURRENT JOB 2 | If this person has more jobs and needs more space, attach another sheet of paper.

35. Employer name and address \_\_\_\_\_

36. Wages/tips (before taxes) \$ \_\_\_\_\_  Weekly  Every 2 weeks  Twice a month  Monthly  Yearly  
(Subtract any pre-tax deductions, such as nontaxable health insurance premiums.)

37. Average number of hours worked each WEEK \_\_\_\_\_ 38. Is this job a sheltered workshop?  Yes  No

39. Is this person seasonally employed?  Yes  No. If yes, which months does he or she work in a calendar year?  
 Jan.  Feb.  March  April  May  June  July  August  Sept.  Oct.  Nov.  Dec.

**SELF-EMPLOYMENT** | If self-employed, answer the following questions. If you need more space, attach another sheet of paper.

40. Is this person self employed?  Yes  No
- a. If yes, what type of work does he or she do? \_\_\_\_\_
- b. On average, how much net income (profits after business expenses are paid) will this person get from this self-employment each month, or, how much will he or she lose from this self-employment each month? \$ \_\_\_\_\_/month profit OR \$ \_\_\_\_\_/month loss?
- c. How many hours does this person work per week? \_\_\_\_\_

**OTHER INCOME**

41. Check all that apply, and give the amount and how often you get it. If you receive a one-time payment, please include the month in which it was received. NOTE: You do not need to tell us about child support, nontaxable veteran's payments, or Supplemental Security Income (SSI).
- Social Security benefits \$ 1956 How often/month received? \_\_\_\_\_
- Pension \$ 481.41 How often/month received? \_\_\_\_\_
- Annuities \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Trusts \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Unemployment \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Capital gains \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Interest, dividends, and other investment income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net royalty income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Net farming or fishing income \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Alimony received \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable veteran's benefits \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Taxable military retirement pay (not paid through the Veterans' Administration) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_
- Other taxable income (include type) \$ \_\_\_\_\_ How often/month received? \_\_\_\_\_ Type \_\_\_\_\_

**RENTAL INCOME**

42. Does this person get rental income?  Yes  No
- If yes, send proof of current rental income, such as a written statement from each tenant, a copy of the lease, or a current federal tax return. Also send proof of all of the following expenses, if applicable, for the last 12 months: mortgage, taxes, utilities (gas/electric), heat, water/sewer, insurance, condo or co-op fee, repairs and maintenance.
- a. What type of real estate does this person own?  one-family  two-family  three-family  
 other (describe): \_\_\_\_\_
- b. How much monthly rental income does this person get from each rental unit from the real estate indicated above? (List each rental unit and address separately.)
- |               |              |              |  |
|---------------|--------------|--------------|--|
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Address _____ | Unit # _____ | Amount _____ | Owner-occupied? <input type="checkbox"/> Yes <input type="checkbox"/> No |
- c. Does this person pay for heat or utilities for his or her tenant?  Yes  No

**DEDUCTIONS**

43. Check all that apply. Give the amount and how often this person gets it.
- If this person pays for certain things that can be deducted on a federal income tax return, telling us about them could make the cost of health coverage a little lower. NOTE: Do not include a cost already considered in answers to net self-employment income; net rental or royalty income, or net farming or fishing income.
- Alimony paid \$ \_\_\_\_\_ How often? \_\_\_\_\_
- Student loan interest \$ \_\_\_\_\_ How often? \_\_\_\_\_

- Other tax deductions (educator expenses; certain business expenses of reservists, performing artists, or fee-based government officials; health savings account deduction; moving expenses; deductible part of self-employment tax; contribution to self-employed SEP, SIMPLE, and qualified plans; self-employed health insurance deduction; penalty on early withdrawal of savings; Individual Retirement Account (IRA) deduction; higher education tuition and fees; and domestic production activities deduction). Do not include any type of deduction that is not listed above.

Type \_\_\_\_\_ \$ \_\_\_\_\_ How often? \_\_\_\_\_

**YEARLY INCOME**

44. What is this person's total expected income for the current calendar year? 28,648.92
45. What is this person's total expected income for next calendar year, if different?

**THANKS!** This is all we need to know about this person.

**STEP 3 American Indian or Alaska Native (AI/AN) Household Member(s)**

Are you or is anyone in your household an American Indian or Alaska Native?  Yes  No

If no, skip to Step 4. If yes, complete the rest of this application, including Supplement B: American Indian or Alaska Native Household Member.

Names(s) of person(s) \_\_\_\_\_

American Indians and Alaska Natives who enroll in health coverage can also get services from the Indian Health Service, tribal health programs, or Urban Indian Health Programs. If you or any household members are American Indians or Alaska Natives, you may not have to pay premiums or copayments, and may get special monthly enrollment periods.

**STEP 4 Previous Medical Bills**

Do you or your spouse have bills for medical services you got in the three months before the month we got your application?  Yes  No

If no, go to Step 5: Assets. If yes, fill out the rest of this section. We may be able to pay for these bills.

Do you or your spouse want to apply for MassHealth for that time period?  Yes  No

If yes, what is the earliest date for which you need MassHealth? (mm/dd/yyyy) 8/3/12  
(You must give us proof of all income and assets owned during that time period.)

**STEP 5 Assets | You must fill out all blocks for each asset you and/or your spouse own.**

If you live in the community and you want help with medical bills up to three months before the month you apply, you must tell us about any open and closed accounts for that period. If you are applying for long-term care, you must also give us information about all assets you or your spouse owned in the past 60 months. If you need more space, attach another sheet of paper.

**BANK ACCOUNTS**

1. Do you or your spouse have any bank accounts or certificates of deposit, including checking, savings, credit union, NOW, money-market, and personal needs allowance (PNA) accounts?  Yes  No
- a. Do you or your spouse have any retirement accounts, including individual retirement accounts (IRAs), Keogh, or pension funds?  Yes  No
- b. Have you or your spouse or a joint owner closed any accounts in the past 60 months, including any accounts you had owned jointly with anyone else?  Yes  No

If you answered yes to any of these questions, fill out this section. If you answered no to all of these questions, go to the next section (REAL ESTATE).

Send a copy of your passbooks updated within 45 days and/or a copy of your current account statements. Please see the Senior Guide for information about financial institutions charging for copies of statements. If applying for nursing facility coverage, please provide account statements for the past 60 months.

Name on account <u>Henry E. Hirvi, Ann E. Gwyther</u> <u>Eva E. Hirvi</u>		Account type <u>Checking</u>
Name of bank/institution <u>Cornerstone Bank</u>		Account number [REDACTED]
Current balance \$ <u>4074.49</u>	Balance on admission date* \$	<input checked="" type="checkbox"/> Account open <input type="checkbox"/> Account closed
Date account closed (mm/dd/yyyy)	Amount on the date account closed \$	
Name on account <u>Henry E. Hirvi, Ann E. Gwyther</u> <u>Eva E. Hirvi</u>		Account type <u>Savings</u>
Name of bank/institution <u>Cornerstone Bank</u>		Account number [REDACTED]
Current balance \$ <u>1041.01</u>	Balance on admission date* \$	<input type="checkbox"/> Account open <input type="checkbox"/> Account closed

\* Enter the account balance on the date of admission to medical institution, hospital, or nursing facility.

**REAL ESTATE**

2. Do you or your spouse own or have a legal interest in your primary residence?  
 You  Yes  No Your spouse  Yes  No irrevocable Trust
3. Do you or your spouse own or have a legal interest in any real estate other than your primary residence?  
 You  Yes  No Your spouse  Yes  No

If you answered yes to any of these questions, fill out this section. If no, go to the next section **(LIFE INSURANCE)**.

Send a copy of the deed(s), current tax bill(s), and proof of amount owed on all property owned.

Address [REDACTED] <u>Paxton MA</u> [REDACTED]
Type of property <u>Single Family</u> Current value \$
Address
Type of property Current value \$

**LIFE INSURANCE**

4. Do you or your spouse own any life insurance?  Yes  No


If yes, fill out this section. If no, go to the next section **(SECURITIES BROKERAGE ACCOUNTS (STOCKS/BONDS/OTHER))**.

Send a copy of the first page of all life insurance policies. If total face value of all policies exceeds \$1,500 per person, also send a letter from the insurance company showing the current cash-surrender value (for all policies except term policies).

Name(s) of owner(s)		
Insurance company		
Policy number	Face value \$	Insurance type
Name(s) of owner(s)		
Insurance company		
Policy number	Face value \$	Insurance type


# Bank Accounts

Name on account: Henry E. Hirvi or Account type: Savings  
Eva E. Hirvi

Name of Bank: Country bank Account number 

Current balance \$: \$486.16  Account open

Name on account: Henry E. Hirvi or Account type: Checking  
Eva E. Hirvi

Name of Bank: Country bank Account number 

Current balance \$: \$ 869.91  Account open

Name on account: Henry E. Hirvi Account type: checking  
Eva E. Hirvi Account number:

Name of Bank: DCU Credit Union

Current balance \$:  Account open

Name on account: Henry E. Hirvi Account type: Savings  
Eva E. Hirvi Account number:

Name of Bank: DCU Credit Union

Current balance \$:  Account open

**SECURITIES BROKERAGE ACCOUNTS (STOCKS/BONDS/OTHER)**

5. Do you or your spouse own any stocks, bonds, savings bonds, mutual funds, securities, assets held in safe-deposit boxes, cash not in the bank, options, or future contracts?  Yes  No

If yes, fill out this section. If no, go to the next section (ANNUITIES).

Send proof of current value (except cash).

	Owner(s) name(s)	Company name	Account number	Current value	Value on admission date*	Joint asset?
Cash				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Stocks				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Bonds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Savings bonds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Mutual funds				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Options				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Future contracts				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
Other				\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

\* Enter the account balance on the date of admission to medical institution.

**ANNUITIES**

6. Did you or your spouse or someone on your or your spouse's behalf purchase or in any way change an annuity?  Yes  No

If yes, fill out this section. To be eligible, you may be required to name the Commonwealth as a remainder beneficiary. (See the Senior Guide for more information.) If no, go to the next section (ASSISTED LIVING/OTHER).

Send a copy of the contract. For each annuity owned, give us proof from the annuity company of the full value of the annuity less any penalties and fees if it can be cashed in.

Name(s) of owner(s) \_\_\_\_\_

Name of institution issuing the annuity \_\_\_\_\_

Contract number \_\_\_\_\_ Date purchased (mm/dd/yyyy) \_\_\_\_\_

Name(s) of owner(s) \_\_\_\_\_

Name of institution issuing the annuity \_\_\_\_\_

Contract number \_\_\_\_\_ Date purchased (mm/dd/yyyy) \_\_\_\_\_

**ASSISTED LIVING/OTHER**

7. Have you, your spouse, or someone acting on your behalf given a deposit to any health-care or residential facility, like an assisted-living facility, a continuing-care retirement community, or life-care community?  Yes  No

If yes, fill out this section. If no, go to the next section (VEHICLES/MOBILE HOMES).

Send a copy of the contract you signed with the facility and any documents about this deposit.

Name of facility \_\_\_\_\_

Address of facility \_\_\_\_\_

Amount of deposit \$ \_\_\_\_\_ Date deposit given to facility (mm/dd/yyyy) \_\_\_\_\_



**VEHICLES/MOBILE HOMES**

8. Do you or your spouse own any vehicles, like cars, vans, trucks, recreational vehicles, mobile homes, or boats?  Yes  No

If yes, fill out this section. If no, go to the next section (PREPAID BURIAL PLANS/TRUSTS).

Send a copy of the registration for each vehicle, and proof of the outstanding loan balance. For mobile homes, send a copy of the bill of sale. If you have a spouse at home, send proof of the fair-market value of each vehicle as of the date of admission to the medical institution.

(You) Type of vehicle	Year/make/model	Fair-market value	Amount owed
	<del>2010 Subaru Forester</del>	\$	\$

Mobile home address

(Your spouse) Type of vehicle	Year/make/model	Fair-market value	Amount owed
	2010 Subaru Forester	\$	\$

Mobile home address

**PREPAID BURIAL PLANS**

9. Do you or your spouse have any prepaid burial contracts or trusts, life insurance set up for funeral and burial expenses, or bank accounts set aside for funeral expenses?  Yes  No

If yes, fill out this section. If no, go to the next section (TRUSTS).

Send a copy of the trust contract, trust instrument, insurance policy, or burial-only account.

(You) Burial contract <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial trust <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	--

Life insurance for burial <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial-only account <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	---

Burial plot <input type="checkbox"/> Yes <input type="checkbox"/> No	Insurance company	Policy number
--	-------------------	---------------

Bank name	Account number
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(Your spouse) Burial contract <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial trust <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	--

Life insurance for burial <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No	Burial-only account <input type="checkbox"/> Yes (Amount \$ ) <input type="checkbox"/> No
---	---

Burial plot <input type="checkbox"/> Yes <input type="checkbox"/> No	Insurance company	Policy number
--	-------------------	---------------

Bank name	Account number
-----------	----------------

**TRUSTS**

10. Are you or your spouse the grantor/donor, trustee, or beneficiary of any trusts?  Yes  No

11. Have you, your spouse, or someone else on your behalf, including a court or administrative body, contributed income or assets owned by you or your spouse to a trust?  Yes  No

If you answered yes to any of these questions, fill out this section.

If you answered no to these questions, go to STEP 6: Health Insurance Information

Send a copy of the trust document(s), any amendments, documents showing financial activity, and the schedule of beneficiaries.

Trust name <u>The Henry F. Hirv and Eva E. Hirv Irrevocable Trust</u>	Revocable? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Current trust principal \$
---	--	----------------------------

Trust principal on admission date* \$	Trustee(s) <u>Ann E. Gwyther</u>
---------------------------------------	----------------------------------

Grantor(s)/Donor(s) <u>Henry F. Hirv, Eva E. Hirv</u>	Beneficiaries
---	---------------

Trust name	Revocable? <input type="checkbox"/> Yes <input type="checkbox"/> No	Current trust principal \$
------------	---	----------------------------

Trust principal on admission date* \$	Trustee(s)
---------------------------------------	------------

Grantor(s)/Donor(s)	Beneficiaries
---------------------	---------------

\* Enter the trust principal on the date of admission to medical institution.

12/01/2017 13:01

**STEP 6 Health Insurance Information**

Complete Question 1 about health coverage that any person in the household has now. Complete Question 2 about health insurance available to a household member from a job, whether or not the employed person lives in the household.

1. Is anyone enrolled now in any type of health coverage?  Yes  No  
If yes, check the type of coverage and provide details.

Medicare

Name Eva E. Hirvi Medicare claim number [REDACTED] 6478B

When did coverage start? (mm/dd/yyyy) 06/01/1998

a. Does this person have a Medicare Part D plan?  Yes  No  
If yes, when did coverage start? (mm/dd/yyyy)

b. Does this person have a Medigap/Medicare supplemental policy?  Yes  No  
If yes, name of coverage plan Cigna [REDACTED] When did coverage start? (mm/dd/yyyy)

Name Henry E. Hirvi Medicare claim number [REDACTED] 6478A

When did coverage start? (mm/dd/yyyy)

a. Does this person have a Medicare Part D plan?  Yes  No  
If yes, when did coverage start? (mm/dd/yyyy)

b. Does this person have a Medigap/Medicare supplemental policy?  Yes  No  
If yes, name of coverage plan Cigna

When did coverage start? (mm/dd/yyyy)

Do any of the persons above want to apply for help paying for the Medicare Part B premiums?  Yes  No

If yes, name(s) Eva E. Hirvi

If you check any of the following programs provide details below.

- TRICARE (Do not check if you have direct care or Line of Duty.)  Veterans Affairs (VA) health programs
- Peace Corps  Employer insurance  COBRA coverage  Retiree health plan
- Other coverage

Name of insurance plan or policy

Policyholder name

Policy number

Date of birth (mm/dd/yyyy)

SSN (if you know)

Is this a limited-benefit plan (like a school accident policy)?  Yes  No Premium cost \$

Names of covered household members

Group number (if you know)

When did coverage start? (mm/dd/yyyy)

Premium frequency (Check one.)  Weekly  Every two weeks  Twice a month  Monthly  Quarterly  Yearly

Type of coverage this plan provides (Check all that apply.)

Doctor's visits and hospitalizations  Vision coverage  Dental coverage  Pharmacy coverage  Catastrophic only

2. Is anyone listed on this application offered health coverage from a job but not enrolled in it?  Yes  No

This includes a job for a household member or an individual who is not in the household, such as a noncustodial parent. This question is about coverage that is available but in which eligible household members are not enrolled.

If yes, you will need to complete and include Supplement D: Health Coverage from Jobs.

Is this a state employee benefit plan?  Yes  No

16. Eligible persons must tell the health care program(s) in which they enroll about any changes in their or their household's income or employment, household size, health insurance coverage, health insurance premiums, and immigration status, or about changes in any other information on this application and any supplements to it within 10 calendar days of learning of the change. Eligible persons can make changes by calling 1-800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled). A change in information could affect eligibility for such persons or for persons in their household.

You can also report changes in any of the following ways.

- Sign on to your account at MAhealthconnector.org. You can create an online account if you do not already have one.
- Send the change information to Health Insurance Processing Center  
P.O. Box 4405  
Taunton, MA 02780.
- Fax the change information to 1-857-323-8300.

17. No one applying for health coverage on this application is in prison or in jail except as set forth below. If someone applying for health coverage is in prison or jail, write their name below and answer the following three questions.

\_\_\_\_\_ is in prison or jail.  
 Is this person awaiting trial?  Yes  No  
 Is this person being released within 30 days of submitting this application?  Yes  No

**I AGREE TO THE FOLLOWING STATEMENTS.**

- I have read or have had read to me the information on this application, including any supplements and instruction pages, and I understand that the Senior Guide contains important information.
- I have permission from all persons listed on this application (or their parent or other legally authorized representative) to submit this application and to act on their behalf to complete this application and any ongoing or subsequent eligibility process and activity, including, for example:
  - providing personal information about them, including health, health coverage, and income information, seeing such information as may be provided by the Health Connector, MassHealth, and the Health Safety Net, and providing consent on their behalf to the use and disclosure of their information as described in this application;
  - making choices about coverage options and methods of communication with the Health Connector, MassHealth, and the Health Safety Net;
  - making changes to the application or related eligibility documents and providing information about any change in their circumstances; and
- providing consent on their behalf to use government and private sources to verify information as described in this application.
- I understand my rights and responsibilities and the rights and responsibilities of all persons listed on this application as explained in STEP 9.
- I have told or will tell all such persons (or their parent or legally authorized representative, if applicable) about these rights and responsibilities so they understand them.
- I understand and agree that MassHealth, the Health Safety Net, and the Health Connector will treat electronic, faxed, or copies of signatures with the same force and effect as an original signature(s).
- The information I have supplied is correct and complete to the best of my knowledge about myself and other persons listed on this application.
- I may be subject to penalties under federal law if I intentionally provide false or untrue information.

**Sign this application.**

By signing this application below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this application are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

**Important:** If you are submitting this application as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us or have a form on record for us to process this application. The ARD is at the end of this application.

Signature of Person 1 or authorized representative	Print name	Date
<i>Ann Gauthier - HCP/DP</i>	Ann Gauthier	11-3-17

**VOTER REGISTRATION INFORMATION ON NEXT PAGE**

# SUPPLEMENT **A** Long-Term Care



- Do you need long-term-care services in a nursing home type facility?  Yes  No  
If yes, you must answer all questions and fill out all sections of this supplement.
- Are you applying for or getting long-term-care services at home under a Home- and Community-Based Services Waiver?  
 Yes  No If yes, you only need to fill out the "Resource Transfers" section on page 22.

Please print clearly. Answer all questions and fill out all sections. If you need more space to finish any section, please use a separate sheet of paper (Include your name and social security number), and attach it to this supplement.

## Applicant/Member Information

Last name, first name, middle initial <u>Henri HENRY E</u>		Social security number <u>[REDACTED] 6478</u>
Name and address of hospital, nursing facility, or other institution <u>Lutheran Rehab 26 Harvard St. Worcester MA 01609</u>		
Date of admission (mm/dd/yyyy) <u>11/11/17</u>	Were you placed here by another state? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, what state?	

1. Do you have to pay guardianship expenses for a court-appointed guardian?  Yes  No

## Living expenses of the spouse and family members living at home

Your spouse living at home may be able to keep some of your income. Fill out the following information about your spouse's current living expenses. If you do not have a spouse, go to the next section (Resource Transfers).

Send proof of your spouse's current living expenses.

Spouse's last name, first name, middle initial <u>Henri EVA E</u>		Social security number <u>[REDACTED] 4570</u>
2. How much does your spouse pay each month for:		
Rent? _____	Mortgage (principal and interest)? _____	
Homeowner's/tenant's insurance? _____	Real estate taxes? _____	
Required maintenance charge for a condo or co-op? _____ Room and board for assisted living? _____		

3. Does your spouse pay for heat?  Yes  No

4. Does your spouse pay for utilities?  Yes  No

5. Is a child, parent, brother, and/or sister living with your spouse?  Yes  No

If yes, fill out this section. If no, go to the next section (Resource Transfers).

Send proof of their monthly income before deductions.

A deduction may be allowed for their maintenance needs. These persons must be related to you or your spouse, and one of you must claim them as dependents on your federal income tax return.

Name		Social security number
Relationship	Date of birth (mm/dd/yyyy)	Monthly income before deductions \$
Name		Social security number
Relationship	Date of birth (mm/dd/yyyy)	Monthly income before deductions \$

**Resource Transfers (resources include both income and assets)**

6. In the past 60 months:

- a. Has any property that was available or belonged to you or your spouse been transferred into or out of a trust?  Yes  No
- b. Did you, your spouse, or someone on your behalf transfer income or the right to income?  Yes  No
- c. Did you, your spouse, or someone on your behalf transfer, change ownership in, give away, or sell any assets, including your home or other real estate?  Yes  No
- d. Did you, your spouse, or someone on your behalf change the deed or the ownership of any real estate, including creating a life estate, even if the life estate was purchased in another person's residence?  Yes  No
- e. If you purchased a life estate in another person's home, did you live in the home for at least one year after you purchased the life estate?  Yes  No
- f. Did you, your spouse, or someone on your behalf add another name to the deed of any property you own?  Yes  No
- g. Did you, your spouse, or someone on your behalf receive or give anyone a mortgage, loan, or promissory note on any property or other asset?  Yes  No
- h. Did you, your spouse, or someone on your behalf purchase or in any way change an annuity?  Yes  No

If you answered yes to any of the questions above, you must fill out the following, and send us proof of this information.

Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$
Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$
Description of asset/income		Date of transfer (mm/dd/yyyy)
Transferred to whom	Relationship to you or your spouse	Amount of transfer \$

7. Have you, your spouse, or someone acting on your behalf given a deposit to any health care or residential facility, like an assisted living facility, a continuing care retirement community, or life care community?  Yes  No

If yes, give us the name and address of the facility, the amount of the deposit, answer the following questions, and send us a copy of the contract you signed with the facility and any documents about this deposit.

Name of facility \_\_\_\_\_

Address of facility \_\_\_\_\_ Amount \$ \_\_\_\_\_

a. Does the facility still have the deposit?  Yes  No

b. Did the facility return the deposit?  Yes  No

If yes, give us the name and address of the person who got the deposit from the facility.

Name of person \_\_\_\_\_

Address \_\_\_\_\_

## Real Estate

The answers to the following questions will be used to decide if: (1) your real estate will be counted as an asset; or (2) a lien will be placed against your real estate.

Note: If the equity interest in your principal place of residence is over a certain limit, you may be ineligible for payment of long-term-care services, unless certain conditions are met.

8. Do you or your spouse own or have a legal interest in your home, including a life estate?  Yes  No *See Irrevocable Trust*  
If yes, fill out the following information and answer questions 9 through 15. If no, answer question 15 only.

Name and address of person(s) on ownership papers \_\_\_\_\_

Description and address of property location \_\_\_\_\_

Type of ownership (Check one.)

- Individual (Fair-market value) \$ \_\_\_\_\_  Tenancy in common (Fair-market value) \$ \_\_\_\_\_  
 Joint tenancy (Fair-market value) \$ \_\_\_\_\_  Life estate (Fair-market value) \$ \_\_\_\_\_

Name and address of person(s) on ownership papers \_\_\_\_\_

Description and address of property location \_\_\_\_\_

Type of ownership (Check one.)

- Individual (Fair-market value) \$ \_\_\_\_\_  Tenancy in common (Fair-market value) \$ \_\_\_\_\_  
 Joint tenancy (Fair-market value) \$ \_\_\_\_\_  Life estate (Fair-market value) \$ \_\_\_\_\_

9. Do you have a spouse?  Yes  No If yes, fill out this section.

Name EVA E. HINI Is this person living in your home?  Yes  No

10. Do you have a permanently and totally disabled or blind child?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

11. Do you have a child under 21 years of age?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Date of birth (mm/dd/yyyy) \_\_\_\_\_ Is this person living in your home?  Yes  No

12. Do you have a brother or sister with a legal interest in the home who was living in the home for at least one year immediately before your admission to the medical institution?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

13. Do you have a son or daughter who has lived in the home for at least the last two years before your admission to the medical institution and has provided care to you that allowed you to live in the home?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

14. Do you have a dependent relative?  Yes  No If yes, fill out this section.

Name \_\_\_\_\_ Is this person living in your home?  Yes  No

Describe the relationship and the nature of the dependency: \_\_\_\_\_

15. Do you intend to return to your home?  Yes  No

16. Do you or your spouse own or have a legal interest in other real estate not listed in #8 above?  Yes  No

If yes, please describe the property and list its address below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you need more space, please use a separate sheet of paper.

**Long-Term-Care Insurance**

17. Do you or your spouse have long-term-care insurance?  Yes  No

If yes, fill out this section. If no, go to the next section (Tax Returns).

Send a copy of the policy.

Company name/Policy number		
Policyholder name	Effective date (mm/dd/yyyy)	Premium amount \$
Company name/Policy number		
Policyholder name	Effective date (mm/dd/yyyy)	Premium amount \$

**Tax Returns**

18. Did you or your spouse file U.S. income tax returns in the last two years? (Check one.)

Yes, both years.  Yes, one of these years  No, neither year

If yes, you must send copies of these returns. If you did not keep copies of one or more of these returns, you must send in a filled-out and signed IRS Form 4506. Form 4506 is included at the end of this application.

**SIGN THIS SUPPLEMENT.**

By signing this supplement below, I hereby certify under the pains and penalties of perjury that the submissions and statements I have made in this supplement are true and complete to the best of my knowledge, and I agree to accept and comply with the above rights and responsibilities.

Important: If you are submitting this supplement as an authorized representative, you must submit an Authorized Representative Designation Form (ARD) to us for us to process this application. It is important to complete this form as this is the only way we may speak to you about this application.

Signature of applicant/member or authorized representative	Print name	Date
<i>Ann E. Courthoos</i>	Ann E. Courthoos	11-27-17

# EXHIBIT D



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION NO. 2018-00845

HENRY AND EVA HIRVI,

Plaintiffs,

v.

MARYLOU SUDDERS, et al.,

Defendants.

CONSOLIDATED WITH

SUFFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION NO. 2018-000129

JEAN MAAS,

Plaintiff,

v.

MARYLOU SUDDERS, et al.,

Defendants.

**AFFIDAVIT OF PATRICIA GRANT**

I, Patricia Grant, hereby depose and state the following:

1. I work for the Executive Office of Health and Human Services, Office of Medicaid

("MassHealth") as Chief Operating Officer.

1. When an applicant applies for Medicaid benefits, their application is assigned to a MassHealth Enrollment Center ("MEC") worker for processing.
2. The MEC worker reviews the application to verify the amount of assets and income reported by the applicant and to determine the countability of those assets and income for Medicaid eligibility as required by federal and state law.
3. If the asset and income information provided by the applicant is incomplete or cannot be verified based on the information provided to MassHealth on the application, the MEC worker sends out financial verification letters to the applicant requesting that the applicant provide additional information to explain the income or assets which the applicant listed on their application or to explain other assets which MassHealth discovered on its own that were not listed on the applicant's MassHealth application for benefits.
4. In general, the process of verifying and determining the countability of an applicant's income and assets involves both written correspondence and telephone conversations between an applicant or their personal representative and the MEC worker, until all necessary financial verification information is received from the applicant and reviewed by the MEC worker or until the applicant is denied for failure to provide required information.
5. After receiving and reviewing all requested information about an applicant's assets and income, the MEC worker makes a final determination of the amount of an applicant's countable assets and income in various categories. Based on the total amount of an applicant's countable assets and income, the MEC worker determines the applicant's eligibility for MassHealth by comparing the applicant's countable assets and income to the limits for eligibility under federal and state Medicaid law.

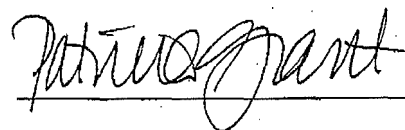
6. Once the MEC worker makes the final determination of countable assets, countable income, and eligibility, the MEC worker enters that information into the MassHealth computer system.

7. If an applicant does not meet the eligibility criteria for Medicaid, the computer system generates a standardized denial notice based on the MEC worker's inputs to the system that informs the applicant that they are not eligible for MassHealth; provides the reason(s) for the denial; provides the regulation(s) applicable to the denial; tells the applicant what they must do to qualify for benefits; identifies the amounts of the applicant's assets and income that MassHealth determined was countable various categories; and instructs the applicant how to ask for a fair hearing if he or she wishes to appeal the denial decision.

8. Throughout the application process, an applicant or his or her authorized representative may contact the assigned MEC worker to ask questions.

9. Effective April 28, 2018, MassHealth changed the portion of its standardized denial notices under the heading "How We Counted Your Assets." Where MassHealth has determined that the applicant has countable assets held in a trust, those assets are now identified as "trust" assets, rather than "other" assets. An example of this change is attached to this Affidavit.

Signed under the pains and penalties of perjury this 25<sup>th</sup> day of May, 2018.



Patricia Grant

EDMC  
P.O. BOX 4405  
TAUNTON MA 02780-0968

Commonwealth of Massachusetts  
Executive Office of Health  
and Human Services  
Office of Medicaid  
www.mass.gov/masshealth

Tel: (800) 408-1253  
TTY: (888) 665-9997  
Fax: (857) 323-8300

Medicaid ID : 100222375329

510/APPR






Date: 04/19/2018

Notice: 1819026

SSN: 

Dear 

MassHealth has decided that the following members of your family can get benefits.

Name	Coverage	Benefit	Other
SSN/DOB	Type	Effective	
Medicaid ID		Date	
	Senior Buy In	05/01/2018	
			
			

**What You Are Eligible For**

Under MassHealth Senior Buy-In, we will pay the Medicare Part A and Part B premiums, deductibles, and coinsurance for each eligible member of your family.

**How Your Premium Will Get Paid**

We will notify Medicare that you are eligible for this payment.

If your Part B premium is being deducted from your social security or retirement check, your benefit will be adjusted so that your Medicare premium is no longer being deducted.

If you are not yet paying for Part B or if you are paying your Part B premium in some other way, such as getting a quarterly bill, MassHealth will start paying this bill for you.

continued...

**When Your Premium Payment Will Begin**

It will take several months to adjust your check or your bill if you have been paying your premium. However, Medicare will give you a refund for the amount you have paid for your Part B premiums back to the benefit effective date listed above. You will get this refund in the same way as you now get your social security or retirement - either through a check or direct deposit to your bank account.

You have more countable assets than MassHealth Standard or Limited benefits allow: If you reduce your assets to \$2,000 within the 30-day time frame, you may be eligible for MassHealth benefits based on the date of your application. But if you do not reduce your assets to \$2,000 within the 30-day time frame, MassHealth will use as the date of your application the date you submit all of the required verifications that show you have reduced your assets to \$2,000. The calculation page at the end of this notice shows how we counted your assets. 130 CMR 520.003 520.004

The Health Safety Net may pay for services from a hospital or community health center that are not covered by a MassHealth program. You may be charged copays and deductibles. For more information, call 1-877-910-2100.

Call the phone number at the top of this notice if you have any questions about this notice. If you don't have a copy of the MassHealth booklet, please call to request one. It has important information about MassHealth coverage and rules.

For information about appealing our decisions, see the Request for a Fair Hearing page of this notice.

**How We Counted Your Assets**

MA Countable Assets		
Life Insurance:	2,100.00	
PNA Account:	0.00	
Auto Value:	0.00	
Bank Account:	0.00	
Real Estate Value:	0.00	
Annuity:	200.00	
Cash:	12.00	
Security:	2.00	
Trust:	710.00	
Total Asset Amount:	3,024.00	3,024.00
MA Asset Limit for Household(1):		2,000.00
		-----
Excess Asset Amount:		1,024.00

## HOW TO ASK FOR A FAIR HEARING

**Your Right to Appeal:** If you disagree with the action by MassHealth, you have the right to appeal and ask for a fair hearing before an impartial hearing officer. The Board of Hearings must get your fair hearing request form no later than **30 calendar days** from the date you got MassHealth's official written notice telling you of the action to be taken.

If you want to ask for a fair hearing because MassHealth did not take action on your application or on your request for service, MassHealth did not send you a written notice of the action to be taken, or a MassHealth employee's behavior toward you was coercive or improper, the Board of Hearings must get your fair hearing request form no later than **120 calendar days** from the date of your application or your request for service, MassHealth's action, or the MassHealth employee's improper behavior.

**How to Appeal:** To ask for a fair hearing, fill out the fair hearing request form (be sure to fill out **Section II-Reason for Appeal**) and send a copy with a copy of the MassHealth official written notice to: **Appeal Processing Center, P.O. Box 4405, Taunton, MA 02780-0419** or fax them to **1-857-323-8300**. Please keep a copy of the fair hearing request form for your information.

**If You Are Now Getting MassHealth:** If the Board of Hearings gets your fair hearing request form before the date the action is taken or, if later, within **10 calendar days** of the mailing date of MassHealth's written notice to you, you will keep getting MassHealth until a decision is made on your appeal. If you get MassHealth during your appeal, and then lose your appeal, you may have to pay MassHealth back for the cost of MassHealth benefits that you got during this time period. If you do not want to keep getting MassHealth during your appeal, please check **Box A** in **Section III** on the fair hearing request form. If you do not get MassHealth during your appeal, and then you win your appeal, MassHealth will restore your MassHealth benefits.

**Date of Fair Hearing:** At least **10 calendar days** before the fair hearing, the Board of Hearings will send you a notice telling you the date, time, and place of the hearing. This will give you time to get ready for the hearing. If you want to have a fair hearing scheduled as soon as possible, check **Box B** in **Section III** on the fair hearing request form for an expedited hearing. If you have good cause for not being able to come to the hearing, or if you need a telephone hearing, you must call the Board of Hearings at **617-847-1200** or **1-800-655-0338** before the hearing date. If you do not reschedule or appear on time at the hearing without documented good cause, your appeal will be dismissed.

**Your Right to Be Helped at the Hearing:** At the hearing, you may represent yourself or be represented by a lawyer or other representative at your own expense. You may contact a local legal service or community agency to get advice or representation at no cost. To get information about legal service or community agencies, call the MassHealth Customer Service Center at **1-800-841-2900** (TTY: **1-800-497-4648** for people who are deaf, hard of hearing, or speech disabled).

**If You Need an Interpreter or an Assistive Device:** If you do not understand English and/or are hearing or sight impaired, the Board of Hearings will provide an interpreter and/or assistive device for you at the hearing. Please check either **Box C** or **D**, or **both**, in **Section III** on the fair hearing request form if you need an interpreter or assistive device, or call the Board of Hearings at **617-847-1200** or **1-800-655-0338** at least **five business days** before the hearing.

**Your Right to Review Your Case File:** You and/or your representative can review your MassHealth case file before the hearing. To do this, call a MassHealth Enrollment Center at **1-888-665-9993** (TTY: **1-888-665-9997** for people who are

deaf, hard of hearing, or speech disabled) before the fair hearing. Your MassHealth case file is not kept at the Board of Hearings.

**Your Right to Ask to Subpoena Witnesses, and Your Right to Question:** You or your representative may write to the Board of Hearings to ask that witnesses or documents be subpoenaed to the hearing. You or your representative may present evidence and cross-examine witnesses at the hearing. The hearing officer will make a decision based on all evidence presented at the fair hearing.

**NONDISCRIMINATION NOTICE FOR APPLICANTS AND MEMBERS:** Under federal and state law, MassHealth does not discriminate on the basis of race, color, sex, sexual orientation, national origin, religion, creed, age, health status, or handicap.

Name: [REDACTED] SSN: [REDACTED] Medicaid ID: [REDACTED]  
Notice: [REDACTED] Notice Date: 04/19/2018

\*\*\* Mail or Fax this form \*\*\*

**FAIR HEARING REQUEST FORM**

Fill out all sections that apply. Print clearly.

**SECTION I: Applicant/Member Information**

Name of Applicant or Member: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No.: ( ) \_\_\_\_\_  
MassHealth I.D. or Social Security Number: \_\_\_\_\_  
Cardholder's Name on MassHealth card (if different): \_\_\_\_\_

**SECTION II: Reason for Appeal**

I, \_\_\_\_\_ want a fair hearing because:  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_/\_\_\_/\_\_\_

**SECTION III: Appeal Information**

(Check the boxes that apply to you.)

- A. I do not want to keep getting MassHealth during the appeal process.
- B. I want an expedited hearing.
- C. I need an interpreter  
(what language?: \_\_\_\_\_) to be provided by the Board of Hearings.
- D. I need an assistive device to be provided by the Board of Hearings.  
(Describe what type of assistive device you need. For example: American Sign Language): \_\_\_\_\_

**SECTION IV: Appeal Representative, if any**

My appeal representative is: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No.: ( ) \_\_\_\_\_

# EXHIBIT E



SPRINGFIELD OFFICE  
88 INDUSTRY AVE, SUITE D  
SPRINGFIELD MA 01104-3259

Commonwealth of Massachusetts  
Executive Office of Health  
and Human Services  
Office of Medicaid  
www.mass.gov/masshealth

Worker Name: Jared Krok  
Tel: (413) 731-3355  
Fax: (413) 785-4107

Reference : 44511226960144

526/VCT1-HCR  
BRUNELLE MEDICAID CONSULTANTS  
PO BOX 566  
WILBRAHAM MA 01095-0000

Attn: BRUNELLE MEDICAID CONSULTANTS Re: Notice sent to JEAN MAAS

REQUEST FOR INFORMATION

**IMPORTANT! PLEASE RETURN THIS PAGE WITH ALL REQUESTED DOCUMENTS.**

Date: 07/27/2017

Notice: 57997209

SSN: XXX-XX-9601

Dear JEAN MAAS

MassHealth has received your application or review form but we need more information before we can make a final decision about your eligibility for health-care benefits. The information we need is listed below. A list of acceptable documents that you may send us to verify this information appears further down on this notice.

You must send us all of the information we need by 08/26/2017. If you do not send us this information by this date:

- \* your health-care benefits may be denied if you are applying; or
- \* your health-care benefits may change, or end if you are currently getting benefits.

If you believe you have already submitted all requested verifications or if you have any questions, call the phone number at the top of this notice.

Information We Need

continued...

We need verification of the following information from:

JEAN MAAS

- Income from State Pension NY RETIREMENT  
Please provide a current stub from pension source. The 2016 1099 does not match the current bank deposit.
- Health Insurance Medical BCBS-MA  
Please verify if there is a monthly premium.
- NURSING FACILITY Personal Needs Allowance Account XXXXXXXXXX  
Please have the nursing facility send us:  
1) Personal Needs Account information and running balances.  
2) Private payment statement and what it covered (if any).
- KINDERHOOK BANK Checking Account [REDACTED]  
Provide copy of full bank statements (with copies of cleared checks) from the period of 07/06/17 to present, showing how assets were spent down to \$2000 limit.  
Please provide copies of checks over \$1000 from 4/2016 to present.  
None received.
- MERRILL LYNCH IRA [REDACTED]  
Provide copy of full bank statements from the period of 12/01/12 to 3/31/16 showing how assets were spent during this time frame.
- Trust ROBERT AND JEAN MAAS LIVING TRUST  
Our records indicate there is a trust. Please provide a copy of trust, schedule of beneficiaries and schedule of assets. Please provide accountings for past 60 months. Please have Trustee provide a statement of all assets in trust currently. Has any real estate been put in or take out in past 60 months? Our records indicate [REDACTED] Valatie NY is in Trust. Our records indicate [REDACTED] Mashpee, ma was in trust and sold on 9/16/14. Please provide HUD settlement statement and verify what was done with funds received.
- Real Estate [REDACTED] KINDERHOOK NY  
Our records indicate that you own this property. Please fill out the agreement to sell and verify that the property is on the market.
- Residence: Notification of admission to facility (SC-1)
- Nursing Facility Screening Notification

Documents You Must Submit

Health Insurance: Copy of both sides of all health insurance cards and a copy of your current premium bill.

continued...

**Income Information**

**Unearned income** - Please send us one of the following showing gross income from each income source: a copy of your check stub or award letter; a statement from the company or agency issuing the payment or benefit; or your most recent Form 1040 (U.S. Individual Income Tax Return) with all attachments.

Reminder: Gross income is your income from any source before deductions are taken out.

**Asset Information**

**Bank Accounts:** must verify the amount on deposit by bank books or bank statements that show the bank balance within 45 days of the date of application or eligibility review.

**Real Estate:** a copy of the deed(s) and current tax bill for all properties that you and/or your spouse have a legal interest in.

**Trusts:** all trust documents and accounts that show all assets in the trust including current balance and all activity during the latest period. Also send proof of all income distributed, a schedule of trust assets, and a schedule of beneficiaries. If a realty trust, send a copy of the deed(s).

If you do not have any of the requested documents or you do not understand what you need to provide, please call an eligibility worker at the MassHealth Enrollment Center listed on the first page of this form.

Please include your name, social security number, and/or your date of birth on all correspondence.

# **EXHIBIT F**

SPRINGFIELD OFFICE  
88 INDUSTRY AVE, SUITE D  
SPRINGFIELD MA 01104-3259

Commonwealth of Massachusetts  
Executive Office of Health  
and Human Services  
Office of Medicaid  
www.mass.gov/masshealth

Worker Name: Jared Krok  
Tel: (413) 731-3355  
Fax: (413) 785-4107

Reference : 84411226960143

526/VCT2-HCR  
DOUGLAS MAAS  
8 PARK PL  
VALATIE NY 12184-0000

Attn: DOUGLAS MAAS Re: Notice sent to JEAN MAAS

REQUEST FOR INFORMATION

**IMPORTANT! PLEASE RETURN THIS PAGE WITH ALL REQUESTED DOCUMENTS.**

Date: 09/11/2017

Notice: 58150958

SSN: XXX-XX-9601

Dear JEAN MAAS

MassHealth has received your application or review form but we need more information before we can make a final decision about your eligibility for health-care benefits. The information we need is listed below. A list of acceptable documents that you may send us to verify this information appears further down on this notice.

You must send us all of the information we need by 10/11/2017. If you do not send us this information by this date:

- \* your health-care benefits may be denied if you are applying; or
- \* your health-care benefits may change, or end if you are currently getting benefits.

If you believe you have already submitted all requested verifications or if you have any questions, call the phone number at the top of this notice.

Information We Need

continued...

We need verification of the following information from:

**JEAN MAAS**

- Health Insurance Medical BCBS-MA  
Please verify if there is a monthly premium.
- KINDERHOOK BANK Checking Account [REDACTED]  
Provide copy of full bank statements (with copies of cleared checks) from the period of 07/06/17 to present, showing how assets were spent down to \$2000 limit.  
Please provide copies of checks over \$1000 from 4/2016 to present.  
None received.
- MERRILL LYNCH IRA [REDACTED]  
Provide copy of full bank statements from the period of 12/01/12 to 1/01/16 showing how assets were spent during this time frame and from 7/1/17 to present showing how assets were spent down to \$2000 limit.
- Trust ROBERT AND JEAN MAAS LIVING TRUST  
Please have Trustee provide a statement of all assets in trust currently. Please provide accounting statements for all assets in Trust from 10/1/14 to present.
- Real Estate [REDACTED] KINDERHOOK NY  
Our records indicate that you own this property. Please fill out the agreement to sell and verify that the property is on the market.

Documents You Must Submit

**Health Insurance:** Copy of both sides of all health insurance cards and a copy of your current premium bill.

**Asset Information**

**Bank Accounts:** must verify the amount on deposit by bank books or bank statements that show the bank balance within 45 days of the date of application or eligibility review.

**Real Estate:** a copy of the deed(s) and current tax bill for all properties that you and/or your spouse have a legal interest in.

**Trusts:** all trust documents and accounts that show all assets in the trust including current balance and all activity during the latest period. Also send proof of all income distributed, a schedule of trust assets, and a schedule of beneficiaries. If a realty trust, send a copy of the deed(s).

If you do not have any of the requested documents or you do not understand what you need to provide, please call an eligibility worker at the MassHealth Enrollment Center listed on the first page of this form.

Please include your name, social security number, and/or your date of birth on all correspondence.

continued...

Health Safety Net (formerly Uncompensated Care Pool (UCP))

The Commonwealth of Massachusetts has decided that the Health Safety Net may be able to pay for services that the individual(s) listed below get at a Massachusetts hospital or community health center. If you have other health insurance, that health insurance must be used first before the Health Safety Net will pay for any services you receive at a hospital or community health center. You may be charged copays and deductibles.

Name	Coverage	Family	Benefit
SSN	Type	Deductible	Effective Date
JEAN MAAS	Health Safety	\$1488.00	09/01/2017
XXX-XX-9601	Net		

If there is a family deductible listed above, you are responsible for paying it. This amount is based on your family's income (114.6 CMR 13.00 and the sections that follow). For more information about your deductible, contact the hospital or CHC where you get services.

Please get in touch with your hospital or community health center to find out what services you can get without having to pay bills.

You must tell MassHealth about certain changes that could affect your coverage. These include any changes in income, family size, employment, student status, disability status, health insurance, address, and immigration status. This will let us determine the most complete coverage you can get. Address changes are needed so you will get notices about your benefits. Once a change occurs, please report the change to MassHealth within 10 days or as soon as possible.

If you have questions about this Health Safety Net decision, please call the number at the top of this notice. If you do not agree with this Health Safety Net decision, you may contact the Health Safety Net, Attn: HSN Grievances, 100 Hancock Street, 6th Floor, Quincy, MA 02171, or you can call them at 1-877-910-2100.

# EXHIBIT G



10/5/17

TRUST AGREEMENT BETWEEN ROBERT E. MAAS AND JEAN O MAAS  
DATED JANUARY 29, 2008 I DOUGLAS R. MAAS TRUSTEE  
PROVIDE A LIST OF ASSETS TO JOSE.

[REDACTED] TOWN OF KINDLEBROOK, POLK COUNTY, FLORIDA [REDACTED]

VALATHE N.Y. [REDACTED]

not  
interest

✓ MERRILL LYNCH ACCOUNT # [REDACTED] \$ 2610,51

MERRILL LYNCH ACCOUNT # [REDACTED] \$ 1772,62

THIS IS ALL CURRENT ASSETS TO DATE.

DOUGLAS R. MAAS  
*[Signature]*

RECEIVED - LB  
OCT 10 2017  
MASSHEALTH

# EXHIBIT H

Current



Primary Account: [REDACTED]

DOUGLAS R MAAS TTEE  
ROBERT E MAAS & JEAN C MAAS  
LIVING TR NO 1 OF 2008  
8 PARK PL  
VALATIE NY 12184-5511

## YOUR MERRILL LYNCH REPORT

September 01, 2017 - September 29, 2017

### PORTFOLIO SUMMARY

	September 29	August 31	Month Change
<b>Net Portfolio Value</b>	<b>\$1,772.62</b>	<b>\$1,771.96</b>	<b>\$0.66 ▲</b>
Your assets	\$1,772.62	\$1,771.96	\$0.66 ▲
Your liabilities	-	-	-
Your Net Cash Flow (Inflows/Outflows)	-	-	-
Securities You Transferred In/Out	-	-	-
<b>Subtotal Net Contributions</b>	<b>-</b>	<b>-</b>	<b>-</b>
Your Dividends/Interest Income	\$0.66	\$0.70	-\$0.04
Your Market Gains/(Losses)	-	-	-
<b>Subtotal Investment Earnings</b>	<b>\$0.66</b>	<b>\$0.70</b>	<b>-\$0.04</b>

If you have questions on your statement, call 24-Hour Assistance: (800) MERRILL (800) 637-7455

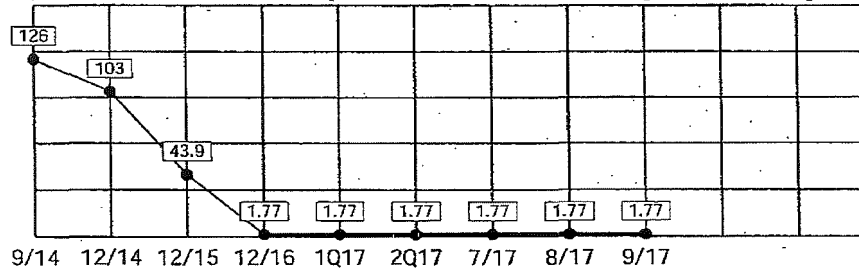
Investment Advice and Guidance: Call Your Financial Advisor

Your Financial Advisor:  
THE CONNOLLY WOLF GROUP  
69 STATE STREET 16TH FL  
ALBANY NY 12207  
1-800-333-6891

Up-to-date account information can be viewed at: [www.mymerrill.com](http://www.mymerrill.com), where your statements are archived for three or more years.

Questions about MyMerrill? Click the "help" tab at the top of the screen once you log in.

Total Value (Net Portfolio Value plus Assets Not Held/Valued By MLPF&S, if any) in thousands, 2014-2017



### SWITCH TO ONLINE STATEMENTS!

Receive this statement online instead of by mail. Visit [mymerrill.com](http://mymerrill.com) and enroll today! MyMerrill.com is an easy, convenient and secure way to access your account 24 hours a day.

Merrill Lynch Wealth Management makes available products and services offered by Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S) and other subsidiaries of Bank of America Corporation. MLPF&S is a registered broker-dealer, Member Securities Investor Protection Corporation (SIPC) and a wholly owned subsidiary of Bank of America Corporation. Investment products: **Are Not FDIC Insured | Are Not Bank Guaranteed | May Lose Value**

†



Property Description Report For [Redacted]  
Municipality of Kinderhook

No Photo Available

<b>Total Acreage/Size:</b>	1.90	<b>Status:</b>	Active
<b>Land Assessment:</b>	2017 - \$54,500	<b>Roll Section:</b>	Taxable
	2016 - \$54,500	<b>Swis:</b>	104489
<b>Full Market Value:</b>	2017 - \$249,800	<b>Tax Map ID #:</b>	33.-2-19
	2016 - \$249,800	<b>Property Class:</b>	210 - 1 Family Res
<b>Equalization Rate:</b>	----	<b>Site:</b>	RES 1
<b>Deed Book:</b>	629	<b>In Ag. District:</b>	No
<b>Grid East:</b>	718953	<b>Site Property Class:</b>	210 - 1 Family Res
		<b>Zoning Code:</b>	02
		<b>Neighborhood Code:</b>	04495
		<b>School District:</b>	Kinderhook
		<b>Total Assessment:</b>	2017 - \$249,800
			2016 - \$249,800
		<b>Property Desc:</b>	Meadowland Est
		<b>Deed Page:</b>	1611
		<b>Grid North:</b>	1308872

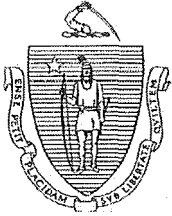
Area

<b>Living Area:</b>	1,880 sq. ft.	<b>First Story Area:</b>	1,444 sq. ft.
<b>Second Story Area:</b>	0 sq. ft.	<b>Half Story Area:</b>	436 sq. ft.
<b>Additional Story Area:</b>	0 sq. ft.	<b>3/4 Story Area:</b>	0 sq. ft.
<b>Finished Basement:</b>	0 sq. ft.	<b>Number of Stories:</b>	1.5
<b>Finished Rec Room:</b>	0 sq. ft.	<b>Finished Area Over Garage:</b>	0 sq. ft.

Structure

<b>Building Style:</b>	Cape cod	<b>Bathrooms (Full - Half):</b>	2 - 0
<b>Bedrooms:</b>	2	<b>Kitchens:</b>	1
<b>Fireplaces:</b>	0	<b>Basement Type:</b>	Full
<b>Porch Type:</b>	Porch-covered	<b>Porch Area:</b>	107.00
<b>Basement Garage Cap:</b>	0	<b>Attached Garage Cap:</b>	528.00 sq. ft.
<b>Overall Condition:</b>	Normal	<b>Overall Grade:</b>	Good
<b>Year Built:</b>	2002		

# EXHIBIT I



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
One Ashburton Place, Room 1109  
Boston, MA 02108

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

Tel.: 617-573-1600  
Fax: 617-573-1890  
www.mass.gov/cohhs

February 13, 2018

VIA Email to: [office@southshoreelderlaw.com](mailto:office@southshoreelderlaw.com) and First-Class Mail

Mr. Brian Barreira, Esq.  
Law Offices of Brian E. Barreira  
118 Long Pond Road  
Plymouth, MA 02360

Re: Appeal No. 1717990 – Jean C. Maas

Dear Mr. Barreira:

Enclosed please find a copy of the following brief which MassHealth will be presenting in the hearing of this matter:

**MASSHEALTH'S MEMORANDUM IN OPPOSITION TO APPEAL**

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Charles J. Sheehan".

Charles J. Sheehan  
Assistant General Counsel

Enc.

COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF MEDICAID

_____	)	
JEAN C. MAAS,	)	
Appellant,	)	
	)	
v.	)	BOARD OF HEARINGS
	)	APPEAL NO. 1717990
	)	
MASSHEALTH,	)	
Acting Entity	)	
_____	)	

**MASSHEALTH'S MEMORANDUM IN OPPOSITION TO APPEAL**

**INTRODUCTION**

MassHealth correctly determined that the applicant does not meet the \$2,000 asset eligibility limit. 130 CMR 520.003(A)(1). Under the terms of the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008 and its administration, it is clear that there are circumstances under which payment can be made to or for the benefit of the applicant because, among other things, the evidence shows that such distributions have been made. 130 CMR 520.023; 42 U.S.C. §1396p(d).

**STATEMENT OF FACTS**

The applicant, Jean C. Maas, is 81 years old, a resident of a long-term care facility and applied for MassHealth long-term nursing home benefits. The applicant was admitted to Kimball Farm Nursing Care Center on or about January 2, 2017. The long-term care facility is seeking coverage as of August 1, 2017. Prior to the applicant's admission to long-term care she was apparently a resident of Kimball Farms assisted living. The applicant's husband, Robert E. Maas, passed away.

**The Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008:**

On January 29, 2008 the applicant and her husband established the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008 (the "Trust"). The applicant and her husband are the Grantors of their Trust. *See* Trust, First Paragraph. The Trustee is the applicant's son, Douglas R. Maas. *See* Trust, First Paragraph. The applicant is the sole surviving vested lifetime Beneficiary of the Trust. *See* Trust, Article 3 and Article 5.

At the time the Trust was established, the applicant and her husband were residents of New York. *See* Trust, First Paragraph. Article 12 expresses that the Trust is to be interpreted in accordance with the laws of New York State. Article 13 defines the Trust as irrevocable.

Pursuant to Article 3(a), the Trustee is required to distribute the net income to the applicant at least quarterly. Article 3(b) reads in its entirety:

The Trustee shall not be entitled to invade the principal of the Trust for the benefit of either Grantor, and any provision of law, including any provision in the New York Estates, Powers

and Trusts Law, may not be utilized to permit such invasion. Notwithstanding the foregoing, the Trustee may, in their (sic) sole and absolute discretion, pay such sums from principal as they deem reasonably necessary for the funeral and burial expenses for either Grantor. Also, the Trustee may, in their (sic) sole and absolute discretion pay any and all death taxes imposed upon the Estate of either Grantor, Court filing fees of a probate or administration proceeding, and any and all legal and accounting fees related to the estate of either Grantor. The Trustee shall have no duty to (i) determine the accuracy or propriety of any amount or sum; (ii) see to the application of any sum paid, or other property delivered, to the Executor of either Grantor; or (iii) withhold distribution of any asset, except as may be limited by other paragraphs of this Trust.

The applicant and spouse each reserved a testamentary Power of Appointment under Article 4, allowing them to appoint the principal to one or more of his/her lineal descendants. Article 5 provides for the termination of the Trust and distribution of the corpus in equal shares to the applicant's three children upon the death of the surviving Grantor (applicant), but subject to the testamentary Power of Appointment in Article 4.

Article 8 concerning the Trustee's Powers, states that the Trustee shall have "the broadest powers in the administration of said Trust..." These powers include, but are not limited to:

Article 8(a) invest and reinvest trust funds in any property of any kind irrespective of any statute, case, rule or custom limiting the investment of Trust funds;

Article 8(b) sell, mortgage, lease and otherwise manage real estate;

Article 8(e) hold shares in corporate securities in their own name or the name of a nominee with or without disclosing the fiduciary relationship;

Article 8(f) borrow money and mortgage, create a security interest in, or pledge Trust property as security;

Article 8(i) "...hold cash, uninvested, even though the total amount so held is disproportionate under Trust Investment Law, and to retain or acquire and hold unproductive property. The use of any tangible property held in this Trust may be provided to the income beneficiary in lieu of income on such property";

Article 8(j) execute and deliver written instruments and all persons shall be fully protected in relying on the Trustee's power to execute the instruments and no one shall be obligated to see to the application of any money or property;

Article 8(l) permit any income Beneficiary to occupy real property on any terms deemed proper by the Trustee, whether rent free or for the payments of taxes, insurance or other expenses; and

Article 8(n) "...retain and pay for services of attorneys, accountants, financial planners, private geriatric care managers, and other appropriate professionals."

Under Article 9, only the applicant is entitled to Trustee accountings and further, the Trustee need not report to any court at any time for any purpose. Pursuant to Article 15, and irrespective of the Trustee, the applicant-Grantor reserved a lifetime Power of Appointment to make gifts of Trust principal "from



time to time" to any charity that qualifies as such under Section 501(c)(3) of the Internal Revenue Code. In exercising this right, the applicant is to provide written instruction to the Trustee "... who shall then assist in carrying out the direction of the Grantors..."

Article 17 allows the applicant the right to use or occupy any real estate, including cooperative apartment or seasonal property for residential purposes. Article 20 reads in part:

During the lifetime of either of the Grantors, the Trustee may, in their (sic) sole and absolute discretion, distribute in equal shares to each child of the Grantors, an amount or amounts up to the maximum amount of the annual Federal gift tax exclusion for that year from the principal of the Trust for the support, maintenance and/or welfare of said children (child). Such sums distributed to the Grantors' children shall not be subject to assignment, alienation, pledge, attachment or claims of any other person or entity, including creditors of these children, and may not otherwise be voluntarily or involuntarily alienated or encumbered...<sup>1</sup>

The Schedule of Trust Property indicates that the applicant and spouse funded the Trust with two parcels of their real estate: one designated in the Schedule as [REDACTED] Town of Kinderhook, Columbia County, New York and the other located at [REDACTED] Mashpee, Massachusetts, which the applicant and spouse acquired by a deed dated February 5, 1993.

#### **Administration of the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008:**

On or about September 16, 2014, and within the Medicaid look-back period, the Mashpee, Massachusetts real estate titled in the Trust was sold for a gross price of \$286,500. (HUD Settlement Statement attached hereto as Exhibit A). The Trustee's Certificate executed in connection with the sale states that the holders of 100% of the beneficial interest under the Trust assented to the sale. The HUD Settlement Statement indicates that after payment of expenses, which included paying off a mortgage of more than \$141,000, the net proceeds due the Seller under the HUD totaled approximately \$114,000. (Ex. A). Though the applicant did not provide a copy of the mortgage discharge, the evidence seems to suggest the loan was held in the name of the applicant and/or spouse as opposed to the Trust.

The MassHealth Representative reports, and the evidence shows, that on September 17, 2014 proceeds from the sale of the Mashpee, Massachusetts real estate \$125,709.73 was wired transferred to a Merrill Lynch portfolio account ([REDACTED]) titled in the Trust. (Partial Merrill Lynch statements for August 30, 2014 through September 30, 2014 and for December 1, 2016 through December 30, 2016 attached hereto as Exhibit B). As of September 30, 2014, the balance in the Merrill Lynch account was \$125,710.56. (Ex. B, labeled as page 1 of 7). The statement for the account for the period of December 1, 2016 through December 30, 2016 shows that the balance in the account as of December 30, 2016 was only \$1,777.29. (Ex. B, labeled as page 1 of 8). This statement page also reflects the approximate valuations of the Trust account for the prior two years as follows:

September 2014:	\$126,000
December 2014:	\$103,000
December 2015:	\$43,900

<sup>1</sup> The maximum annual gift tax exclusion for calendar years 2014 through 2017 was \$14,000 per donee. See <https://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-gift-taxes>.

1 <sup>st</sup> Quarter of 2016:	\$32,800
2 <sup>nd</sup> Quarter of 2016:	\$24,500
3 <sup>rd</sup> Quarter of 2016:	\$6,270
December 2016:	\$1,770

#### Ex. B

The withdrawals, monthly or otherwise, from the Merrill Lynch Trust account were typically in the amount of \$4,100 or \$4,500. The MassHealth Representative reports that the Trust funds were distributed and deposited to the applicant's personal Kinderhook Bank account (██████████).<sup>2</sup> (Partial Kinderhook Bank statements from April through November 2016 attached hereto as Exhibit C). The evidence suggests that the Trust funds from the Merrill Lynch account were directly transferred, and in some instances effectuated by wire transfer, into the applicant's personal bank account. (Ex. C, p. 3). This account also receives the direct deposit of the applicant's social security and pension income.<sup>3</sup> (Ex. C). The balance in the applicant's Kinderhook Bank account as of November 10, 2016 was \$590.70. (Ex. C).

The New York real estate apparently remains titled in the Trust, and appears to have a 2017 tax assessment of \$249,800. The legal unit has no information concerning who is paying to maintain the real estate and whether it may be occupied or rented.

Finding countable assets in excess of the \$2,000 asset limit, MassHealth denied the applicant's application for long-term nursing home benefits under a notice dated October 12, 2017.

### LEGAL ANALYSIS

It is indisputable that applicants for MassHealth benefits have the burden to prove their eligibility. 130 CMR 520.007; G.L. c. 118E, §§ 20, 47A; *see generally Goldberg v. Kelly*, 397 U.S. 254 (1970). In order to be approved for such benefits, among other things, the total value of countable assets or resources owned by or available to the applicant may not exceed \$2,000. 130 CMR 520.003(A)(1). 130 CMR 520.007 provides: "Countable assets are all assets that must be included in the determination of eligibility. Countable assets include assets to which the applicant or member or their 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<sup>4</sup>..." *See also* 130 CMR 520.009 (countable income). This mandate is also embodied in the Medicaid statute concerning the treatment of trusts and transfers of resources. 42 U.S.C. §1396p(h)(1). Once having found the applicant's assets do not meet the regulatory limit, and consistent with the procedures and requirements discussed in *Goldberg v. Kelly*, MassHealth issued its notice setting forth the value of the excess assets with citation to relevant regulations, which the applicant appealed. *Goldberg v. Kelly*, 397 U.S. 254, 266-268 (1970).

In conducting an administrative review, the Agency is bound by federal Medicaid law and its regulatory guidance reflected in MassHealth regulations, and relevant Medicaid case law. Medicaid is

<sup>2</sup> Some of the statements are addressed to both the applicant and Douglas R. Maas and some just to Douglas R. Maas. Ex. C.

<sup>3</sup> There was no claim under the application or by the applicant's authorized representatives or son that this account was other than fully countable to the applicant.

<sup>4</sup> This includes actions by, among others, an applicant's attorney-in-fact, joint account holder, guardian, conservator, escrow agent, and/or trustee.

not a program in equity and common law principles do not override Medicaid statutory provisions or the policies and purposes underpinning the program. *See generally Nissan Motor Corp. v. Comm'r of Revenue*, 407 Mass. 153, 162 (1990) (there is no equity where a statute expresses a clear rule of law); G.L. c. 118E § 48 (the Board of Hearings is expressly not granted any sort of "equitable" authority, and further, does not allow any disregard of controlling Medicaid law). Since Medicaid is a statutory program, it cannot be trumped by common law, state law or equitable principles. *See generally Lebow v. Comm'r of Div. of Med. Assist.*, 433 Mass. 171, 172 (2001) ("The purpose of the statute is to prevent individuals from using trust law to ensure their eligibility for Medicaid coverage, while preserving their assets for themselves or their heirs."); *Doherty v. Dir. of the Office of Medicaid*, 74 Mass. App. Ct. 439, 443 (2009) (stating that trusts should be evaluated in light of Congress' intent "...that Medicaid benefits be made available to only those who genuinely lack sufficient resources to provide for themselves."); *Shelales v. Dir. of the Office of Medicaid*, 75 Mass. App. Ct. 636, 640-641 (2009) (in affirming the Agency's interpretation of federal Medicaid law in light of the clear purpose and intent of the Medicaid program, the Court stated "MassHealth's interpretation more reasonably comports with the Federal and State legislative and regulatory scheme for providing a needs-based program aimed at maximizing the use of personal funds for long-term care before relying on public funds."); *Centennial Health Care Investment Corp. v. Comm'r. Div. of Med. Assist.*, 61 Mass. App. Ct. 320, 327 (2004) (a party cannot rely on common law contract concepts to circumvent "the overriding design and purpose of the medical assistance laws and the broad authority afforded the division in implementing the Legislative objectives..."). As the Appeals Court affirmed, general trust laws do not constitute an interpretation or application of federal and state laws governing Medicaid eligibility. *Needham v. Dir. of the Office of Medicaid*, 88 Mass. App. Ct. 558 (2015) (citing *Young v. Department of Pub. Welfare*, 416 Mass. 629, 633-634 (1993); *G. L. c. 30A, § 14(1)*; *G. L. c. 118E, § 48*; *G. L. c. 30A, § 14(1)*; *G. L. c. 215, §§ 3, 6*). As the Court also observed, "[a] statute or regulation violative of Title XIX would be preempted under the *Supremacy Clause of the United States Constitution*. *See Boston Med. Center Corp. v. Secretary of Exec. Office of Health and Human Servs.*, 463 Mass. 447, 461(2012) ("The purpose of the Supremacy Clause is . . . to ensure that, in a conflict with state law, whatever Congress says goes" [citation omitted])."

The statutory intent of Medicaid is: "For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services. . . ." 42 U.S.C. § 1396. Thus, the Medicaid program is designed to provide health care for the poor. *Lebow v. Comm'r of Div. of Med. Assist.*, 433 Mass. 171, 172 (2000). Under the program, "[i]ndividuals are expected to deplete their own resources before obtaining assistance from the government." *Id.* As the court observed in *Lebow*, however:

The unfortunate reality is that some individuals with significant resources devise strategies to appear impoverished in order to qualify for Medicaid benefits. One such strategy is to transfer assets into an inter vivos trust, whereby funds appear to be out of the individual's control, yet generally are administered by a family member or loved one.

This sentiment is echoed by the Supreme Judicial Court in the case of *Cohen v. Comm'r of the Div. of Med. Assist.*, 423 Mass. 399, 403 (1996) (explaining that the rule for self-settled trusts is addressed to an arrangement "concocted for the purpose of having your cake and eating it too"). The SJC has stated that in an evaluation of trusts under a Medicaid eligibility determination, the common law of trusts and general trust laws and principles cannot be used to circumvent the Medicaid statute. *Lebow v. Comm'r of Div. of Med. Assist.*, 433 Mass. 171, 172 (2001) ("The purpose of the statute is to prevent individuals from using trust law to ensure their eligibility for Medicaid coverage, while preserving their assets for

themselves or their heirs.”); *see also Doherty v. Dir. of the Office of Medicaid*, 74 Mass. App. Ct. 439, 443 (2009)(Medicaid applicants are prohibited from receiving public health care assistance while also preserving assets for their heirs through the use of a trust which purports to cut off applicant’s ability to access the trust principal).

For Medicaid purposes, treatment of trusts established on or after August 11, 1993 are governed by 42 U.S.C. §1396p(d) *et seq.*, as codified in 130 CMR 520.023, which states:

(d) Treatment of trust amounts

(1)For purposes of determining an individual’s [applicant’s] eligibility for, or amount of, benefits under a State plan under this subchapter, subject to paragraph (4), the rules specified in paragraph (3) shall apply to a trust established by such individual.

(2)

(A)For purposes of this subsection, an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the corpus of the trust and if any of the following individuals established such trust other than by will:

(i)The individual.

(ii)The individual’s spouse.

(iii)A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual’s spouse.

(iv)A person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual’s spouse.

(B)In the case of a trust the corpus of which includes assets of an individual (as determined under subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

(C)Subject to paragraph (4)<sup>5</sup>, this subsection shall apply without regard to—

(i)the purposes for which a trust is established,

(ii)whether the trustees have or exercise any discretion under the trust,

(iii)any restrictions on when or whether distributions may be made from the trust, or

(iv)any restrictions on the use of distributions from the trust.

(3)

(A)In the case of a revocable trust—

(i) the corpus of the trust shall be considered resources available to the individual,...

(B)In the case of an irrevocable trust—

(i)if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which, or the income on the corpus from which, payment to the individual could be made shall be considered resources available to the individual...

<sup>5</sup> Paragraph 4 addresses special needs trusts and pooled trusts and is not relevant in the instant matter.

The current statute, 42 U.S.C. §1396p(d), tracks the SJC's language, reasoning and ultimate holdings in *Cohen* and *Lebow*, as affirmed in *Doherty*, that among other things, a trustee's discretion and limiting provisions in a trust are disregarded when determining whether a trust is countable in a Medicaid eligibility determination.<sup>6</sup> *Cohen v. Comm'r of the Div. of Med. Assist.* 423 Mass. 399, 416, 418, 419-420, 424 (1996) (Countable assets in Plaintiff's trusts included all amounts available to the applicant, assuming exercise of the full discretion of the trustees, while disregarding any limitation on discretion); *Lebow v. Comm'r of Div. of Med. Assist.*, 433 Mass. 171, 177-178 (2000) ("The issue is not whether the trustee has the authority to make payments to the grantor at a particular moment in time. Rather, if there is *any* state of affairs, at *any* time during the operation of the trust, that would permit the trustee to distribute trust assets to the grantor, those assets count in calculating the grantor's Medicaid eligibility." (Emphasis in original)); *Doherty v. Dir. of the Office of Medicaid*, 74 Mass. App. Ct. 439, 443 (2009) (Provision purporting to cut off applicant's ability to access the trust principal was disregarded); *Needham v. Dir. of the Office of Medicaid*, App. Ct. No. 14-P-182, 2015 Mass. App. LEXIS 169 (October 20, 2015)(Reversing Superior Court's decision that MassHealth was required to review a trust that was reformed under a Probate and Family Court order because the Agency does not evaluate a trust under State law, rather the hearing officer properly conducted the evaluation under Medicaid law and MassHealth regulations).

While *Cohen*, *Lebow* and *Guerriero* are influential, in each of those cases the Court was examining the trusts under the MQT statute enacted by Congress in 1986, 42 U.S.C. §1396a(k), which is applicable to trusts created before August 11, 1993. The SJC was not retroactively applying 42 U.S.C. §1396p(d) in its analysis of the various trusts. The *Cohen* Court recognized that OBRA '93 and 42 U.S.C. §1396p(d) applied prospectively. *Cohen*, at 406; see also *Gerson v. Medicaid Board of Hearings*, SUCV2012-2635-C, p. 5-6 (July 30, 2013) (Lauriat, J.)(Rejecting Plaintiff's argument that "...*Cohen* improperly relied upon the 1993 amendment and its accompanying legislative history to infuse §1396a(k) with a much harsher standard than the statute originally possessed..." and that "...the increased use of self-settled trusts to shelter assets in an attempt to qualify for Medicaid is what prompted Congress to enact §1396a(k), long before the 1993 amendment..." (citing *Cohen* at 403)). Here, the applicant's Trust is governed by the far stricter provisions enacted by Congress under OBRA '93.<sup>7</sup> *Ford v. Comm'r Div. of Med. Assist.*, Mass. App. Ct. 1:28 Decision 08-P-2091 (October 19, 2009)("The new rules, which the parties agree are stricter than the old ones, apply only to trusts created after the effective date of the 1993 act... We agree with the Superior Court judge that we need not decide which rules apply, because the applicant's argument fails even under the more forgiving pre-1993 standard.").

As applied to this matter, the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008 is fully countable in the applicant's Medicaid eligibility determination. 130 CMR 520.023; 42 U.S.C. §1396p(d). Under 42 U.S.C. §1396p(d)(2)(A) an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the corpus of the trust and if the trust was created other than by will. The applicant and spouse established the Trust during their lifetimes,

<sup>6</sup> Courts in other jurisdictions likewise disregard provisions in trusts that cut off discretion in order to render trust assets not countable. See *In re Ruby Owen*, 2012 Ark. App. 381 (2012); *Rosches v. County of Carver*, 783 N.W.2d 220, 225 (2010); *Vincent v. Department of Human Services*, 331 Ill. Dec. 314, 322 (2009).

<sup>7</sup> Any suggestion that because the assets were transferred beyond the look-back period somehow the Trust assets are insulated is wrong, and presupposes, without legal authority to make such determinations, that MassHealth would have found the Trust as non-countable. See generally 42 USC §1396a(a)(5)(single state agency is entity charged with making Medicaid eligibility determinations); M.G.L. c. 6A § 16; G.L. c. 118E, §§ 1, 2, 7(g), 7(h); 42 CFR § 431.10. That an applicant established and funded a Trust beyond the look-back period is irrelevant in assessing whether it is countable. 42 U.S.C. §1396p(d) *et seq.*; 42 U.S.C. §1396p(c) *et seq.*

other than by Will, and initially funded it with their New York real estate and Massachusetts real estate. 42 U.S.C. §1396p(d)(2)(B) dictates that the portion of the Trust attributable to the assets of the applicant (or spouse) shall be considered available. The federal Medicaid statute further provides that the countability of an applicant's self-settled inter vivos trust is made without regard to, among other things, whether the trustees "have or exercise any discretion under the trust" and "whether distributions may be made from the trust." 42 U.S.C. §1396p(d)(2)(C)(ii) and (iii). Thus, the terms of a trust and its administration must essentially demonstrate that there are "no circumstances" under which its assets are or can be made available to or for an applicant's benefit. 42 U.S.C. § 1396p *et seq.*; *see generally Family Trust of Massachusetts, Inc. v. United States*, 722 F.3d 355, 357 (2013) ("Under statutory 'trust-counting' rules, a trust corpus is generally counted as an asset for the purpose of the eligibility limits." (Citations omitted)); *Lewis v. Alexander*, 685 F.3d 325, 333 (3d Cir. 2012) ("In the 1993 OBRA amendments, Congress established a general rule that trusts would be counted as assets for the purpose of determining Medicaid eligibility....").

**I. THE EVIDENCE SHOWS THAT TRUST PRINCIPAL HAS BEEN DISTRIBUTED TO AND USED FOR THE BENEFIT OF THE APPLICANT.**

After reviewing the terms of the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008, the evidence of the administration of the Trust and distribution of principal to the applicant, MassHealth correctly determined that the resources were available to, and countable in the applicant's eligibility determination. 130 CMR 520.003(A)(1); 130 CMR 520.023. As Courts have recognized, "If there is substantial evidence to support the agency decision, it shall stand." *Hickey v. Commissioner of Pub. Welfare*, 38 Mass.App.Ct. 259, 262, 647 N.E.2d 62 (1995)(citing *Retirement Bd. of Brookline v. Contributory Retirement Appeal Bd.*, 33 Mass.App.Ct. 478, 480, 601 N.E.2d 481 (1992)); *see also* 130 CMR 610.082(B) (appeal decision is based on a preponderance of the evidence); G.L. c. 30A, §§1, 14. Here, the evidence shows that the Trust resources were, and are available to the applicant; thus, MassHealth's determination should be upheld.

Despite the provisions of Article 3 stating that principal may not be invaded for the benefit of the applicant, the Trustee regularly accessed principal for the benefit of the applicant, and made distributions directly to the applicant's personal bank account. (Ex. C). After the September 16, 2014 sale of the Mashpee, Massachusetts real estate held in the Trust, the net proceeds were deposited to a Merrill Lynch account titled in the Trust. (Ex. A and Ex. B). The Merrill Lynch documents show that from September 2014 through the end of 2016, the reduction of the Trust funds totaled approximately \$124,000. (Ex. B). The applicant's Kinderhook Bank statements show regular transfers from the Merrill Lynch Trust account, typically \$4,100 or \$4,500, to the applicant's checking account. (Ex. C). In addition, the HUD Settlement Statement shows a pay-off of the applicant's mortgage of approximately \$141,000 from the proceeds of the sale of the Mashpee Trust assets. (Ex. A). The applicant apparently did not provide a copy of the mortgage discharge. However, the evidence suggests that the mortgage was the applicant's debt, and not taken out by the Trustee of the Trust. If this is the case, then principal resulting from the sale of the Trust real estate was used for the benefit of the applicant to discharge her personal liability, which would be a breach of fiduciary duties, and in any case is further evidence that the MassHealth regulations and the federal Medicaid trust statute have been met. 42 U.S.C. §1396p(d); 130 CMR 520.007; 130 CMR 520.023; 130 CMR 520.023(C)(1)(a) ("Any portion of the principal or income from the principal (such as interest) of an irrevocable trust that could be paid under any circumstances to or for the benefit of the individual is a countable asset.").

Clearly, the Trustee believes the terms of the Trust give him the power to make principal distributions to or for the benefit of the applicant because such distributions have been made. 130 CMR

520.023(C)(1)(a); *see generally* *Lebow*, at 177 (“The issue is whether Lebow, as trustee, has the power to make a distribution, not whether he is required to do so.”). Perhaps such belief is bolstered by the provision in Article 9 stating that the applicant-Grantor alone is entitled to Trust accountings and the Trustee is not required “...to make any reports to any Court at any time for any purpose.” Nonetheless, an applicant cannot credibly claim that Trust principal is available to her, or may be used for her benefit, when she is not under a MassHealth eligibility determination, but then claim the same Trust assets are no longer available because taxpayer funded Medicaid welfare benefits are sought. *See generally* *Number Three Lounge, Inc. v. Alcoholic Beverages Control Commission*, 7 Mass. App. Ct. 301, 309-310 (1979) (agency is the sole judge of credibility and weight of the evidence before it, and it is permissible to question intra-familial transactions and look to direct and circumstantial evidence to make a judgment and/or finding); *Bisceglia v. Comm’r, Div. of Mass. Div. of Medical Assistance*, 1996 WL 655713 (Mass. Super.) (1996) (Toomey, J.).

Moreover, an applicant cannot credibly assert that a distribution of principal or use of Trust assets would be a breach of fiduciary duties when the Trustee has, despite the Trust’s terms, repeatedly used resources for the benefit of the applicant. *Andrews v. Civil Service Commission*, 446 Mass. 611, 617 (2006) (the hearing officer’s credibility determinations are binding on a reviewing court); *Maguire v. Dir. Office of Medicaid*, 82 Mass. App. Ct. 549 (2012) (Assessments of the credibility of the witnesses and the weight to be given to their testimony are matters committed to the discretion of the hearing examiner). Simply put, an applicant and Trustee cannot cherry-pick when and which provisions of a Trust are applicable and operative, or reasonably expect that the Agency be bound by the terms of her Trust when the evidence shows she and the Trustee are not similarly bound. Based on the manner in which the Trust has been administered, it is evident that all Trust assets are available and countable. 130 CMR 520.023. As has been noted: “the Medicaid rules were designed to prevent people from attaining Medicaid eligibility by setting up trusts that impaired their ownership only in minor or immaterial ways, while preserving the significant incidents of ownership.” *Sands v. Commonwealth of Massachusetts, EOHHS, Office of Medicaid* SUCV2013-3537-A, p. 13 (April 28, 2014) (Wilkins, J.), *citing* *Cohen* at 403; *Lewis v. Alexander*, 685 F.3d 325, 333 (3d Cir. 2012) (“Congress made a specific choice to expand the types of assets being treated as trusts and to unambiguously require States to count trusts against Medicaid eligibility. Its primary objective was unquestionably to prevent Medicaid recipients from receiving taxpayer-funded health care while they sheltered their own assets for their benefit and the benefit of their heirs....”).

Here, during the actual operation of the Trust, Trust assets were made available to the applicant and used for her benefit by the Trustee. (Ex. A, B, C). *Lebow v. Comm’r of Div. of Med. Assist.*, 433 Mass. 171, 172 (2001) (If at any time during the “operation” of the trust, its resources can be made available, the assets are countable). For the applicant to argue that the remaining trust assets, that is the New York real estate and minimal liquid resources, are not countable requires a wholesale disregard of Medicaid law. Such argument is also belied by the fact that, just as with the Massachusetts property, the Trustee could pursuant to Article 17 sell the New York real estate. Then, like the proceeds from the sale of the Massachusetts real estate, the Trustee could use those resources to provide for the applicant’s care. 130 CMR 520.023(C)(1)(a); 42 U.S.C. §1396p(d). To find otherwise is to resurrect the types of trust provisions the SJC rejected in *Cohen*, *Lebow* and other line of cases in which applicants took advantage of the assets in their trusts, but then upon submission of a Medicaid application claimed the trusts were no longer available or countable. *Cohen v. Comm’r of the Div. of Med. Assist.*, 423 Mass. 399, 403 (1996)(explaining that the rule for self-settled trusts is addressed to an arrangement “concocted for the purpose of having your cake and eating it too”); *Lebow v. Comm’r of Div. of Med. Assist.*, 433 Mass. 171, 172 (2001)(Rejecting trusts “...whereby funds appear to be out of the individual’s control, yet generally are administered by a family member or loved one.”); *see also*

generally *Whiting v. Comm'r Div. of Med. Assist.*, Mass. App. Ct. 1:28 Decision 02-P-1329 (February 4, 2004) (“We consider another manifestation of an attempt to remove assets from the estate of a person who, contemplating the inevitable indignities of using up her accumulated wealth to pay for her care in old age, seeks to utilize public resources rather than her own so that her children or heirs can eventually benefit from those assets.”); *Doherty v. Dir. of the Office of Medicaid*, 74 Mass. App. Ct. 439, 443 (2009)(recognizing that trusts should be evaluated in light of Congress’ intent “...that Medicaid benefits be made available to only those who genuinely lack sufficient resources to provide for themselves.”); see also generally *Eileen M. Heyn v. Director of the Office of Medicaid*, 48 N.E.3d 480, 483-484 (2016) (Recognizing that an “any circumstance” does not have to currently exist, the mere possibility or potentiality is sufficient to render a trust countable when determining Medicaid eligibility).

Accordingly, the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008 assets are available and countable in the applicant’s eligibility determination.<sup>8</sup> 130 CMR 520.023; 130 CMR 520.024H 1308755, p.p. 13-14.

## II. THE “ANY CIRCUMSTANCES” TEST IS SATISFIED UNDER THE TERMS OF THE APPLICANT’S TRUST.

Even if somehow the administration and prior use of Trust resources could be ignored, the terms of the applicant’s instrument show the Medicaid “any circumstances” test is satisfied under any one of a number of Trust provisions. 130 CMR 520.023(C)(1)(a).

Here, the Trust provides under Article 3(a), that the Trustee is required to distribute the income to the applicant. 130 CMR 520.023(C)(1)(a). Under the federal statute, state regulations and case law, trust income available or that could be paid to a Medicaid applicant is a countable asset even where the trust principal has not been found to be available to the applicant. The “any circumstances” mandate of the federal Medicaid law is reflected in the Massachusetts regulations at 130 CMR 520.023, which applies to trusts or similar legal devices created on or after August 11, 1993. It states in pertinent part:

### (C) Irrevocable Trusts.

#### (1) Portion Payable.

<sup>8</sup>The Medicaid Act and Medicaid case law does not equate availability and countability with the right of an applicant to possession of a resource or Trust distributions. 42 U.S.C. §1396p(h)(1) (“The term “assets”, with respect to an individual, includes all income and resources of the individual and of the individual’s spouse, including any income or resources which the individual or such individual’s spouse is entitled to but does not receive...”); see also 130 CMR 520.007 (countable assets); 130 CMR 520.003 (“The total value of countable assets owned by or available to individuals...”). Rather, as federal Medicaid law and MassHealth regulations dictate, countable resources are all income and assets that must be included in an eligibility determination whether or not the resource is actually received or is subject to payment to someone else. See generally *Cohen v. Comm’r of Div. of Med. Assist.*, 423 Mass. 399, 419-421 (1996)(finding that a probate court order stating trust assets were not accessible by an applicant for Medicaid did not render those trust assets inaccessible or non-countable in an eligibility determination); *Tarin v. Comm’r Massachusetts Div. of Med. Assist.*, 424 Mass. 743 (1997) (income subject to child support order was deemed available and countable to Medicaid recipient); see also *Clark v. Comm’r of Income Maintenance*, 209 Conn. 390, 551 A.2d 729 (1988) (income was subject to a Probate Court order requiring it to be paid to spouse nonetheless deemed available for Medicaid purposes). This is because, among other things, Medicaid is the payer of last resort and applicants are expected to deplete their resources before qualifying for benefits. 42 U.S.C. §1396p(h); 130 CMR 520.007; Medicaid Act, § 1901 *et seq.*, 42 U.S.C.A. § 1396 *et seq.*; see generally G.L. c.118E, §23 [6<sup>th</sup> para.]; see also generally *Reinholdt v. North Dakota Dept. of Human Services*, 760 N.W.2d 101 (2009) (If a Medicaid applicant has a colorable legal action to obtain assets through reasonable legal means, the assets are available, for purposes of determining eligibility.); *Lebow v. Comm’r of Div. of Med. Assist.*, 433 Mass. 171 (2000).



(a) Any portion of the principal or income from the principal (such as interest) of an irrevocable trust that could be paid under any circumstances to or for the benefit of the individual is a countable asset.

(b) Payments from the income or from the principal of an irrevocable trust made to or for the benefit of the individual are countable income.

....

(Emphasis added).

Note that potential income is treated as a "countable asset" under subsection (a) whereas actual income is treated under subsection (b). Subsection (b) does not come into play unless and until the applicant is asset eligible, which she is not if the "any circumstances" test in subsection (a) has been met and the countable assets exceed the \$2,000 asset limit. Under subsection (a) the applicant is entitled to "the benefit of" both principal and potential income under the Trust well in excess of the \$2,000 asset limit. *See also* Article 17 (Trustee has discretion to hold any residence as "...an investment or sell the same.")

There is nothing inconsistent about the statutory distinction of actual income and prospective or potential income. Actual income that is received on a periodic basis from social security, a pension, or the like is "countable income" and is deducted from the amount that MassHealth would otherwise pay a nursing facility on behalf of an asset-eligible member. 130 CMR 520.009. However, income that an applicant has the right to receive because the applicant has chosen to retain control over the assets in a pseudo-trust rather than transfer them to others more than five years before applying for Medicaid benefits is considered a part of the valuation of the trust as a "countable asset." 130 CMR 520.007. This distinction is clear in the Medicaid law.

"Assets" are explicitly defined in the federal Medicaid statute dealing with eligibility generally to include "income" that could be received whether or not it is received:

In this section, the following definitions shall apply:

(1)The term "assets", with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to ....

42 U.S.C. §1396p(h). The federal Medicaid statute dealing specifically with the countability of trusts in an eligibility determination provides the same:

the term "asset" includes any income or resource of the individual (or of the individual's spouse), including—

- (i) any income excluded by section 1382a(b) of this title;
- (ii) any resource otherwise excluded by this section; and
- (iii) any other payment or property to which the individual (or of the individual's spouse) is entitled but does not receive ....

42 U.S.C. §1382b(e)(6)(C).

The position that available-but-not-yet-paid income should be treated as an asset subject to the cap of \$2,000 has been endorsed by the Massachusetts Appeals Court. In *Ford v. Commissioner of Medical Assistance*: 1) the MassHealth applicant placed her home in trust prior to the look-back period (the house was sold and the trust contained \$200,000); the applicant was indisputably the income beneficiary; 3) the parties disagreed whether trust principal was available to the applicant. *Ford v. Comm'r Div. of Med. Assist.*, Mass. App. Ct. 1:28 Decision 08-P-2091 (October 19, 2009). The Appeals Court ultimately upheld MassHealth's determination that the principal was available to the applicant, placing her over the asset limit (the court held it did not matter if there was a time restriction on the trustee's ability to pay principal to the applicant because the any set of circumstances test concerned whether payments could be made at any time in the future). Significantly, the *Ford* case also has a footnote regarding the applicant's status as an income beneficiary which endorses the argument posed above: "the applicant appears to concede that trust income can currently be distributed to her and that this is 'countable' toward the \$2,000 threshold. On the present record, it is not entirely clear why this alone does not render the applicant ineligible." *Ford*, at fn. 1. In addition to the Appeals Court, superior court cases have also affirmed this line of reasoning. The best explanation came from the court in *Sands*:

The Trust had more than \$391,000 in assets. Even 10% per year would be \$39,100, and shopping for a favorable annuity would undoubtedly yield a higher return to [the grantor] . . . While the Trust provisions quoted by the hearing officer (Article XIV.I) may not support her inclusion of the entire Trust in countable assets, the Trustee certainly has discretion to pay [the grantor] substantially more than the \$2,000 allowed."

This reasoning has not been altered by the decision in *Heyn*. *Heyn* only rejected the idea trust principal could be paid to an income-only beneficiary under a hypothetical analysis regarding annuities. The *Heyn* court explicitly affirmed the fact that income would be available to the income-only beneficiary. *See Heyn*, 48 N.E.3d at 485 ("[o]ut of each annuity payment, only the investment income portion would be available for distribution to the grantor from the trust"). In addition to the federal statute and Massachusetts case law, other federal regulations suggest that Congress did not intend for state agencies to provide long-term care benefits to applicants who have a potential stream of income and choose not to take advantage of it. *See generally* 42 C.F.R. § 435.608(a) ("As a condition of eligibility, the agency must require applicants and beneficiaries to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so."). It is immaterial whether any circumstance currently exists, the potentiality ("could be paid") is sufficient to render the Trust countable when determining eligibility for Medicaid long-term care. 130 CMR 520.023(C)(1)(a); 42 U.S.C. §1396p(d)(3)(B)(i); *Cohen*, 423 Mass. at 413 ("If there is a peppercorn of discretion, then whatever is the most the beneficiary might *under any state of affairs* receive in the full exercise of that discretion is the amount that is counted as available for Medicaid eligibility.")(Emphasis added); *see also Doherty v. Director of the Office of Medicaid*, 74 Mass. App. Ct. 439, 443 (2009) (Medicaid applicants are prohibited from receiving public health care assistance while also preserving assets for their heirs through the use of a trust which purported to cut off applicant's ability to access the trust principal).

Apparently here, the total value of the assets that remain in the Trust is nearly a quarter of a million dollars. An interest rate or investment return rate of 1.00% on the trust corpus from whatever type of investment the trustee may chose would yield income above the asset limit. If the New York real estate were rented by the Trustee, it would generate income for the life of the trust. *See* Trust Article 8(b) and Article 17. The Trustee arguably has a fiduciary obligation to the income beneficiary (applicant),

but nevertheless certainly has discretion, to rent the property to generate income under the Trust. 42 U.S.C. §1396p(d)(2)(C)(ii)(a self-settled inter vivos trust is countable regardless of whether the trustees have or exercise any discretion under the trust). This is just one example of how the applicant cannot carry the burden of proving her eligibility and cannot carry the burden of proving the invalidity of MassHealth's eligibility determination. Any argument that MassHealth has not articulated an exact dollar value for rental or investment income is a fundamental misunderstanding of the role of MassHealth, and further seeks to improperly shift the burden of proof to the Agency. MassHealth is tasked with reviewing the evidence an applicant submits to establish the available and countable assets are at or below \$2,000 and, when necessary, evaluating all terms of a trust instrument against Medicaid law and MassHealth regulations to determine whether there are "no circumstances" under which trust resources are available or could be made available to or for the benefit of the applicant. 130 CMR 520.023 states in part: "...resources held in a trust *are considered available* [i.e. countable] if under any circumstances described in the terms of the trust, *any of the resources can be made available to the individual.*" (Emphasis added). Here under the terms of the Trust, resources can be made available to the applicant, thereby rendering it countable.

Moreover, unlike the trust in *Heyn*, this applicant's Trust does not invoke the fiduciary restraints of the Massachusetts Principal and Income Act (M.G.L. c. 203D), or "reasonable accounting principles and practice and state law" in determining what is principal and what is income. *Eileen M. Heyn v. Director of the Office of Medicaid*, 48 N.E.3d 480 (2016). The Trust language in the within matter suggests the opposite in Article 8(a) where the Trustee may invest and reinvest trust funds in any property of any kind "...irrespective of any statute, case, rule or custom limiting the investment of Trust funds." (Emphasis added). See also generally Article 8(h) ("to retain, without liability for loss or depreciation, the original Trust assets and all additional Trust property, although the property so held may not be of the character, type, quality or diversity prescribed by law for investment of Trust assets."). The conclusion that the applicant has access to more than \$2,000 of "income on principal" under the terms of this trust is not altered even if the Trustee's authority to determine which receipts are principal and which receipts are income were constrained by "reasonable accounting practice" and the Principal and Income Act. See M.G.L. c. 203D, s. 10. The Trustee's power concerning the administration is constrained only by requiring him to provide accountings to the applicant; yet, he need not report to any court at any time for any purpose under Article 9.

Significantly, the Trustee has under Article 8 "...the broadest powers in the administration of said Trust" and is not constrained by "...any statute, case, rule or custom limiting the investment of Trust funds" and Trust Investment Law under Article 8(a) and Article 8(i) respectively. Essentially, the applicant's son is free to administer the Trust in any way he chooses, which he apparently did when he regularly invaded Trust principal for more than two years for the benefit of the applicant who is purportedly an "income only" beneficiary. (Ex. B and C). Nonetheless, despite Article 3(b), the terms of the Trust clearly contemplate that the principal in the Trust is available for the benefit of the applicant, where for example, in accordance with Article 8(n), the Trustee may retain and pay for the services of a private geriatric care manager. A geriatric care manager and services he or she may provide are for the benefit of the applicant, not the Trustee or remainder or contingent beneficiaries. There is no delineation in this subsection that use of Trust resources is limited or constrained in any way as to dollar value, duration of time or otherwise.

Likewise, Article 3(b) allows the Trustee to utilize principal to pay or prepay funeral and burial expenses for the applicant and any tax liability or probate, estate, legal and accounting fees and costs related to the Estate of the applicant. Just as with assigning a value to potential income is not required of MassHealth, it is not the role of MassHealth to determine the amount of any potential tax liability

that may be imposed or expense incurred. Rather, the issue to be determined is whether any trust provision evidences an “any circumstance” under which the Trust resources could be made available to or for the benefit of the Medicaid applicant. *Heyn*, 483-484 (Recognizing that an “any circumstance” does not have to currently exist, the mere possibility or potentiality is sufficient to render a trust countable when determining Medicaid eligibility). Thus, if any tax, debt or liability resulted to the applicant as a result of her passing, Trust principal is accessible. 130 CMR 520.023(C)(1)(a).

Additionally, and consistent with case law, factors relevant in assessing the countability of a trust under the Medicaid statute and eligibility determination are the power, control and interest an applicant has under the instrument. *Doherty v. Dir. of the Office of Medicaid*, 74 Mass. App. Ct. 439, 441 (2009) (In upholding the countability of principal despite a provision stating principal may not be distributed to the applicant, the Court cited to the fact that the donor, “retain[ed] at least some powers over the trust corpus”); see also *Petition of Estate of Thea Braiterman* (New Hampshire Department of Health and Human Services) No. 2015-0395 (July 12, 2016) (Even though the Medicaid applicant was not a beneficiary of the Trust, the New Hampshire Supreme Court upheld the countability of the Trust based on, among other things, the powers the applicant under the instrument). Here, Article 4 states that the Grantors (applicant and spouse) reserved a testamentary Power of Appointment. In addition, pursuant to Article 15, and irrespective of the Trustee, the applicant reserved a lifetime Power of Appointment to make gifts of Trust principal during her lifetime to any charity that qualifies as such under Section 501(c)(3) of the Internal Revenue Code. Due to both Powers of Appointment, anyone named as a beneficiary is, at best, a contingent beneficiary, with his or her interest vesting, if at all, after the death of the applicant. This Power of Appointment makes all beneficiaries contingent because there is no maximum amount of the trust assets than can be appointed under Article 15. Therefore, all beneficiaries could have their interest reduced to nothing if either Power of Appointment were exercised to divert their anticipated interest elsewhere. Moreover, if the applicant really had no interest in the Trust principal, both the testamentary and lifetime Power of Appointment provisions would be a nullity. Including such provisions is further evidence of a lack of divestment by the applicant, and is evidence of the fluidity and “flexibility” of the instrument. See *Doherty* at 441.

Any reliance on *Heyn* in regard to the Power of Appointment is misleading. The Power of Appointment provision was not briefed in *Heyn*. At 486. *Heyn*'s language on the subject of Power of Appointment is explicitly described as dicta by the Court. The *Heyn* Court's dicta addresses a finding by the Hearing Officer, not the Superior Court, that the *Heyn* trust was countable because of the Power of Appointment. The dicta notes that the Hearing Officer cited no case law. At 486. The *Heyn* Court apparently did not look at the case law itself because the Power of Appointment in *Doherty* was critical to that Court of Appeals decision that all assets in that trust were countable. At 441. The only actual ruling and holding in *Heyn* by the Court of Appeals concerns the countability of a hypothetical annuity and that issue is not present in the within matter. At 485-486.

In *Daley*, the SJC stated that it is appropriate for MassHealth to consider on remand whether a Power of Appointment fits within the “any circumstances” test. *Daley v. Secretary of Executive Office of Health and Human Services*, 477 Mass. 188, 203 (May 30, 2017). The SJC's explicit ruling and order that a grantor's power of appointment may make the assets in the trust countable implicitly overrules the lower court's prior dicta in *Heyn* that a grantor's Power of Appointment cannot make trust assets countable. In *Daley*, the Power of Appointment was limited to appointing trust corpus to charitable or non-profit organizations whereas the applicant's Trust provides not merely a lifetime Power of Appointment but also a testamentary Power of Appointment, thereby providing the applicant unlimited access to the principal. Here, because this Trust includes provisions whereby trust assets can be appointed, this is a circumstance by which the full value of trust assets is available to the applicant for

her benefit in the form of long-term care. *Id.* (“Because approximately one-fourth of the nursing homes in Massachusetts are operated by nonprofit organizations... it is appropriate for MassHealth to consider whether this possibility fits within the ‘any circumstances’ test.”). In addition, the cumulative effect of the of the Trust is further enhanced by Article 20 under which the applicant may, during her lifetime, take advantage of the annual Federal gift tax exclusion. Since, as the plain language of the Trust reveals, there are numerous circumstances under the Trust where income and principal are available to or for the benefit of the applicant, all assets are countable in her eligibility determination. 130 CMR 520.023; 42 U.S.C. §1396p(d).

The applicant has significant control over the Trust, its administration and the resources contained therein, rendering it fully countable in an eligibility determination. 130 CMR 520.023. Likewise, the Trustee is afforded substantial discretion and power to utilize principal for the benefit of the applicant when or if he so desires. As the Court in *Sands* noted: “the Medicaid rules were designed to prevent people from attaining Medicaid eligibility by setting up trusts that impaired their ownership only in minor or immaterial ways, while preserving the significant incidents of ownership.” *Sands* at 13, citing *Cohen* at 403. Like *Doherty*, the cumulative effect of the provisions in the applicant’s Trust makes it clear the instrument is a “fluid document,” drafted in a way so as to give the applicant as Grantor, the applicant as Beneficiary, and the Trustee “maximum flexibility” thereby rendering the Trust countable. *Doherty*, 442. Moreover, long-standing precedent makes it clear that a Medicaid eligibility decision can be sustained on any correct legal ground on appeal, even one which was not argued or fully explored at the administrative hearing stage, or even at the Superior Court stage. *Hickey v. Commissioner of Pub. Welfare*, 38 Mass.App.Ct. 259, 263, 647 N.E.2d 62 (1995). In an application of the any circumstances test, the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008 is countable in the applicant’s Medicaid eligibility determination.

### **III. THE NEW YORK REAL ESTATE IS NOT EXEMPT AND ANY RELIANCE ON THE DALEY CASE TO ATTEMPT TO ARGUE OTHERWISE IS UNAVAILING.**

For several reasons, reliance on *Daley v. Secretary of Executive Office of Health and Human Services* to claim the real estate located in New York is non-countable is without merit. 477 Mass. 188 (May 30, 2017). First, the SJC’s holding is limited to the retention of a right to use and occupy a home in a trust and retention of a life estate under a deed. The Court stated:

We conclude that neither the grant in an irrevocable trust of a right of use and occupancy in a primary residence to an applicant nor the retention by an applicant of a life estate in his or her primary residence makes the equity in the home owned by the trust a countable asset for the purpose of determining Medicaid eligibility for long-term care benefits.

*Id.* at 189.

Unlike the arguments and analysis in *Daley*, MassHealth makes no argument that the Trust is countable pursuant to 130 CMR 520.023(C)(1)(d) or due to a right to use and occupy. That some Medicaid planning attorneys seek to extend the reach of *Daley* and *Nadeau* beyond the facts and trusts under review before the SJC to include any and all irrevocable trusts may be understandable. However, such a position is simply not supported by the Court’s narrow holding or an application of the Medicaid statute and MassHealth regulations to the Trust and facts at issue here.

Second, this matter is also distinguishable from the facts in *Daley* and *Nadeau* in that both of those properties were located in Massachusetts. To the extent the SJC decision seems to suggest that any home, former home or residence held in a Trust could be considered the primary residence and be treated as excluded or non-countable is not in accordance with both the federal Medicaid statute and MassHealth regulations.<sup>9</sup> *Daley*, at 194, 196.

MassHealth regulations concerning real estate clearly provide that real estate located outside of Massachusetts does not qualify for a non-countable exemption. 130 CMR 520.008(A) states:

(A) The Home. The home of the applicant or member and the spouse and any land appertaining to the home, as determined by the MassHealth agency, **if located in Massachusetts and used as the principal place of residence**, are considered noncountable assets, except when the equity interest in the home exceeds the amount described in 130 CMR 520.007(G)(3). The home is subject to the lien rules at 130 CMR 515.012: *Real Estate Liens*. If the home is placed in a trust or in an arrangement similar to a trust, the MassHealth agency will apply the trust rules at 130 CMR 520.021 through 520.024.

(Emphasis added).

Here, the New York real estate is not located in Massachusetts nor is it also the applicant's principal place of residence, both of which are required to potentially be treated as non-countable. 130 CMR 520.008(A). The real estate is also not the "home" of the applicant "and spouse". 130 CMR 520.008(A). Likewise, pursuant to MassHealth trust regulations, real estate held in a trust is not subject to a non-countable exemption under 130 CMR 520.007(G). *See also* 130 CMR 520.023(C)(1)(d). Thus, the predicates outlined by the Court in *Daley* are not applicable to the within matter or the New York real estate held in the applicant's Trust.

Significantly as well, under Medicaid law, the former home of an institutionalized applicant is not *per se* an excluded resource. The definition provision of 42 U.S.C. §1396p(h)(5) states: "The term 'resources' has the meaning given such term in section 1382b of this title, **without regard** (in the case of an institutionalized individual) to **the exclusion** described in subsection (a)(1) of such section." (Emphasis added). 42 U.S.C. §1382b provides: "(a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—(1) the home (including the land that appertains thereto)" Thus, unlike for community based individuals, in an eligibility determination for institutionalized applicants, the home is not inevitably an excluded resource, and any such exclusion would not apply to real estate located outside of Massachusetts.<sup>10</sup> 130 CMR 520.008(A); 130 CMR 520.007; 130 CMR 520.007(G).

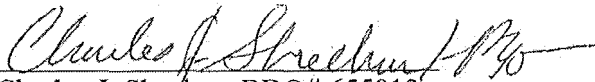
<sup>9</sup> The SJC presumed: "Where the grantor transfers his or her primary residence to the irrevocable trust, the value of the home, which would not be a countable asset if he or she were to continue to own it (provided its value does not exceed \$828,000), would become a countable asset if it were found to be among the "resources available to the individual" under 42 U.S.C. § 1396p(d)(3). At 196. As discussed, the value of all "homes" or interests in homes are not inevitably non-countable assets. 130 CMR 520.008(A); 130 CMR 520.007.

<sup>10</sup>The MassHealth Representative apparently discussed with the applicant's representatives during the eligibility process, that if the applicant spent down the remaining minimal liquid Trust assets and provided a duly recorded deed showing the New York real estate was removed from the Trust and titled in the applicant's name alone, a signed Agreement to Sell and evidence showing the marketing of the property, she may be able to obtain the eligibility she seeks. 130 CMR 520.004; 130 CMR 520.007(G)(2) and (4). It is noted that pursuant to 20 C.F.R. § 416.1244, upon the sale of the real estate, the net proceeds are "...available to repay that portion of the payments that would not have been made had the disposition occurred at the beginning of the period for which payment was made." *See also* POMS SI 01150.200(B)(1)(b); POMS SI 01150.205.

CONCLUSION

In accordance with federal Medicaid law and MassHealth regulations, the applicant failed to establish there are “no circumstances” under which payments from the Robert E. Maas and Jean C. Maas Living Trust No. 1 of 2008 could be made to or for the benefit of the applicant, rendering the trust resources countable as assets in her eligibility determination. 130 CMR 520.003(A)(1); 130 CMR 520.023 *et seq.*; 42 U.S.C. §1396p(d) *et seq.* The evidence shows Trust principal has been paid to the applicant and so she has benefited from having her cake and eating it too, which both Congress and the Courts have disavowed. *Cohen v. Comm’r of the Div. of Med. Assist.*, 423 Mass. 399, 403 (1996). Under any one of a number of applications of Medicaid law to the facts, evidence and Trust, the applicant has not met her burden of proof establishing that her available and countable resources meet the \$2,000 asset limit, and so MassHealth’s eligibility determination should be upheld. 130 CMR 520.003(A)(1); 130 CMR 520.023; *see also generally Hickey v. Commissioner of Pub. Welfare*, 38 Mass.App.Ct. 259, 263, 647 N.E.2d 62 (1995)(A Medicaid eligibility decision can be sustained on any correct legal ground on appeal, even one which was not argued or fully explored at the administrative hearing stage, or even at the Superior Court stage.).

Respectfully Submitted,  
EXECUTIVE OFFICE OF HEALTH  
AND HUMAN SERVICES (“MASSHEALTH”)  
By its attorneys,

  
Charles J. Sheehan, BBO# 655913  
Assistant General Counsel  
Sharon Boyle, S.A.A.G., BBO# 556367  
Chief MassHealth Counsel  
One Ashburton Place, 11<sup>th</sup> Floor  
Boston, MA 02108  
617-573-1785

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon applicant’s counsel on or before February 13, 2018.

  
Charles J. Sheehan

# **Exhibit A**





A. Settlement Statement (HUD-1)

OMB Approval No. 2502-0285

**B. Type of Loan**  
Conv. Unins.

**6. File Number:** 33,896      **7. Loan Number:** [REDACTED]      **8. Mortgage Ins. Case No.:**

**C. Note:** This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.\*)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

**D. Name and Address of Borrower:** Truman T. Mohr  
**E. Name and Address of Seller:** Douglas R. Mera, Trustee  
8 Park Place, Valatie, NY 12184  
**F. Name and Address of Lender:** Cape Cod Cooperative Bank  
25 Benjamin Franklin Way, Hyannis MA 02601

**G. Property Location:** Mashpee, MA [REDACTED]  
**H. Settlement Agent:** Crowell Law Offices (508) 376-0012  
Place of Settlement: 99 Willow Street, Yarmouthport, MA 02676  
Yarmouthport Barnstable  
**I. Settlement Date:** September 10, 2014  
**Disbursement Date:** September 10, 2014

J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due From Borrower		400. Gross Amount Due to Seller	
101. Contract Sales Price	\$286,500.00	401. Contract Sales Price	\$286,500.00
102. Personal Property		402. Personal Property	
103. Settlement Charges to borrower (line 1400)	\$4,212.07	403.	
104. November 2014 real estate taxes - estimate	\$815.13	404.	
105. Payoff 2.		405.	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106. City/Town taxes 9/15/2014 to 9/30/2014	\$94.38	406. City/Town taxes 0/1/2014 to 9/30/2014	\$94.38
107. County Taxes to		407. County Taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. Gross Amount Due From Borrower	\$291,421.58	420. Gross Amount Due to Seller	\$286,504.38
200. Amounts Paid By Or In Behalf Of Borrower		600. Reductions in Amount Due to Seller	
201. Deposit or earnest money	\$28,650.00	601. Excess deposit (see instructions)	\$11,480.00
202. Principal amount of new loan(s)	\$257,850.00	602. Settlement Charges to seller (line 1400)	\$2,073.38
203. Existing loan(s) taken subject to		603. Existing loan(s) taken subject to	
204. Closing Cost Deposit	\$500.00	604. Payoff 1, Bank of America	\$141,023.03
205.		605. Payoff 2.	
206.		606. Legal Fee to Bryan Reardon, Esq.	\$575.00
207.		607. Final Water to Mashpee Water District	\$123.24
208.		608. Single Reimbursement to Seaside Village Properties, LLC	\$50.00
209.		609. Deposit retained by broker to	\$17,180.00
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210. City/Town taxes to		610. City/Town taxes to	
211. County Taxes to		611. County Taxes to	
212. Assessments to		612. Assessments to	
213.		613.	
214.		614.	
215.		615.	
216.		616.	
217.		617.	
218.		618.	
219.		619.	
220. Total Paid By/for Borrower	\$287,000.00	620. Total Reduction Amount Due Seller	\$172,491.65
300. Cash At Settlement From/To Borrower		600. Cash At Settlement To/From Seller	
301. Gross amount due from borrower (line 120)	\$291,421.58	601. Gross amount due to seller (line 420)	\$286,504.38
302. Loss amount paid by/for borrower (line 220)	(\$27,000.00)	602. Loss amount paid by/for seller (line 620)	(\$172,491.65)
303. CASH FROM BORROWER:	\$4,421.58	603. CASH TO SELLER:	\$114,089.73

**SUBSTITUTE FORM 1099 SELLER STATEMENT:** The information contained in Blocks E, G, H and I and on line 401 (or if line 401 is asterisked, lines 403 and 404) is important tax information and is being furnished to the Internal Revenue Service.

If you are required to file a return, a negligence penalty or other sanction will be imposed on you, if this item is required to be reported and the IRS determines that it has not been reported.

**SELLER INSTRUCTIONS:** If this real estate was your principal residence, file Form 2110, Sale or Exchange of Principal Residence, for any gain, with your income tax return; for other transactions, complete the applicable parts of Form 4797, Form 8252 and/or Schedule D (Form 1040). You are required by law to provide (see Box H) with your correct taxpayer identification number. If you do not provide (see box H) with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law, and under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

Seller's Signature

125,709.73  
Wired into Merrill Lynch

Comparison of Good Faith Estimate (GFE) and HUD-1 Charges

Good faith estimate

HUD-1

Charges that cannot increase  
Our origination charge  
Your origination charge (only for the spot rate closed)  
Your origination charge (only for the spot rate closed)  
Your origination charge (only for the spot rate closed)

HUD-1 Line Number  
#601  
#602  
#603

\$400.00  
\$0.00  
\$400.00

Charges that cannot increase more than 10%

Good faith estimate

HUD-1

Appraisal fee  
Credit report  
Tax service  
Floor plan/redaction fee

#604  
#605  
#606  
#607

\$400.00  
\$15.85  
\$83.00  
\$12.00

Title services and Lender's title insurance

#4101

\$1,669.00

\$1,620.00

Owner's title insurance

#1103

\$571.51

\$570.00

Government recording charges

#1201

\$371.00

\$365.00

Total  
Increase between GFE and HUD-1 charges

\$3,462.39

\$3,073.35  
or 0.9%

Charges that can change

Good faith estimate

HUD-1

Only interest charges  
Homeowner's insurance  
Initial Deposit for your escrow account

#801

\$331.14

\$331.14

Homeowner's insurance

#802

\$1,200.00

\$1,519.00

Initial Deposit for your escrow account

#1001

\$629.97

\$407.50

Loan Terms	
Your initial loan amount is	\$257,650.00
Your loan term is	30 years
Your initial interest rate is	3.125 %
Your initial monthly amount owed for principal, interest, and any mortgage insurance is	\$4,404.57 includes M Principal M Interest M Mortgage Insurance
Can your interest rate rise?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. It can rise to a maximum of 6.125%. The first change will be on 1/1/2018 and can change again every 12 months after 1/1/2018. Every change date, your interest rate can increase or decrease by 2.000%. Over the life of the loan, your interest rate is guaranteed to never be lower than 2.000% or the higher than 6.125%.
Even if you make payments on time, can your loan balance rise?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. It can rise to a maximum of <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The first increase can be on 1/1/2018 and the monthly amount owed can rise to \$1,503.91. The maximum it can ever rise to is \$1,744.88
Even if you make payments on time, can your monthly amount owed for principal, interest and mortgage insurance rise?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes, your maximum payment penalty is
Does your loan have a prepayment penalty?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, you have a balloon payment of 600 in years on
Does your loan have a balloon payment?	<input type="checkbox"/> Yes, you must pay these items directly yourself. <input checked="" type="checkbox"/> No, R1 Yes, You have an additional monthly escrow of \$223.19 that results in a total initial amount owed of \$1,800.90. This includes principal, interest, any mortgage insurance and any other escrowed item. <input type="checkbox"/> Homeowner's insurance <input type="checkbox"/> Flood insurance <input type="checkbox"/> Other
Total monthly amount owed including escrow account payments	

Note: If you have any questions about the Settlement Charges and Loan Terms listed on this form, please contact your lender. Previous editions are obsolete. Page 3 of 3 HUD-1

**L. Settlement Charges**

		Paid From Borrowers Funds at Settlement	Paid From Sellers Funds at Settlement
<b>700. Total Real Estate Broker Fees Division of Commission (line 700) as follows:</b>			
701. \$10,027.50 to Seaside Village Properties LLC			
702. \$7,162.00 to William Revels Real Estate			
703. Commission paid at Settlement			\$0.00
704. Deposit retained by broker \$17,100.00			
<b>800. Items Payable in Connection With Loan</b>			
801. Our origination charge	\$400.00 (from GFE #1)		
802. Your credit pre-closure (points) for the specific interest rate chosen	\$0.00 (from GFE #2)		
803. Your adjusted origination charges	(from GFE A)	\$400.00	
804. Appraisal Fee to Appraisal Company of Cape Cod, Inc.	(from GFE #3)	\$400.00	
805. Credit Report to CoreLogic Credco	(from GFE #3)	\$16.35	
806. Tax Service to CoreLogic Tax Services	(from GFE #3)	\$83.00	
807. Flood Certification Fee to CoreLogic Flood Services	(from GFE #3)	\$12.00	
808. to	(from GFE #3)		
809. to	(from GFE #3)		
<b>900. Items Required By Lender To Be Paid In Advance</b>			
901. Daily interest charges from 9/16/2014 to 10/1/2014 @ 22.00 /day 15 Days	(from GFE #10)	\$351.14	
902. Mortgage insurance premium for months to	(from GFE #3)		
903. Homeowner's insurance for 1 year to USAA	POC (B*) \$1,849.88 (from GFE #11)		
904. Flood Insurance years to	POC (B*) \$0.00 (from GFE # 3)		
905. to	POC (B*) \$0.00 (from GFE # 6)		
<b>1000. Reserves Deposited With Lender</b>			
1001. Initial deposit for your escrow account	(from GFE #8)	\$407.58	
1002. Homeowner's insurance months @ per month			
1003. Mortgage insurance months @ per month			
1004. Property taxes 2 months @ \$203.78 per month		\$407.58	
1005. months @			
1006. months @			
1007. Aggregate Adjustment		\$0.00	
<b>1100. Title Charges</b>			
1101. Title Services and lender's title insurance	(from GFE #4)	\$1,620.00	
1102. Settlement or closing fee to			\$0.00
1103. Owner's title insurance to Crowell Law Offices/Catio - A Bar Related Title Insurer Endorsement: \$0.00	(from GFE #6)	\$678.00	
1104. Lender's title insurance to Crowell Law Offices/Catio - A Bar Related Title Insurer Endorsement: \$0.00		\$845.00	
1105. Lender's title policy limit	\$267,850.00		
1106. Owner's title policy limit	\$266,600.00		
1107. Agent's portion of the total title insurance premium to Crowell Law Office	\$526.10		
1108. Underwriter's portion of the total title insurance premium to Catio - A Bar Related Title Insurer	\$398.90		
1109. MLG to Town of Mashpee \$50 GFE#4			
1110. Plot Plan to Derrisat Land Surveying \$175 GFE#4			
<b>1200. Government Recording and Transfer Charges</b>			
1201. Government recording charges:	(from GFE #7)	\$385.00	\$76.00
1202. Deed \$125.00 ; Mortgage \$175.00 ; Release \$75.00			
1203. Transfer taxes	(from GFE #8)		\$1,753.38
1204. City/County tax/stamps Deed \$701.35 ; Mortgage	\$701.35		
1205. State tax/stamps Deed \$1,052.03 ; Mortgage	\$1,052.03		
1206. Record Municipal Lien Certificate to Barnstable County Registry of Deeds	GFE# 7	\$65.00	
<b>1300. Additional Settlement Charges</b>			
1301. Required services that you can skip for	(from GFE #8)	\$0.00	
1302. Record Certificate of No Assessment to Barnstable County Registry of Deeds			\$75.00
1303. Overnight courier fee to Crowell Law Office			\$20.00
1304. Discharge Service & Tracking Fee to Crowell Law Office			\$75.00
1305. Wire Fee to Crowell Law Office			\$75.00
1306. to			
1307. to			
1400. Total Settlement Charges (enter on lines 103, Section J and 602 Section I) POC (B*) means paid outside of closing by borrower. POC (S*) means paid outside of closing by seller.		\$4,212.07	\$2,073.38

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.  
Borrowers \_\_\_\_\_ Sellers \_\_\_\_\_

Thurman T. Malne

Douglas R. Mass, Trustee

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement

Settlement Agent: Samuel H. Crowell

Date: September 16, 2014

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010. Page 2 of 3 form HUD-1

# **Exhibit B**

9/18/2014



Primary Account [REDACTED]

DOUGLAS R MAAS TTEE  
 ROBERT E MAAS & JEAN C MAAS  
 LIVING TR NO 1 OF 2008  
 8 PARK PL  
 VALATIE NY 12184-5511

## YOUR MERRILL LYNCH REPORT

August 30, 2014 - September 30, 2014

If you have questions on your statement,  
 call 24-Hour Assistance:  
**(800) MERRILL**  
**(800) 637-7455**

PORTFOLIO SUMMARY	September 30	August 29	Month Change
<b>Net Portfolio Value</b>	<b>\$125,710.56</b>	-	<b>\$125,710.56 ▲</b>
Your assets	\$125,710.56	-	\$125,710.56 ▲
Your liabilities	-	-	-
Your Net Cash Flow (Inflows/Outflows)	\$125,709.73	-	-
Securities/Cash You Trans. In/Out	-	-	-
<b>Subtotal Net Contributions</b>	<b>\$125,709.73</b>	-	-
Your Dividends/Interest Income	\$0.83	-	-
Your Market Change	-	-	-
<b>Subtotal Investment Earnings</b>	<b>\$0.83</b>	-	-

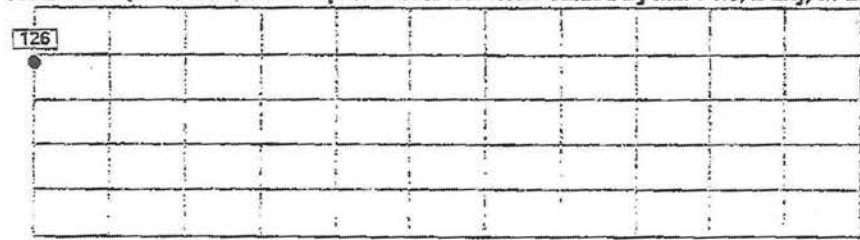
**Investment Advice and Guidance:**  
 Call Your Financial Advisor

**Your Financial Advisor:**  
 HAROLD E CONNOLLY  
 30 S PEARL STREET 3RD FL  
 ALBANY NY 12207-3491  
 hal\_connolly@ml.com  
 1-518-462-8301

Up-to-date account information can be viewed  
 at: [www.mymerrill.com](http://www.mymerrill.com), where your statements  
 are archived for three or more years.

Questions about MyMerrill? Click the "help" tab  
 at the top of the screen once you log in.

Total Value (Net Portfolio Value plus Assets Not Held/Valued By MLPF&S, if any) in thousands, 2014-2014



### INVESTMENT IDEAS FOR LONG-TERM GROWTH

Earth, Markets, Innovation, People and Government are key areas of global change that will have an impact on all our lives for years to come. Visit [ml.com/insights](http://ml.com/insights) to learn how to identify the opportunities, as well as the risks.

Merrill Lynch Wealth Management makes available products and services offered by Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S) and other subsidiaries of Bank of America Corporation. MLPF&S is a registered broker-dealer, Member Securities Investor Protection Corporation (SIPC) and a wholly owned subsidiary of Bank of America Corporation. Investment products:

Are Not FDIC Insured | Are Not Bank Guaranteed | May Lose Value

+

Primary Account: [REDACTED]

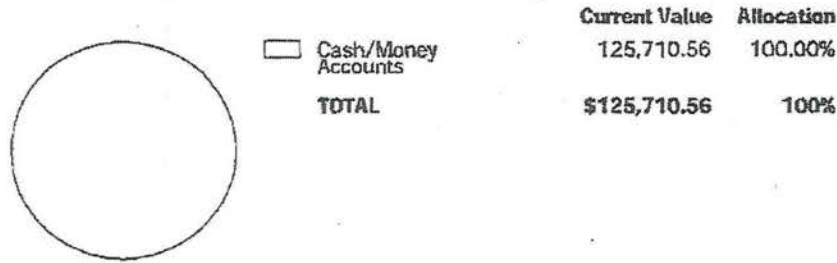
24-Hour Assistance: (800) MERRILL

# YOUR PORTFOLIO REVIEW

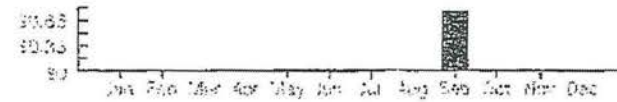
August 30, 2014 - September 30, 2014

## ASSET ALLOCATION\*

\* Estimated Accrued Interest not included; may not reflect all holdings; does not include asset categories less than 1%.



## CURRENT INCOME



	This Report	Year To Date
Tax-Exempt Interest		
Taxable Interest	0.83	0.83
Tax-Exempt Dividends		
Taxable Dividends		
<b>Total</b>	<b>\$0.83</b>	<b>\$0.83</b>
<b>Your Estimated Annual Income</b>		<b>\$25.14</b>

## TOP FIVE PORTFOLIO HOLDINGS

Based on Estimated Market Value

	Current Value	% of Portfolio
+ML BANK DEPOSIT PROGRAM +FDIC INSURED NOT SIPC COVERED	125,709.00	100.00%
CASH	1.56	

## FINANCIAL MARKET INDICATORS

	This Report	Last Report	Previous Year End
S&P 500	1972.29	2003.37	1848.36
Three-Month Treasury Bills	.02%	.02%	.07%
Long-Term Treasury Bonds	3.12%	3.12%	3.97%
One-Month LIBOR	.15%	.16%	.17%
NASDAQ	4493.39	4580.77	4176.59

Online at: [www.mymerrill.com](http://www.mymerrill.com)

Account Number [REDACTED]

24-Hour Assistance: (800) MERRILL

DOUGLAS R MAAS TTEE  
ROBERT E MAAS & JEAN C MAAS  
LIVING TR NO 1 OF 2008  
8 PARK PL  
VALATIE NY 12184-5511

**Net Portfolio Value: \$125,710.56**

Your Financial Advisor:  
HAROLD E CONNOLLY  
30 S PEARL STREET 3RD FL  
ALBANY NY 12207-3491  
hal\_connolly@mfi.com  
1-518-462-8301

## CMA® FOR TRUST ACCOUNT

August 30, 2014 - September 30, 2014

ASSETS	September 30	August 29
Cash/Money Accounts	125,710.56	.
Fixed Income	.	.
Equities	.	.
Mutual Funds	.	.
Options	.	.
Other	.	.
<i>Subtotal (Long Portfolio)</i>	<b>125,710.56</b>	.
<b>TOTAL ASSETS</b>	<b>\$125,710.56</b>	.
<b>LIABILITIES</b>		
Debit Balance	.	.
Short Market Value	.	.
<b>TOTAL LIABILITIES</b>	.	.
<b>NET PORTFOLIO VALUE</b>	<b>\$125,710.56</b>	.

CASH FLOW	This Statement	Year to Date
Opening Cash/Money Accounts	.	.
<b>CREDITS</b>		
Funds Received	.	.
Electronic Transfers	125,709.73	125,709.73
Other Credits	.	.
<i>Subtotal</i>	<b>125,709.73</b>	<b>125,709.73</b>
<b>DEBITS</b>		
Electronic Transfers	.	.
Margin Interest Charged	.	.
Other Debits	.	.
Visa Purchases (debits)	.	.
ATM/Cash Advances	.	.
Checks Written/Bill Payment	.	.
<i>Subtotal</i>	.	.
<b>Net Cash Flow</b>	<b>\$125,709.73</b>	<b>\$125,709.73</b>
Dividends/Interest Income	0.83	0.83
Security Purchases/Debits	.	.
Security Sales/Credits	.	.
<b>Closing Cash/Money Accounts</b>	<b>\$125,710.56</b>	.
Securities/Cash You Trans. In/Out	.	.

Merrill Lynch Wealth Management makes available products and services offered by Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S) and other subsidiaries of Bank of America Corporation. MLPF&S is a registered broker-dealer, Member Securities Investor Protection Corporation (SIPC) and a wholly owned subsidiary of Bank of America Corporation. Investment products: **Are Not FDIC Insured | Are Not Bank Guaranteed | May Lose Value**

DOUGLAS R MAAS TTEE

Account Number: [REDACTED]

24-Hour Assistance: (800) MERRILL

**ACCOUNT INVESTMENT OBJECTIVE**

August 30, 2014 - September 30, 2014

**TOTAL RETURN:** Objective is to strike a balance between current income and growth. Despite the relatively balanced nature of the portfolio, the investor should be willing to assume the risk of price volatility and principal loss.

If you have changes to your investment objective, please contact your Financial Advisor(s).

**YOUR CMA FOR TRUST BANK DEPOSIT INTEREST SUMMARY**

Money Account Description	Opening Balance	Average Deposit Balance	Current Yield%	Interest on Deposits	Closing Balance
Bank of America, N.A.	0	47,140	.02	0.83	125,709
<b>TOTAL ML Bank Deposit Program</b>	<b>0</b>			<b>0.83</b>	<b>125,709</b>

**YOUR CMA FOR TRUST ASSETS**

CASH/MONEY ACCOUNTS							
Description	Quantity	Total Cost Basis	Estimated Market Price	Estimated Market Value	Estimated Annual Income	Est. Annual Yield%	
CASH	1.56	1.56		1.56			
+ML BANK DEPOSIT PROGRAM	125,709.00	125,709.00	1.0000	125,709.00	25	.02	
*FDIC INSURED NOT SIPC COVERED							
<b>TOTAL</b>		<b>125,710.56</b>		<b>125,710.56</b>	<b>25</b>	<b>.02</b>	
LONG PORTFOLIO							
		Adjusted/Total Cost Basis	Estimated Market Value	Unrealized Gain/(Loss)	Estimated Accrued Interest	Estimated Annual Income	Current Yield%
<b>TOTAL</b>		<b>125,710.56</b>	<b>125,710.56</b>			<b>25</b>	<b>.02</b>

+

019

7873

4 of 7



DOUGLAS R MAAS TTEE

Account Number [REDACTED]

**YOUR CMA FOR TRUST TRANSACTIONS**

August 30, 2014 - September 30, 2014

**DIVIDENDS/INTEREST INCOME TRANSACTIONS**

Date	Transaction Type	Quantity	Description	Income	Income Year To Date
09/30	Bank Interest		BANK DEPOSIT INTEREST	.83	
	<i>Subtotal (Taxable Interest)</i>			.83	.83
	<b>NET TOTAL</b>			<b>.83</b>	<b>.83</b>

**CASH/OTHER TRANSACTIONS**

Date	Transaction Type	Quantity	Description	Debit	Credit
09/17	Wire Transfer		WIRE TRF IN D44260024827 ORG=/1322781793 DUBIN +		125,709.73
	<i>Subtotal (Electronic Transfers)</i>				125,709.73
	<b>NET TOTAL</b>				<b>125,709.73</b>

**YOUR CMA FOR TRUST MONEY ACCOUNT TRANSACTIONS**

Date	Description	Withdrawals	Deposits	Date	Description	Withdrawals	Deposits
09/18	ML BANK DEPOSIT PROGRAM		125,709.00				
	<b>NET TOTAL</b>		<b>125,709.00</b>				



Primary Account: [REDACTED]

DOUGLAS R MAAS TTEE  
 ROBERT E MAAS & JEAN C MAAS  
 LIVING TR NO 1 OF 2008  
 8 PARK PL  
 VALATIE NY 12184-5511

## YOUR MERRILL LYNCH REPORT

December 01, 2016 - December 30, 2016

### PORTFOLIO SUMMARY

	December 30	November 30	Month Change
Net Portfolio Value	\$1,770.29	\$1,770.26	\$0.03 ▲
Your assets	\$1,770.29	\$1,770.26	\$0.03 ▲
Your liabilities			
Your Net Cash Flow (Inflows/Outflows)			
Securities You Transferred In/Out			
<b>Subtotal Net Contributions</b>			
Your Dividends/Interest Income	\$0.03	\$0.03	
Your Market Gains/(Losses)			
<b>Subtotal Investment Earnings</b>	\$0.03	\$0.03	

If you have questions on your statement, call 24-Hour Assistance:  
 (800) MERRILL  
 (800) 637-7455

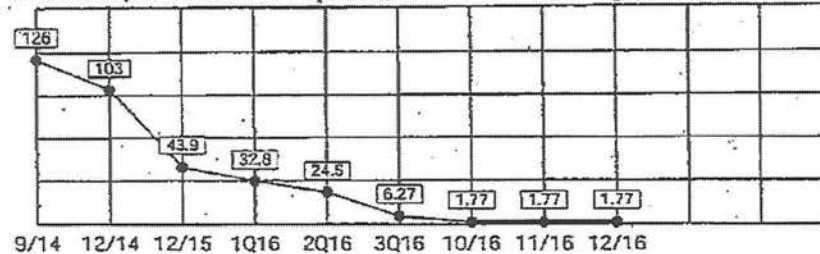
Investment Advice and Guidance:  
 Call Your Financial Advisor

Your Financial Advisor:  
 THE CONNOLLY WOLF GROUP  
 69 STATE STREET 16TH FL  
 ALBANY NY 12207  
 1-800-333-6891

Up-to-date account information can be viewed at: [www.mymerrill.com](http://www.mymerrill.com), where your statements are archived for three or more years.

Questions about MyMerrill? Click the "help" tab at the top of the screen once you log in.

Total Value (Net Portfolio Value plus Assets Not Held/Valued By MLPF&S, if any) in thousands, 2014-2016



### LOOKING FOR YOUR TAX DOCUMENTS?

We will begin mailing the 1099 tax reporting statement to eligible clients during the last week of January. Most statements will be mailed or posted online before February 15. Enroll in online delivery to access your tax documents before they arrive in the mail.

Merrill Lynch Wealth Management makes available products and services offered by Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S) and other subsidiaries of Bank of America Corporation. MLPF&S is a registered broker-dealer, Member Securities Investor Protection Corporation (SIPC) and a wholly owned subsidiary of Bank of America Corporation. Investment products:

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+



Account No.



CMA

Page  
1 of 2

DOUGLAS R MAAS TTEE  
ROBERT E MAAS & JEAN C MAAS  
LIVING TR NO 1 OF 2008  
8 PARK PL  
VALATIE NY 12184-5511

Your Financial Advisor 2403  
THE CONNOLLY WOLF GROUP  
69 STATE STREET 16TH FL  
ALBANY, NY 12207-3491

THIS YEAR-END SUMMARY STATEMENT TRACKS ALL OF YOUR CARD TRANSACTIONS BY DATE AND MERCHANT CATEGORY, KEEPS YOUR CHECKS ORGANIZED NUMERICALLY AND EVEN PROVIDES A MONTH-BY-MONTH ANALYSIS OF ALL YOUR CARD AND CHECKING EXPENSES. THIS INFORMATION IS FOR PERSONAL REVIEW AND IS NOT REPORTED TO THE IRS. THIS YEAR-END SUMMARY STATEMENT CAN HELP YOU, YOUR ACCOUNTANT OR YOUR TAX ADVISOR WITH YOUR FINANCIAL PLANNING AND YOUR TAX PREPARATION.

2016 CHECKS WRITTEN/BILL PAYMENTS

Check Number	Date Written	Date Cleared	Payee	Amount	Client Workspace
0000	02/19	02/22	NATIONAL UNION BANK	4,100.00	
0000	02/25	02/26	NATIONAL UNION BANK	4,100.00	
0000	03/16	03/17	NATIONAL UNION BANK	2,400.00	
0000	03/23	03/24	NATIONAL UNION BANK	4,100.00	
0000	04/26	04/27	NATIONAL UNION BANK	4,100.00	
0000	05/26	05/27	NATIONAL UNION BANK	4,100.00	
0000	06/06	06/07	NATIONAL UNION BANK	900.00	
0000	07/26	07/27	NATIONAL UNION BANK	4,100.00	
0000	08/01	08/02	NATIONAL UNION BANK	1,000.00	
0000	08/25	08/26	NATIONAL UNION BANK	4,500.00	
0000	09/26	09/27	NATIONAL UNION BANK	4,500.00	
0000	10/26	10/27	NATIONAL UNION BANK	4,500.00	
TOTAL CHECKS WRITTEN/BILL PAYMENTS ACTIVITY				42,400.00	

# **Exhibit C**



The National Union Bank of Kinderhook  
 1 Hudson St., Kinderhook, NY 12106  
 (518) 758-7101 - www.yourkindofbank.com

ACCOUNT: [REDACTED]  
 PAGE: 1  
 11/10/2016

DOUGLAS R MEAS  
 8 PARK PLACE  
 VALATIE NY 12164-5511

10  
 8  
 0

Thank you to all the new customers who have made the move to Kinderhook Bank! We really appreciate you choosing to place your trust in us. We are your kind of bank!

PREMIER GOLD CHECKING ACCOUNT [REDACTED]

AVG AVAILABLE BALANCE 2,614.91 LAST STATEMENT 10/07/16 536.66  
 5 CREDITS 10,805.53  
 13 DEBITS 10,748.59  
 THIS STATEMENT 11/10/16 550.70

OTHER CREDITS

DESCRIPTION	DATE	AMOUNT
SSA TRF25 310 XXXXX SEC XXXXX9601A 562	10/28	1,589.00
MERRILL LYNCH AUTO FUND	10/26	4,200.00
MERRILL LYNCH FUNDS TRF	10/27	4,500.00
WELLS FELLOE FR	10/31	320.46
INTEREST	11/10	.07

CHECKS

CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT
4220	10/14	139.00	4223	10/27	4,841.93	4225	11/07	5,852.51
4221	10/13	75.80	4224	11/03	75.00	4230	11/04	33.58
4222	10/24	160.00	4225	11/03	129.00			

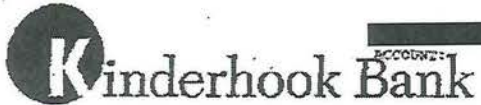
(\* ) INDICATES A GAP IN CHECK NUMBER SEQUENCE

OTHER DEBITS

DESCRIPTION	DATE	AMOUNT
ADT SECURITY SER AUTO PACH	11/03	47.88
SERVICE CHARGE	11/10	4.00
CHECK # 4226 - VERIZON FINANCIA PAYMENTS 4226	11/03	2.47
CHECK # 4227 - BARCLAY CARD OF CREDITCARD 4227	11/03	135.77
CHECK # 4228 - NATIONAL Grid - CHECK FINT 4128	11/03	123.00

\*\*\* C O R R E C T E D \*\*\*





The National Union Bank of Kinderhook  
 1 Hudson St., Kinderhook, NY 12106  
 (518) 758-7101 - www.yourkindofbank.com

PAGE: 1  
 10/07/2015

DOUGLAS R MAAS  
 5 PARK PLACE  
 VALAITE NY 12184-5511

<-> 16  
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Concerned about your safety & security online?  
 Visit [www.kinderhookbank.com](http://www.kinderhookbank.com) for info on Cyber Security  
 with our helpful links and details on how you can  
 protect yourself online!

PREMIER GOLD CHECKING ACCOUNT

AVG AVAILABLE BALANCE 1,913.56 LAST STATEMENT 09/09/15 703.04  
 4 CREDITS 6,709.50  
 10 DEBITS 6,982.48  
 FREE STATEMENT 10/07/15 530.06

----- OTHER CREDITS -----  
 DESCRIPTION DATE AMOUNT  
 MERRILL LENCH FUNDS TRF 09/27 4,500.00  
 SSA TREAS 310 XXSC SEC 09/28 1,385.00  
 BYSLRS PENSION FR 09/30 320.46  
 INTEREST 10/07 .04

----- CHECKS -----  
 CHECK #..DATE.....AMOUNT CHECK #..DATE.....AMOUNT CHECK #..DATE.....AMOUNT  
 4212 09/15 150.00 4215 10/04 33.38 4219 10/03 5,923.30  
 4213\*09/30 200.00 4216\*10/03 79.46

(\*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

----- OTHER DEBITS -----  
 DESCRIPTION DATE AMOUNT  
 ADT SECURITY SER ADTPRACR 10/03 47.63  
 SERVICE CHARGE 10/07 4.00  
 CHECK # 4214 - VERISON FINANCIA PAYMENTS 4214 10/03 2.47  
 CHECK # 4217 - BARCLAY CARD US CREDITCARD 4217 10/03 419.16  
 CHECK # 4218 - National Grid - CHECK FINT 4218 10/03 123.00

\*\*\* CONTINUED \*\*\*





# Kinderhook Bank

The National Union Bank of Kinderhook  
 1 Hudson St., Kinderhook, NY 12106  
 (518) 758-7101 - [www.yourkindofbank.com](http://www.yourkindofbank.com)

ENGE: 1  
 08/10/2016

DOUGLAS R ADAMS  
 2 PARK PLACE  
 VALATIE NY 12194-8211

16  
 0  
 0

Ready to put the equity in your home to work for you?  
 Check out our variable rate Home Equity Line of Credit!  
 Visit [www.kinderhookbank.com](http://www.kinderhookbank.com), call 518-758-7101 or  
 visit your local branch for details!

## PREMIER GOLD CHECKING ACCOUNT

AVG AVAILABLE BALANCE	2,634.04	LAST STATEMENT 07/09/16	28.79
		7 CREDITS	11,706.36
		15 DEBITS	16,941.41
		THIS STATEMENT 08/10/16	753.74

REF #	DATE	AMOUNT	REF #	DATE	AMOUNT
	06/05	300.00			

DESCRIPTION	DATE	AMOUNT
WIRE TRANSFER/INCOMING	07/11	4,100.00
SSA TRANS 310 XCSOC SEC	07/27	1,885.00
MERRILL LYNCH FUNDS TRF	07/27	4,100.00
KYSLRS EASION PR	07/29	317.22
MERRILL LYNCH FUNDS TRF	08/02	1,660.00
INTEREST	08/10	.07

CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT
4182*	07/15	35.00	4192	08/03	506.00	4198	08/04	129.00
4183	07/15	100.00	4193*	08/04	5,792.50	4199	08/03	75.00
4190	07/18	2,500.00	4195	08/04	175.00	4200	08/03	100.00
4191	07/26	30.00	4196*	08/09	92.34			

(\* ) INDICATES A GAP IN CHECK NUMBER SEQUENCE  
 \*\*\* CONTINUED \*\*\*





The National Union Bank of Kinderhook  
 1 Hudson St., Kinderhook, NY 12105  
 (518) 758-7101 - www.yourkindoffbank.com

PAGE: 1  
 06/10/2016

ROBERT E MARR  
 JEAN C MARR  
 2 PARK PLACES  
 VALATIE NY 12184-5511

<> 10  
 0  
 0

Ready to put the equity in your home to work for you?  
 Check out our variable rate Home Equity Line of Credit!  
 Visit [www.kinderhookbank.com](http://www.kinderhookbank.com), call 518-758-7101 or  
 visit your local branch for details!

PREMIER GOLD CHECKING ACCOUNT

AVG AVAILABLE BALANCE 2,406.83 LAST STATEMENT 05/16/16 591.96  
 6 CREDITS 7,306.35  
 18 DEBITS 7,813.01  
 THIS STATEMENT 06/10/16 285.20

DEPOSITS

REF #.....DATE.....AMOUNT REF #.....DATE.....AMOUNT REF #.....DATE.....AMOUNT  
 06/06 300.00

OTHER CREDITS

DESCRIPTION	DATE	AMOUNT
SBA TREAS 310 EKSOC SEC	05/25	1,989.00
MERRILL LYNCH FUNDS TRFR	05/27	4,100.00
MYSLRS PENSION PR	05/31	317.29
MERRILL LYNCH FUNDS TRFR	06/07	900.00
INTEREST	06/10	.06

CHECKS

CHECK #.....DATE.....AMOUNT	CHECK #.....DATE.....AMOUNT	CHECK #.....DATE.....AMOUNT
4164*05/16 50.00	4170 05/09 161.00	4175 06/09 300.00
4167 06/01 100.00	4171 06/06 5,825.50	4176*06/07 75.00
4168 05/31 200.00	4172*06/06 95.00	4176 06/10 200.00
4169 06/07 32.88	4174 06/09 25.00	

(\*) INDICATES A GWF IN CHECK NUMBER SEQUENCE

\*\*\* CONTINUED \*\*\*







The National Union Bank of Kinderhook  
 1 Hudson St., Kinderhook, NY 12106  
 (518) 758-7101 - www.yourkindofbank.com

PAGE: 1  
 05/10/2016

ROBERT E MAAS  
 JEAN C MAAS  
 8 PARK PLACE  
 VALHYTE NY 12164-5511

10  
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Ready to put the equity in your home to work for you?  
 Check out our variable rate Home Equity Line of Credit!  
 Visit [www.kinderhookbank.com](http://www.kinderhookbank.com), call 518-758-7101 or  
 visit your local branch for details!

PREMIER GOLD CHECKING ACCOUNT

AVG AVAILABLE BALANCE 1,975.40 LAST STATEMENT 04/08/16 1,569.94  
 4 CREDITS 5,306.34  
 16 DEBITS 7,294.42  
 THIS STATEMENT 05/10/16 551.86

----- OTHER CREDITS -----  
 DESCRIPTION DATE AMOUNT  
 SSA TREAS 310 KKSOC SEC 04/27 1,889.00  
 MERRILL LYNCH FUNDS TRFR 04/27 6,100.00  
 NYSLRS PENSION PR 04/29 317.28  
 INTEREST 05/10 .05

----- CHECKS -----  
 CHECK # DATE AMOUNT CHECK # DATE AMOUNT CHECK # DATE AMOUNT  
 4141\*04/25 150.00 4157 04/25 109.00 4161 05/04 75.00  
 4152\*04/18 50.00 4158 05/02 93.00 4162 05/06 161.00  
 4154 04/15 122.42 4159 05/02 5,800.53  
 4155\*05/03 50.00 4160 05/03 32.68

(\*): INDICATES A GAP IN CHECK NUMBER SEQUENCE

----- OTHER DEBITS -----  
 DESCRIPTION DATE AMOUNT  
 POS 04/22/16 05:55 8668 STEVEN D BORTON/STEVEN D M CASTLETON 04/22 109.00  
 NY 200649  
 APT SECURITY SER ADIPARACH 05/03 47.83  
 VERIZON WIRELESS PAYMENTS 05/06 40.22  
 SERVICE CHARGE 05/10 4.00





# Kinderhook Bank

The National Union Bank of Kinderhook  
1 Hudson St., Kinderhook, NY 12106  
(518) 758-7101 - www.yourkindofbank.com

PAGE: 1  
04/08/2016

ROBERT H MRAS  
JEAN C MRAS  
8 PARK PLACE  
VALHYTE NY 12184-5511

<> 10  
0  
0

Ready to put the equity in your home to work for you?  
Check out our variable rate Home Equity line of Credit!  
Visit [www.kinderhookbank.com](http://www.kinderhookbank.com), call 518-758-7101 or  
visit your local branch for details!

## PREMIER GOLD CHECKING ACCOUNT

AVG AVAILABLE BALANCE 3,401.35 LAST STATEMENT 03/10/16 533.98  
6 CREDITS 5,858.27  
13 DEBITS 6,922.41  
THIS STATEMENT 04/08/16 1,565.94

DEPOSITS  
REF # DATE AMOUNT REF # DATE AMOUNT  
04/06 1,152.00

OTHER CREDITS  
DESCRIPTION DATE AMOUNT  
MERRILL LYNCH FUNDS TRFR 03/17 2,400.00  
SSA TRFES 310 EXSOC SEC 03/23 1,389.00  
MERRILL LYNCH FUNDS TRFR 03/24 4,100.00  
MERSERS PENSION PR 03/31 317.29  
INTEREST 04/06 .06

CHECKS  
CHECK # DATE AMOUNT CHECK # DATE AMOUNT CHECK # DATE AMOUNT  
4142 04/01 50.00 4146 04/01 100.00 4150 03/30 2,087.54  
4143 03/24 124.50 4147 04/01 101.00 4151 04/05 75.00  
4144 03/24 95.00 4148 04/04 32.97  
4145 04/01 5,792.50 4149 04/04 275.00

OTHER DEBITS  
DESCRIPTION DATE AMOUNT  
REF SECURITY SER ADSPACR 04/04 47.63  
VERIZON WIRELESS PAYMENTS 04/06 37.77

\*\*\*\*\* CONTINUED \*\*\*\*\*



# **EXHIBIT J**

**Office of Medicaid  
BOARD OF HEARINGS**

**RECEIVED**  
MAY 03 2018  
E.O.H.H.S.  
LEGAL UNIT

**Appellant Name and Address:**

Jean Maas  
40 Sunset Avenue  
Lenox, MA 02124

<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	1717990
<b>Decision Date:</b>	MAY 01 2018	<b>Hearing Date:</b>	03/05/18
<b>Hearing Officer:</b>	Stanley Kallianidis		

**Appellant Representative:**

Brian Barreira, Esq.

**MassHealth Representatives:**

Michael Somers, Esq.;  
Karen Boutin for Jared Krok, Springfield



**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
**Board of Hearings**  
100 Hancock Street, 6<sup>th</sup> Floor  
Quincy, MA 02171

## APPEAL DECISION

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Trust Assets
<b>Decision Date:</b>	MAY 01 2018	<b>Hearing Date:</b>	03/05/18
<b>MassHealth Reps.:</b>	Michael Somers, Esq. Karen Boutin		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Notice dated 10/12/17 was sent to the appellant stating that MassHealth had denied her application for MassHealth benefits due to excess assets (Exhibit 1). The appellant filed this appeal on 11/10/17 and, therefore, it is timely (see Exhibit 2 and 130 CMR 610.015).

A denial of MassHealth benefits is grounds for appeal (130 CMR 610.032).

Two previous hearing dates were rescheduled. One was at the appellant's attorney's request due to his surgery. The other was due to a subpoena request to the Board of Hearings along with a request for the Superior Court to issue an injunction on the instant proceedings. The subpoena request was denied, the Superior Court matter request is currently pending, but the parties agreed to a hearing date (Exhibits 9-12).

### Action Taken by MassHealth

MassHealth denied the appellant's MassHealth application due to excess assets.

### Issue

Pursuant to 130 CMR 520.023(C), was MassHealth correct to count the assets of an irrevocable trust in determining the appellant's eligibility?

## Summary of Evidence

The MassHealth representative from the Springfield MEC testified that the appellant filed her MassHealth application on July 18, 2017 (Exhibit 3). The appellant's application was denied due to excess assets. According to the denial letter, the excess assets were over the \$2,000.00 limit. The assets totaled \$251,796.00 and were from a Trust valued at \$251,571.00, and two bank accounts totaling \$225.00. Since the bank accounts were under the \$2,000.00 limit, the only issue and dispute was over whether or not assets held in an irrevocable Trust were countable (Exhibit 1).

The MassHealth representative submitted the Trust in question into evidence: the R.M. and J.M. Living Trust (the Trust). The Trust was established in 2008 by the appellant and her spouse, now deceased, as Grantors, and was funded by two parcels of land, one in New York, and the other in Massachusetts. The Massachusetts property was sold in 2014. The appellant's son was named as Trustee and the appellant's son and daughters were named Beneficiaries of the principal. The Trust is irrevocable and the appellant is entitled to the income from the Trust (Exhibit 4).

According to Article 3(b) of the Trust, "The Trustee shall not be entitled to invade the principal of the Trust for either Grantor..." However, the Trustee may use principal to pay for the funeral and burial expenses, for death taxes and probate fees for either Grantor. According to Article 4, the Grantors reserved a testamentary power of appointment to one or more descendants, and Article 5 provides for the termination of the Trust upon the death of the appellant as surviving Grantor, subject to the testamentary power (Exhibit 4).

According to Article 8, the Trustee has powers to invest Trust funds, sell or mortgage real estate, hold shares in securities, borrow money and mortgage Trust property, hold cash, execute and deliver written instruments, permit an income Beneficiary to occupy real estate, and retain and pay for services. According to Article 15, the appellant Grantor reserved a lifetime power of appointment to make gifts of Trust principal to any charity qualifying under IRS code. According to Article 17, the appellant as Grantor has the right to use or occupy property. According to Article 20, the Grantor may distribute principal in equal shares to her children as Beneficiaries an amount not to exceed the federal gift tax exclusion limit (Exhibit 4).

The decision to count the assets of the Trust was based upon a memo from MassHealth's legal division, which held that, even though the Trust is irrevocable, its principal is available to the appellant and therefore is a countable asset. The MassHealth attorney highlighted the arguments made in the memo, and gave his principal reason for why the Trust principal should be fully countable (Exhibit 5).

According to MassHealth, the Trustee regularly accessed principal for the benefit of the appellant, and made distributions to her. The Trustee made regular payments of \$4100.00 or \$4500.00 to the appellant during a two-year period, approximately \$100,000.00 in total. Also, after the September 2014 sale of the Mashpee property, the Trust paid the mortgage debt that remained on the property even though this was the appellant's debt. The appellant cannot then claim that the distribution of Trust assets would be a breach of fiduciary duty, when the Trustee has used these assets in the past for the benefit of the appellant, MassHealth argued, as this would be "having your cake and eating it too."

Also, MassHealth argued that under federal and state law, trust income available or that could be paid to a Medicaid applicant is a countable asset. MassHealth distinguished actual paid-out income from income that an applicant has the right and/or potential to receive. The former is income and the latter is an asset. MassHealth argued that "It is immaterial whether any circumstance currently exists, the potentiality ('could be paid') is sufficient to render the Trust countable when determining eligibility for Medicaid long-term care." In this case, MassHealth argued that the remaining New York property could be rented and that the income generated could then be given to the appellant.

MassHealth continued that, in this case the appellant's power of appointment, both lifetime and testamentary, makes the principal countable. The Trustee's broad powers, such as paying the appellant's funeral expense, also render a circumstance where the Trust's principal could be paid out to the appellant. MassHealth distinguished the rulings of the *Daley* and *Heyn* decisions. (*Heyn v. Director of the Office of Medicaid*, 48 N.E. 3d 480 (2016) and *Daley v. Secretary of Executive Office of Health and Human Services*, 477 Mass. 188 (2017)). MassHealth concluded that the New York property is not an exempt asset because it is not the principal place of residence of the appellant and is not located in Massachusetts. It distinguished its arguments from the "use and occupancy" argument which it is not relying on (Exhibit 5).

According to argument and a memo from the appellant's attorney, the appellant has no right to any principal distributions from the Trust according to its terms. He contended that MassHealth's argument that income that is "available-but-not-yet-paid" is countable principal has been rejected by the Supreme Judicial Court in *Daley*. He reiterated his argument made in his denied subpoena request that MassHealth has failed to engage in administrative consistency and due process by not reconciling fair hearing decisions on similar facts and circumstances. The appellant's attorney also argued that partial control by a settlor is not relevant, and that a power of appointment does not give the settlor a right to access principal for herself. In addition, he argued that MassHealth regulations recognize the fiduciary duties of trustees, and that federal Medicaid law recognizes only four circumstances where state trust law can be ignored in a determination of eligibility, and that Medicaid law must be construed in favor of the applicant.

With regard to the Trust at hand, the appellant's attorney argued further that trusts must be read as a whole, and, a distribution of principal where a trustee does not have discretion to distribute principal is a breach of a the trustee's fiduciary duty. Such a distribution is a "breach of trust" and the trustee in such case would be liable for the harm caused to the beneficiaries. In support of this his discussion, the appellant's attorney cited *Guerriero v. Commissioner of Div. of Medical Assistance*, 433 Mass. 628 (2001) (Exhibit 6).

The attorney who drafted the Trust briefly testified that there is no provision in the Trust that allows the Trustee to distribute principal to the appellant as Grantor. Any such distribution should be considered a breach of the Trustee's fiduciary duty.

With regard to the breach of the trustee's fiduciary duty, the Trustee testified that he was mistakenly advised by a financial representative that he could use the Trust principal to pay for the appellant's assisted living fees. He testified that his sisters, the remainder beneficiaries of principal, along with himself, are upset that he did this. The appellant's attorney added that whether this was a mistake or willful breach is irrelevant; the payments made to the appellant's assisted living center do no render the Trust countable. This would still be the case even if the beneficiaries were willing to give Trust principal to the appellant, he contended.

The appellant's attorney submitted various other documents into the hearing record. These documents included other hearing decisions from the Board of Hearings where the appeals were approved, a letter from the Office of Attorney General to the Chief Justice of the Supreme Judicial Court regarding the *Daley* case, and a copy of the amended complaint seeking injunctive and declaratory relief in the Superior Court (Exhibits 7-9).

## Findings of Fact

The record shows, and I so find:

1. The appellant applied for MassHealth on July 18, 2017 (Exhibit 1).
2. The appellant's application was denied due to excess assets over the \$2000.00 limit (Exhibit 1).
3. The countable assets totaled \$251,796.00, with \$251,571.00 held in trust (Exhibit 1).
4. The only issue and dispute was over whether or not assets held in an irrevocable trust were countable (testimony).
5. The Trust was created in 2008 by the appellant and her spouse, now deceased, as Grantors, and was funded by two parcels of land, one in New York, and the other in



Massachusetts. The Massachusetts property was sold in 2014 (Exhibit 4).

6. The appellant's son was named as Trustee and the appellant's son and daughters were named Beneficiaries of the principal. The Trust is irrevocable and the appellant is entitled to the income from the Trust (Exhibit 4).
7. According to Article 3(b) of the Trust, "The Trustee shall not be entitled to invade the principal of the Trust for either Grantor..." However, the Trustee may use principal to pay for the funeral and burial expenses, for death taxes and probate fees for either Grantor (Exhibit 4).
8. According to Article 4, the Grantors reserved a testamentary power of appointment to one or more descendants, and Article 5 provides for the termination of the Trust upon the death of the appellant as surviving Grantor, subject to the testamentary power (Exhibit 4).
9. According to Article 8, the Trustee has powers to invest Trust funds; sell or mortgage real estate, hold shares in securities, borrow money and mortgage Trust property, hold cash; execute and deliver written instruments, permit an income Beneficiary to occupy real estate, and retain and pay for services (Exhibit 4).
10. According to Article 15, the appellant Grantor reserved a lifetime power of appointment to make gifts of Trust principal to any charity qualifying under IRS code (Exhibit 4).
11. According to Article 17, the appellant as Grantor has the right to use or occupy property (Exhibit 4).
12. According to Article 20, the Grantor may distribute principal in equal shares to her children as Beneficiaries an amount not to exceed the federal gift tax exclusion limit (Exhibit 3).
13. The Trustee made regular payments of \$4100.00 or \$4500.00 towards the appellant's assisted living fee during a two-year period prior to her nursing home admission, approximately \$100,000.00 in total (Exhibit 5).
14. Following the September 2014 sale of the Mashpee property, the Trust paid the mortgage debt that remained on the property (Exhibit 5).

## Analysis and Conclusions of Law

MassHealth regulation 130 CMR 520.023(C)(1), Irrevocable Trusts states.

(a) Any portion of the principal or income from the principal (such as interest) of an irrevocable trust that could be paid under any circumstances to or for the benefit of the individual is a countable asset.

(b) Payments from the income or from the principal of an irrevocable trust made to or for the benefit of the individual are countable income.

(c) Payments from the income or from the principal of an irrevocable trust made to another and not to or for the benefit of the nursing-facility resident are considered transfers of resources for less than fair-market value and are treated in accordance with the transfer rules at 130 CMR 520.019(G).

(d) The home or former home of a nursing-facility resident or spouse held in an irrevocable trust that is available according to the terms of the trust is a countable asset. Where the home or former home is an asset of the trust, it is not subject to the exemptions of 130 CMR 520.007(G)(2) or 520.007(G)(8).

(2) Portion Not Payable. Any portion of the principal or income from the principal (such as interest) of an irrevocable trust that could not be paid under any circumstances to or for the benefit of the nursing-facility resident will be considered a transfer for less than fair-market value and treated in accordance with the transfer rules at 130 CMR 520.019(G).

The appellant applied for MassHealth on July 18, 2017. The application was denied due to excess assets. As of the hearing date, the sole asset in dispute was a Trust with holdings of \$251,571.00. The Trust was established in 2008 by the appellant and her spouse, now deceased, as Grantors, and was funded by two parcels of land, one in New York, and the other in Massachusetts.

As more than five years has elapsed between the creation of the Trust and the application date, it cannot be considered to be a disqualifying transfer as it is beyond the look-back period. No other transfers were raised at hearing. Therefore, there is no issue of disqualifying transfers for this appeal.<sup>1</sup>

There is no dispute that the Trust is irrevocable. Similarly, there is no issue of countable income. The parties agree that income from the Trust is available to the appellant as

<sup>1</sup> 130 CMR 520.019(B)2): For transfers of resources occurring on or after February 8, 2006, the look-back period extends back in time for 60 months from the time the applicant both was a nursing home resident and had applied for MassHealth.

Grantor. The fact that the appellant is entitled to income from the Trust has no bearing on the issue of the accessibility of principal. The appellant is not a Trustee, nor is she a beneficiary of principal. The appellant's son was named as Trustee and the appellant's son and daughters were named Beneficiaries of the principal.

The pertinent question in this case is whether or not the principal of the Trust is available to the appellant "under any circumstance." The answer is found by examining the language of the Trust. According to Article 3(b) of the Trust, "The Trustee shall not be entitled to invade the principal of the Trust for either Grantor..." There is no other clause which addresses circumstances in which the appellant by herself or the Trustee could distribute principal to the appellant. Clearly then, by the explicit terms of the Trust, there is no way for the appellant to have access to the principal.

Nonetheless, MassHealth is counting the Trust's assets. As justification, it argues broadly that Trust income available or that could be paid to a Medicaid applicant is a countable asset. While I agree that "income" that is not paid out of the Trust becomes part of the principal, this does not make the principal itself countable. In clear language, Article 3(b) of the Trust states that principal cannot be paid to the appellant. In calling "countable income" a "countable asset," MassHealth is jumping over a line of demarcation between income and principal in violation of the ruling of *Daley*. Income and principal are not interchangeable terms, and as stated above, income is not an issue in this appeal.

MassHealth reiterates an argument made in other trust appeals: that the Trust's general testamentary power of appointment makes the principal countable. The court in *Heyn* ruled otherwise, however. MassHealth points out that in this case, the appellant has a lifetime right of appointment to a charity qualifying under IRS code. While the court in *Daley* found that a similar power of appointment to a non-profit organization could make principal countable as a nursing home could be a non-profit organization, MassHealth made no claim that the appellant's nursing home is an IRS recognized charity so as to make the principal of this Trust available to her.

MassHealth alternatively argues that because the Trustee may use principal to pay for the funeral and burial expenses of the appellant, the principal if the Trust is countable. Even if this language were interpreted to mean the purchase of funeral and burial plans while the appellant were still alive, such plans and trust are exempt in determining eligibility for Medicaid long-term care benefits. (See 130 CMR 520.008 for plans and 520.023(D)(3) for trusts.)

Finally, MassHealth argues that the Trustee regularly accessed principal for the benefit of the appellant, and made distributions to her. It noted that the Trustee made regular payments of \$4100.00 or \$4500.00 to the appellant's assisted living fee prior to her nursing home admission for a total amount approximating \$100,000.00. Additionally, after the September 2014 sale of the Mashpee property, the Trust paid the mortgage debt that remained on the property even though this was the appellant's debt. I conclude that paying the mortgage of the Mashpee real estate was not a benefit to the appellant, nor did it diminish the net value of the asset. Moreover, the power of the Trustee to sell property was expressly given in the Trust, and in paying the bank debt owed he did nothing wrong as the sale required him to pay off all existing mortgages.

This leaves the narrow issue of whether the Trustee paying or the appellant's assisted living fee met the "any circumstances" clause of 130 CMR 520.023(C)(1)(a). First of all, I disagree with MassHealth in calling this a case of "having your cake and eating it too." Other than paying for the appellant's assisted living fee, there was no noted instance of the Trustee invading principal. For instance, there was no pattern of payments of principal to the appellant, nor was there evidence of collusion or bad faith between the Trustee and appellant. Rather, I conclude that a more accurate description of what happened when the Trustee paid the appellant's assisted living fee is that he breached his fiduciary duty to the Beneficiaries in alienating them from a portion of the principal in violation of the Trust.

Secondly, and most important, MassHealth has not identified a federal or state court ruling, a statute, regulation, or even a formal policy which would equate a Trustee's past breach to mean that principal "could be paid under any circumstances." Absent any such legal authority, I am thus unable to conclude that the Trustee's breach of duty in using principal to pay for the appellant's assisted living fee passes the "under any circumstances" test. The "under any circumstances" language pertains to the terms of the Trust, and in this case, there is no such language which make principal available to the appellant. On the contrary, the language of Article 3(b) of the Trust states quite the opposite.

In conclusion, the assets of the Trust are unavailable to the appellant, and based upon the above cited regulations, the Trust assets should not have been counted in her eligibility determination.

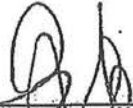
The appeal is therefore approved.

## **Order for MassHealth**

Disregard assets of Trust, re-open appellant's application and re-determine her eligibility for MassHealth.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this notice, you should contact your local office. 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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Stanley Kallianidis  
Hearing Officer  
Board of Hearings

cc:

Brian Barreira, Esq.  
118 Long Pond Road, # 206  
Plymouth, MA 02360

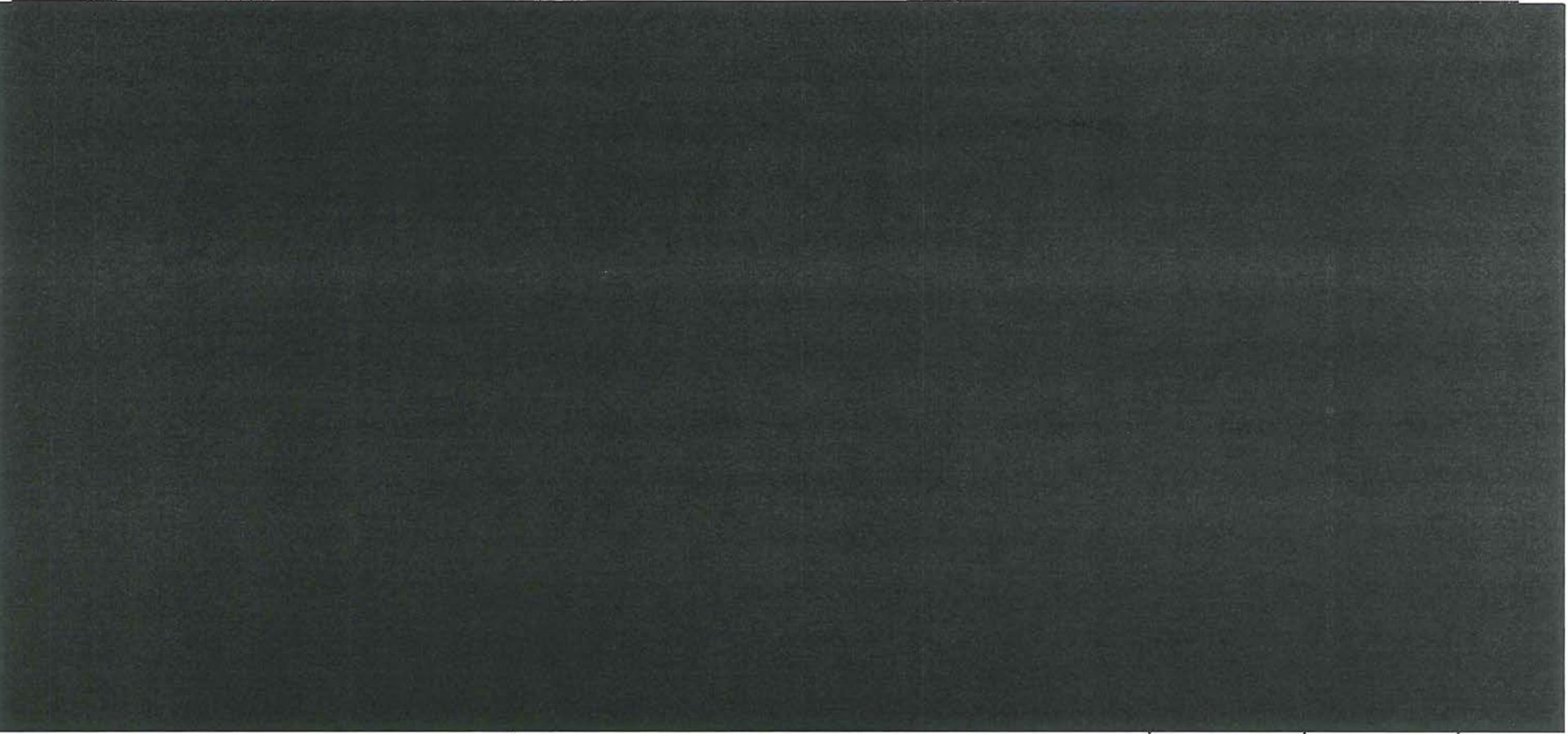
Douglas Maas, POA  
8 Park Place  
Valatie, NY 12184

Paul O'Neil  
Assistant General Counsel, EOHHS  
One Ashburton Place, 11<sup>th</sup> Floor  
Boston, MA 02108

**EXHIBIT K**

ASSESSED VALUE BY OWNER  
PAXTON, MA

Owner's Name	Map	Block	Lot	Unit	Location	Total Assessed Land Value	Total Assessed Improvements	Total Assessed Parcel Value
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HENRY E & EVA E HIRVI IRREVOCA 26						61,600	152,000	213,600
HENRY E & EVA E HIRVI IRREVOCA 26						1,300	1,100	2,400



Re:

The Henry E. Hirvi and Eva E. Hirvi Irrevocable Trust  
dated July 18, 2012.

I, Ann E. Coughlin, am the Trustee of the  
above trust.

The home at  
this trust,



Pacton, MA is in

Also - 2 seasonal properties located at  
Roxbury, MA are in this trust.



and




- There has been no activity within this trust since its inception

Ann E. Coughlin  
Trustee

12-8-17

Received  
12/18/17



 Assessment and Sales Report

## Location &amp; Ownership Information

Address: [REDACTED] Paxton, MA 01612

Map Ref.: M:00026 L:00014 Zoning: OR4

Owner 1: Henry E&amp;eva E Hirvi Irt

Owner 2:

Owner Address: [REDACTED], Paxton, MA [REDACTED]

## Property Information

Use:	Accessory Land Improved	Style:	
Levels:	0	Lot Size:	0.42 Acres (18295 sqft.)
Year Built:		Total Area:	0 sqft.
Total Rooms:	0	Living Area:	0 sqft.
Bedrooms:	0	First Floor Area:	0 sqft.
Full Baths:	0	Addl Floor Area:	0 sqft.
Half Baths:	0	Attic Area:	0 sqft.
Roof Type:		Finished Basement:	0 sqft.
Heat Type:		Basement:	0 sqft.
Fuel Type:		Basement Type:	
Exterior:		Attached Garage:	0
Foundation:		Other Garage:	0
Air Conditioned:	No	Fireplaces:	0

Condition:

## Assessment Information


Last Sale Date:		Last Sale Price:	\$0
Last Sale Book:	0	Last Sale Page:	0
Map Ref.:	M:00026 L:00014	Tax Rate (Res):	20.39
Land Value:	\$1,300	Tax Rate (Comm):	20.39
Building Value:	\$1,100	Tax Rate (Ind):	20.39
Misc Improvements:	\$0	Fiscal Year:	2017
Total Value:	\$2,400	Estimated Tax:	\$48.94

## Mortgage History

## Recent Mortgage #1

Buyer Name:	Henry E Hirvi	Lender Name:	Workers Credit Union
Mortgage Amount:	\$30,000	Mortgage Date:	8/8/1994
Mortgage Book:	16492	Mortgage Page:	78

The information in the Public Record is set forth verbatim as received by MLS PIN from third parties, without verification or change.  
 MLS PIN is not responsible for the accuracy or completeness of this information.

 Assessment and Sales Report

## Location &amp; Ownership Information

Address:	[REDACTED]	Paxton, MA	[REDACTED]
Map Ref.:	M:00026 L:00012	Zoning:	0R4
Owner 1:	Henry E&eva E Hirvi Irt		
Owner 2:			
Owner Address:	[REDACTED]	Paxton, M	[REDACTED]

## Property Information

Use:	1-Family Residence	Style:	Cape-Cod
Levels:	1	Lot Size:	0.23 Acres (10000 sqft.)
Year Built:	1955	Total Area:	3482 sqft.
Total Rooms:	7	Living Area:	1614 sqft.
Bedrooms:	3	First Floor Area:	0 sqft.
Full Baths:	1	Addl Floor Area:	0 sqft.
Half Baths:	0	Attic Area:	0 sqft.
Roof Type:	Gable	Finished Basement:	0 sqft.
Heat Type:	Forced Hot Water	Basement:	0 sqft.
Fuel Type:	Oil	Basement Type:	
Exterior:	Wood Side/Shingles	Attached Garage:	0
Foundation:		Other Garage:	0
Air Conditioned:	No	Fireplaces:	0
Condition:	Average		

## Assessment Information


Last Sale Date:		Last Sale Price:	\$0
Last Sale Book:	0	Last Sale Page:	0
Map Ref.:	M:00026 L:00012	Tax Rate (Res):	20.39
Land Value:	\$61,600	Tax Rate (Comm):	20.39
Building Value:	\$152,000	Tax Rate (Ind):	20.39
Misc Improvements:	\$0	Fiscal Year:	2017
Total Value:	\$213,600	Estimated Tax:	\$4,355.30

## Mortgage History

## Recent Mortgage #1

Buyer Name:	Henry E Hirvi	Lender Name:	Digital Fcu
Mortgage Amount:	\$100,000	Mortgage Date:	8/14/2012
Mortgage Book:	49445	Mortgage Page:	113

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MLS PIN is not responsible for the accuracy or completeness of this information.

 Assessment and Sales Report

**Location & Ownership Information**

<b>Address:</b>	[REDACTED]	Rutland, MA	[REDACTED]
<b>Map Ref.:</b>	M:31-A B:A L:6	<b>Zoning:</b>	
<b>Owner 1:</b>	Henry Eva Hirvi Irt		
<b>Owner 2:</b>			
<b>Owner Address:</b>	[REDACTED]	Rutland, MA	[REDACTED]

**Property Information**

<b>Use:</b>	1-Family Residence	<b>Style:</b>	Cottage
<b>Levels:</b>	1	<b>Lot Size:</b>	0.08 Acres (3577 sqft.)
<b>Year Built:</b>	1927	<b>Total Area:</b>	280 sqft.
<b>Total Rooms:</b>	2	<b>Living Area:</b>	192 sqft.
<b>Bedrooms:</b>	1	<b>First Floor Area:</b>	0 sqft.
<b>Full Baths:</b>	1	<b>Addl Floor Area:</b>	0 sqft.
<b>Half Baths:</b>	1	<b>Attic Area:</b>	0 sqft.
<b>Roof Type:</b>	Gable	<b>Finished Basement:</b>	0 sqft.
<b>Heat Type:</b>	None	<b>Basement:</b>	0 sqft.
<b>Fuel Type:</b>		<b>Basement Type:</b>	
<b>Exterior:</b>	Wood Side/Shingles	<b>Attached Garage:</b>	0
<b>Foundation:</b>		<b>Other Garage:</b>	0
<b>Air Conditioned:</b>	No	<b>Fireplaces:</b>	0
<b>Condition:</b>	Fair/Average		

**Assessment Information**


<b>Last Sale Date:</b>	10/6/1998	<b>Last Sale Price:</b>	\$18,000
<b>Last Sale Book:</b>	20504	<b>Last Sale Page:</b>	116
<b>Map Ref.:</b>	M:31-A B:A L:6	<b>Tax Rate (Res):</b>	18.32
<b>Land Value:</b>	\$73,800	<b>Tax Rate (Comm):</b>	18.32
<b>Building Value:</b>	\$17,500	<b>Tax Rate (Ind):</b>	18.32
<b>Misc Improvements:</b>	\$0	<b>Fiscal Year:</b>	2017
<b>Total Value:</b>	\$91,300	<b>Estimated Tax:</b>	\$1,672.62

**Sales History**

**Recent Sale #1**

<b>Sale Price:</b>	\$18,000	<b>Sale Date:</b>	10/6/1998
<b>Buyer Name:</b>	Henry E Hirvi	<b>Seller Name:</b>	Dennis R Luukko
<b>Lender Name:</b>		<b>Mortgage Amount:</b>	\$0
<b>Sale Book:</b>	20504	<b>Sale Page:</b>	116

The information in the Public Record is set forth verbatim as received by MLS PIN from third parties, without verification or change. MLS PIN is not responsible for the accuracy or completeness of this information.

 Assessment and Sales Report

**Location & Ownership Information**

<b>Address:</b>	[REDACTED]	Rutland, MA	[REDACTED]
<b>Map Ref.:</b>	M:31-A B:A L:7	<b>Zoning:</b>	
<b>Owner 1:</b>	Henry Eva Hirvi Irt		
<b>Owner 2:</b>			
<b>Owner Address:</b>	[REDACTED]	Rutland, MA	[REDACTED]

**Property Information**

<b>Use:</b>	1-Family Residence	<b>Style:</b>	Cottage
<b>Levels:</b>	1	<b>Lot Size:</b>	0.22 Acres (9583 sqft.)
<b>Year Built:</b>	1927	<b>Total Area:</b>	280 sqft.
<b>Total Rooms:</b>	2	<b>Living Area:</b>	192 sqft.
<b>Bedrooms:</b>	1	<b>First Floor Area:</b>	0 sqft.
<b>Full Baths:</b>	1	<b>Addl Floor Area:</b>	0 sqft.
<b>Half Baths:</b>	1	<b>Attic Area:</b>	0 sqft.
<b>Roof Type:</b>	Gable	<b>Finished Basement:</b>	0 sqft.
<b>Heat Type:</b>	None	<b>Basement:</b>	0 sqft.
<b>Fuel Type:</b>		<b>Basement Type:</b>	
<b>Exterior:</b>	Wood Side/Shingles	<b>Attached Garage:</b>	0
<b>Foundation:</b>		<b>Other Garage:</b>	0
<b>Air Conditioned:</b>	No	<b>Fireplaces:</b>	0
<b>Condition:</b>	Fair/Average		

**Assessment Information**

<b>Last Sale Date:</b>	5/12/1965	<b>Last Sale Price:</b>	\$3,000
<b>Last Sale Book:</b>	4560	<b>Last Sale Page:</b>	596
<b>Map Ref.:</b>	M:31-A B:A L:7	<b>Tax Rate (Res):</b>	18.32
<b>Land Value:</b>	\$81,900	<b>Tax Rate (Comm):</b>	18.32
<b>Building Value:</b>	\$18,700	<b>Tax Rate (Ind):</b>	18.32
<b>Misc Improvements:</b>	\$0	<b>Fiscal Year:</b>	2017
<b>Total Value:</b>	\$100,600	<b>Estimated Tax:</b>	\$1,842.99

The information in the Public Record is set forth verbatim as received by MLS PIN from third parties, without verification or change. MLS PIN is not responsible for the accuracy or completeness of this information.

# EXHIBIT L

ELIGIBILITY-RELATED DETERMINATION NOTICES  
 STATE TOOLKIT  
 Tool #4: Model Notices

The Coverage Learning Collaborative Notices Project team (CMS, Manatt Health, MAXIMUS Center for Health Literacy, and Mathematica Policy Research) developed 13 consumer-facing notices for different eligibility scenarios. The project team made assumptions about the consumer’s eligibility circumstances and State Medicaid/Children’s Health Insurance Program (CHIP) design, which are documented in the scenario descriptions, and assumptions about state procedures. To provide “real world look-and-feel,” model notices are populated with *hypothetical* consumer and state-specific information based on these assumptions. State specific content pre-populated in model notices is not intended to provide policy guidance on State Medicaid/CHIP program design.

Model notices were developed initially in 2013 through consumer literacy testing, feedback from consumer advocates, and feedback from states. Model notices have been further refined and refreshed based on 2016 final regulations and additional operational experience. Model notices reflect best practices that may be applied by State Medicaid and CHIP agencies but will need to be customized.

Scenario	Assumptions/Variables Selected
<b>Adult Eligible for Medicaid</b>	
<p>1. Individual submits the single streamlined application to the State Medicaid Agency. The agency determines the individual eligible for Medicaid under MAGI rules for the adult group.</p>	<ul style="list-style-type: none"> <li>• Individual is eligible for the adult group</li> <li>• Different Alternative Benefit Plan (ABP) benefit packages</li> <li>• Medicaid managed care state</li> <li>• Co-pays for Medicaid services; follow-up notice includes additional details on 5% cap</li> </ul>
<p>2. Individual submits the single streamlined application to the Federally Facilitated Marketplace (FFM). Individual is assessed eligible for Medicaid. FFM transfers application to the State Medicaid Agency. The agency determines the individual eligible for Medicaid under the adult group.</p>	<p><i>Notice reflects coordinated content on Marketplace assessment, with the FFM having issued an assessment notice.</i></p> <ul style="list-style-type: none"> <li>• Individual is eligible for the adult group</li> <li>• Different Alternative Benefit Plan (ABP) benefit packages</li> <li>• Medicaid managed care state</li> <li>• Co-pays for Medicaid services; follow-up notice includes additional details on 5% cap</li> </ul>

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Scenario	Assumptions/Variables Selected
<p>3. Individual submits the single streamlined application to the FFM. Individual is assessed ineligible for Medicaid but requests full Medicaid determination. FFM transfers application to the State Medicaid Agency. The agency determines the individual eligible for Medicaid under the adult group.</p>	<p><i>Notice reflects coordinated content on Marketplace assessment, with the FFM having issued an assessment notice.</i></p> <ul style="list-style-type: none"> <li>• Individual is eligible for the adult group</li> <li>• Different Alternative Benefit Plan (ABP) benefit packages</li> <li>• Medicaid managed care state</li> <li>• Co-pays for Medicaid services; follow-up notice includes additional details on 5% cap</li> </ul>
<p>4. Individual submits the single streamlined application to the State Medicaid Agency. Individual appears eligible for Medicaid but there is an inconsistency based on income. The agency requests additional information to complete the eligibility determination.</p>	<ul style="list-style-type: none"> <li>• Individual is eligible as a caretaker relative</li> <li>• Individual has already been given the opportunity to submit a reasonable explanation as to inconsistency</li> <li>• Additional documentation list accompanies letter</li> </ul>
<p>5. Individual submits the single streamlined application to the State Medicaid Agency. Individual appears eligible for Medicaid, but there is an inconsistency based on citizenship/immigration status. The agency requests additional information. Meanwhile, the individual is determined eligible for Medicaid during the reasonable opportunity period.</p>	<ul style="list-style-type: none"> <li>• Individual is not eligible for the adult group</li> <li>• Individual has attested to being a U.S. citizen</li> <li>• Co-pays for Medicaid services; follow-up notice includes additional details on 5% cap State has a separate documentation list</li> </ul>

ELIGIBILITY-RELATED DETERMINATION NOTICES  
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Scenario	Assumptions/Variables Selected
<b>Adult Eligible for APTC and Ineligible for Medicaid</b>	
<p>6. Individual submits the single streamlined application to the State Medicaid Agency. Individual is determined ineligible for Medicaid.</p>	<p><i>Notice reflects coordinated content on Marketplace transfer. FFM will issue Marketplace determination notice.</i></p>
<p>7. Individual submits the single streamlined application to the FFM. Individual is assessed ineligible for Medicaid and determined eligible for advance premium tax credits (APTC). Individual requests full Medicaid determination. FFM transfers application to the State Medicaid Agency. The agency determines individual ineligible for Medicaid.</p>	<p><i>Notice reflects coordinated content on Marketplace assessment, with the FFM having issued a Medicaid assessment/Marketplace determination notice.</i></p>
<b>Mixed Family: Adults Eligible for APTC and Children Eligible for Medicaid</b>	
<p>8. Mixed Coverage Family: Individual submits the single streamlined application to the State Medicaid Agency. Children are determined eligible for Medicaid. Adults are determined ineligible for Medicaid. The agency issues notice that children are eligible for Medicaid and adults are being transferred to the Marketplace for APTC eligibility determination.</p>	<p><i>Notice reflects coordinated content on Marketplace transfer for adults. FFM will issue Marketplace determination notice for adults with Medicaid denial.</i></p> <ul style="list-style-type: none"> <li>• Medicaid managed care state</li> </ul>



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<p><b>9. Mixed Coverage Family:</b>            Individual submits the single streamlined application to the FFM. Children are assessed eligible for Medicaid. Adults are determined eligible for APTC and assessed ineligible for Medicaid. FFM transfers application to the State Medicaid Agency. Children are determined eligible for Medicaid.</p>	<p><i>Notice reflects coordinated content on Marketplace assessment, with the FFM having issued a Medicaid assessment/Marketplace determination notice.</i></p> <ul style="list-style-type: none"> <li>• Adult withdrew Medicaid application</li> <li>• Medicaid managed care state</li> </ul>
<b>Mixed Family: Adults Eligible for APTC and Children Eligible for CHIP</b>	
<p><b>10.</b> Individual submits the single streamlined application to the State CHIP Agency. Children are determined eligible for CHIP and adults appear eligible for APTC. The agency transfers application to the Marketplace for premium tax credit/cost-sharing reductions eligibility determination. Adults are eligible for premium tax credit/cost-sharing reductions.</p>	<p><i>Notice reflects coordinated content on Marketplace transfer. FFM will issue Marketplace determination notice for adults.</i></p> <ul style="list-style-type: none"> <li>• CHIP operated as a separate program from Medicaid and does not have authority to make Medicaid determinations</li> <li>• Assumes that a state that offers a more comprehensive benefit package under Medicaid than CHIP</li> <li>• Premiums and co-pays for CHIP services</li> </ul>
<b>Multi-Person Family: Adults and Children Eligible for Medicaid</b>	
<p><b>11. Multi-Person Family:</b>            Individual submits the single streamlined application to the State Medicaid Agency. Children and adult are determined eligible for Medicaid.</p>	<ul style="list-style-type: none"> <li>• Adult is not eligible for new adult group</li> <li>• Medicaid managed care state</li> <li>• Co-pays for Medicaid services for adult</li> </ul>

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Scenario	Assumptions/Variables Selected
<b>Child Ineligible for CHIP, Screened Ineligible for Medicaid, Eligible for APTC</b>	
<p>12. Individual submits the single streamlined application to the State CHIP Agency. Child is determined ineligible for CHIP and screened ineligible for Medicaid. The agency transfers application to the FFM for APTC eligibility determination.</p>	<p><i>Notice reflects coordinated content on Marketplace transfer. FFM will issue Marketplace determination notice.</i></p> <ul style="list-style-type: none"> <li>• CHIP operates as a separate program from Medicaid</li> </ul>
<b>Adult Eligible for APTC and Emergency Medicaid</b>	
<p>13. Individual submits the single streamlined application to the State Medicaid Agency. Individual is determined ineligible for full scope Medicaid based on citizenship/immigration status. However, the individual is determined eligible for Emergency Medicaid and appears eligible APTC. The agency transfers the application to the FFM.</p>	<p><i>Notice reflects coordinated content on Marketplace transfer. FFM will issue Marketplace determination notice.</i></p> <ul style="list-style-type: none"> <li>• Individual is not eligible for new adult group</li> <li>• Co-pays for Medicaid services</li> </ul>



You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: November 1, 20XX  
Letter date: November 5, 20XX  
Letter number: 34567

## Why you are getting this letter

Good news for you! You qualify for Medicaid health coverage. Your coverage starts on January 1, 20XX.

## Using your health coverage

You can get health services from any doctor, clinic, or other health care provider who accepts Medicaid. We will send you a Medicaid card. Until you get your card, you can get health services using your Medicaid ID number: 123456789.

We will also send you information about choosing a health plan, which you will need to do in the next 30 days. Once you join a plan, you will need to use the plan's health care providers. To learn more about your plan choices and providers now, call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX) or go to [medicaid.state.gov](http://medicaid.state.gov).

## Health services and costs

You can get many health services through Medicaid, like doctor's visits, hospital care, and prescriptions. You do not have to pay a premium (a monthly cost) for your health coverage. You do have co-payments for some health services. There are different co-payments for different health services. But, there is a limit to your costs each month. How much you pay for co-payments and the limit to your monthly costs both depend on your income. If you think we made a mistake on your household size or income, and want to see if you qualify to pay less, you can appeal. See the last page to learn more. We will send you more information about your co-payments and monthly limit. Your health plan also will send you more information about health services and co-payments. To learn more now, go to [medicaid.state.gov](http://medicaid.state.gov).

## You must report changes

You must report any changes that might affect your health coverage. Please report changes for both you and other people in your household, like:

- » If someone moves.
- » If someone's income changes.
- » If your household changes. For example, someone in your household marries or divorces, becomes pregnant, or has or adopts a child.

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your application and health coverage. You can choose to get letters like this online.

To create an account, go to [medicaid.state.gov](http://medicaid.state.gov) and click "Account Setup."

To report changes, call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX) or go to [medicaid.state.gov](http://medicaid.state.gov).

## Renewing your health coverage

You need to renew your health coverage every year. We will send you a letter when it is time to renew.



Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to [medicaid.state.gov](http://medicaid.state.gov). You can also find out how to meet with someone in person.

## How we made our decisions and information about other programs

### How you qualify for Medicaid

We counted your household size and income based on what you told us on your application and information we got from other data sources. We found that your household size is 1 person and your income is \$957 each month. Since your monthly income is below the Medicaid income limit, you qualify.

Because you qualify for Medicaid, you may also qualify for other assistance, like help buying food. To learn more, call **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Because you qualify for Medicaid, you will get coverage without needing to buy health insurance. This means you do not get help paying for health insurance through the Health Insurance Marketplace. Medicaid offers many services at low or no cost to you.

### You might qualify for more health services:

#### If your income is under \$718 each month

Adults with incomes under \$718 each month qualify for more health services. If you think we made a mistake counting your income, you can appeal. See the next page to learn how to appeal.

#### If you have special health care needs

A person may qualify to get more health services if he or she has special health care needs. A person who pays for care may also qualify to pay less. Special health care needs include if a person:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

### If you have medical bills from the last three months

Medicaid may pay past bills, even if you already paid them yourself. Send your medical bills from the last three months to Billing Office, State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

We made our decisions based on these rules: 42 CFR 435.119, 435.603.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.

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You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by February 8, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
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If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

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We got your application from the Health Insurance Marketplace (Marketplace). They did not think you qualified for Medicaid health coverage, but you asked for our review. We decided that you do qualify.

### If you have Marketplace health coverage

If you have Marketplace health coverage with financial help (premium tax credits), you should cancel it. If you don't cancel your financial help, you may have to pay it back. To cancel your financial help, call the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325). Or go to [healthcare.gov/medicaid-chip/cancelling-marketplace-plan](http://healthcare.gov/medicaid-chip/cancelling-marketplace-plan).

Because you qualify for Medicaid, you no longer qualify for financial help through the Marketplace. Medicaid offers many services at low or no cost to you. If you want Marketplace health coverage, you will have to pay full price.

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If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

### If you have medical bills from the last three months

Medicaid may pay past bills, even if you already paid them yourself. Send your medical bills from the last three months to Billing Office, State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

We made our decisions based on these rules: 42 CFR 435.119, 435.603.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.

## If you think we made a mistake

You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by February 8, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
- » Bring someone with you to the hearing, like a friend, relative, or lawyer, or come by yourself.
- » Bring documents, information, or witnesses to show us where you think we made a mistake.

If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We will keep your information secure and private.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: November 1, 20XX  
Letter date: November 5, 20XX  
Letter number: 34567

## Why you are getting this letter

We reviewed your application for Medicaid health coverage. What you told us about your income does not match our records. We need more information.

## Please give us proof of your income by November 15, 20XX

Give us a copy of one of these documents:

- » Your pay stubs for the last month
- » Your most recent tax return, unless you think your tax return will be different this year
- » A letter from your employer telling us your income

Please keep your original document and give us a copy. Please write your letter number (34567) on the copy before you give it to us.

If you do not have one of these documents, read the list that came with this letter. It has other documents you can use. If you need help, please call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

## Four ways you can give us a copy of your document

1. **Online.** Go to [medicaid.state.gov](http://medicaid.state.gov) and follow the website directions to upload a copy.
2. **By fax.** Fax a copy to us at 1-800-XXX-XXXX.
3. **By mail.** Send a copy to us at State Medicaid Agency, 321 Any Road, Any City, Any State 00100.
4. **In person.** Bring a copy to us on the 4th floor at State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

If you do not give us proof of your income, we cannot finish reviewing your application for health coverage, and **your application will be denied.**

Sincerely,  
State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your application and health coverage. You can choose to get letters like this online.

To create an account, go to **medicaid.state.gov** and click "Account Setup."

We will keep your information secure and private.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: November 1, 20XX  
Letter date: November 5, 20XX  
Letter number: 34567

## Why you are getting this letter

There are two important pieces of news for you in this letter:

1. For now, you have Medicaid health coverage.
2. But, you need to give us more information to keep your coverage.

## For now, you have Medicaid health coverage

Your health coverage started on November 1, 20XX and you can use it right away. You can get health services from any doctor, clinic, or other health care provider who accepts Medicaid. We will send you a Medicaid card. Until you get your card, you can get health services using your Medicaid ID number: 123456789.

You can get many health services through Medicaid, like doctor's visits, hospital care, and prescriptions. You do not have to pay a premium (a monthly cost) for your health coverage. You do have co-payments for some health services. There are different co-payments for different health services. But, there is a limit to your costs each month. How much you pay for co-payments and the limit to your monthly costs both depend on your income. We will send you more information on health services, co-payments, and the monthly limit. To learn more now, go to [medicaid.state.gov](http://medicaid.state.gov).

## But, you need to give us more information to keep your coverage

What you told us about your citizenship does not match our records. **Please give us proof of your citizenship by February 8, 20XX, or your health coverage will end.**

### Please give us a copy of one of these documents:

- » Your United States passport
- » Your citizenship or naturalization certificate
- » Papers that show you are a member of a tribe
- » Your birth certificate and driver's license

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your application and health coverage. You can choose to get letters like this online.

To create an account, go to **medicaid.state.gov** and click "Account Setup."



Please keep your original document and give us a copy. Please write your letter number (34567) on the copy before you give it to us.

If you do not have one of these documents, read the list that came with this letter. It has other documents you can use. If you need help, please call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

#### **Four ways you can give us a copy of your document**

1. **Online.** Go to [medicaid.state.gov](http://medicaid.state.gov) and follow the website directions to upload a copy.
2. **By fax.** Fax a copy to us at **1-800-XXX-XXXX**.
3. **By mail.** Send a copy to us at State Medicaid Agency, 321 Any Road, Any City, Any State 00100.
4. **In person.** Bring a copy to us on the 4th floor at State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

**Remember, your health coverage will end on February 8, 20XX if you do not give us proof of your citizenship.**



## How we made our decisions and information about other programs

### How you qualify for Medicaid

We counted your household size and income based on what you told us on your application and information we got from other data sources. We

found that your household size is 1 person and your

income is \$957 each month. Since your monthly income is below the Medicaid income limit, you qualify based on your income. But, what you told us about your citizenship does not match our records. You still need to give us proof of your citizenship to keep your health coverage.

Because you qualify for Medicaid, you may also qualify for other assistance, like help buying food. To learn more, call **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Because you qualify for Medicaid, you get coverage without needing to buy health insurance. This means you do not get help paying for health insurance through the Health Insurance Marketplace. Medicaid offers many services at low or no cost to you.

### If you have special health care needs

A person may qualify to get more health services if he or she has special health care needs. A person who pays for care may also qualify to pay less. Special health care needs include if a person:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to [medicaid.state.gov](http://medicaid.state.gov). If the person has health coverage, he or she can keep it while we look at the information.

### If you have medical bills from the last three months

Medicaid may pay past bills, even if you already paid them yourself. Send your medical bills from the last three months to Billing Office, State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We made our decisions based on these rules: 42 CFR 435.119, 435.603.

We will keep your information secure and private.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to [medicaid.state.gov](http://medicaid.state.gov). You can also find out how to meet with someone in person.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: November 1, 20XX  
Letter date: November 5, 20XX  
Letter number: 34567

## Why you are getting this letter

We reviewed your application. We decided that you **do not** qualify for Medicaid health coverage. To learn more, read the "How we made our Medicaid decision" section below.

You might still be able to get health coverage—and help paying for it—through the Health Insurance Marketplace (Marketplace). We sent your information to them. The Marketplace will send you a letter. To learn more, read the "Complete your Marketplace application" section below.

### What is the Health Insurance Marketplace?

You can use the Marketplace to shop for and buy affordable private health insurance online, over the phone, or with in-person help. There is financial help available for people who qualify.

## How we made our Medicaid decision

We counted your household size and income based on what you told us on your application and information we got from other data sources. We found that your household size is 1 person and your income is \$1,915 each month. The Medicaid income limit for your household size is \$1,273 each month. Since your monthly income is above the limit, you do not qualify for Medicaid health coverage. If you think we made a mistake, you can appeal. To learn more, read the "If you think we made a mistake" section in this letter.

We made our decisions based on these rules: 42 CFR 435.119, 435.603.

## Complete your Marketplace application

You should complete your Marketplace application as soon as you can to see if you can get coverage now. To complete your application, you can:

1. **Wait for the letter from the Marketplace.** The Marketplace is starting a health insurance application for you. The letter will tell you how to complete your application with them.

Or

2. **Start a new application.** You can go to **HealthCare.gov** or contact the Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). You will need to:
  - » Create a Marketplace user account online or with a Call Center Representative if you don't have one.
  - » Have this letter with you to help answer questions.
  - » Provide the information you gave us already.
  - » Answer "yes" when asked if anyone has been found not eligible for Medicaid or the Children's Health Insurance Program (CHIP) in the past 90 days, if this applies.



If you have questions or need help completing your application, call the Marketplace Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). Or go to **HealthCare.gov**.

After you complete your application, the Marketplace will tell you if you qualify for health coverage and financial assistance to help pay for it.

The Marketplace will also tell you whether you can get health coverage now or if you have to wait and reapply. If otherwise eligible, you can enroll in Marketplace health coverage during a certain time each year called the Open Enrollment Period. If it is not Open Enrollment when you submit your application for coverage, you will have to wait until the next Open Enrollment Period, unless you have a life event that makes you eligible for a Special Enrollment Period. Examples of qualifying life events include getting married, having a baby, or losing Medicaid or other health coverage. You usually have up to 60 days after the date of the life change to apply for coverage and qualify for a Special Enrollment Period.

### If you have special health care needs

A person may still be able to get Medicaid health coverage if he or she has special health care needs. Medicaid health coverage offers more health services and lower costs. Special health care needs include if a person:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your application and health coverage. You can choose to get letters like this online.

To create an account, go to **medicaid.state.gov** and click "Account Setup."

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.



## If you think we made a mistake

You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by February 8, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
- » Bring someone with you to the hearing, like a friend, relative, or lawyer, or come by yourself.
- » Bring documents, information, or witnesses to show us where you think we made a mistake.

If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We will keep your information secure and private.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.



You can get this letter in another language, in large print, or in another way that's best for you. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al **1-800-XXX-XXXX** (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: November 1, 20XX  
Letter date: November 5, 20XX  
Letter number: 34567

## Why you are getting this letter

We got your application from the Health Insurance Marketplace (Marketplace). They did not think you qualified for Medicaid, but you asked for our review. We reviewed your application. We decided that you **do not** qualify for Medicaid health coverage. To learn more, read the "How we made our Medicaid decision" section below.

You still qualify for health coverage—and help paying for it—through the Marketplace. Be sure to read the letter they sent you. You can also call them at **1-800-318-2596** (TTY: 1-855- 889-4325) or go to **HealthCare.gov** to learn more.

## How we made our Medicaid decision

We counted your household size and income based on what you told us on your application and information we got from other data sources. We found that your household size is 1 person and your income is \$1,915 each month. The Medicaid income limit for your household size is \$1,273 each month. Since your monthly income is above the limit, you do not qualify for Medicaid health coverage. If you think we made a mistake, you can appeal. To learn more, read the "If you think we made a mistake" section in this letter.

We made our decisions based on these rules: 42 CFR 435.119, 435.603.

## If you have special health care needs

A person may still be able to get Medicaid health coverage if he or she has special health care needs. Medicaid health coverage offers more health services and lower costs. Special health care needs include if a person:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your application and health coverage. You can choose to get letters like this online.

To create an account, go to **medicaid.state.gov** and click "Account Setup."



## If you think we made a mistake

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You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by February 8, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
- » Bring someone with you to the hearing, like a friend, relative, or lawyer, or come by yourself.
- » Bring documents, information, or witnesses to show us where you think we made a mistake.

If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We will keep your information secure and private.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al **1-800-XXX-XXXX** (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: January 1, 20XX  
Letter date: January 5, 20XX  
Letter number: 34567

## News for you and your family

Our records show that you applied for health coverage for you, Annie, Amy, and Kate on January 1, 20XX.

### Good news for Annie, Amy, and Kate

They qualify for Medicaid health coverage. Please read the rest of this letter to learn more.

### Update for you

We are still working to see what health coverage you qualify for. You might be able to get health coverage—and help paying for it—through the Health Insurance Marketplace (Marketplace). We sent your information to them. The Marketplace will send you a letter. To learn more, read the “Complete your Marketplace application” section below.

### Complete your Marketplace application

You should complete your Marketplace application as soon as you can to see if you can get coverage now. To complete your application, you can:

**1. Wait for the letter from the Marketplace.**

The Marketplace is starting a health insurance application for you. The letter will tell you how to complete your application with them.

**Or**

**2. Start a new application.** You can go to **HealthCare.gov** or contact the Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). You will need to:

- » Create a Marketplace user account online or with a Call Center Representative if you don't have one.
- » Have this letter with you to help answer questions.
- » Provide the information you gave us already.
- » Answer “yes” when asked if anyone has been found not eligible for Medicaid or the Children's Health Insurance Program (CHIP) in the past 90 days, if this applies.

If you have questions or need help completing your application, call the Marketplace Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). Or go to **HealthCare.gov**.

After you complete your application, the Marketplace will tell you if you qualify for health coverage and financial assistance to help pay for it.

### What is the Health Insurance Marketplace?

You can use the Marketplace to shop for and buy affordable private health insurance online, over the phone, or with in-person help. There is financial help available for people who qualify.



The Marketplace will also tell you whether you can get health coverage now or if you have to wait and reapply. If otherwise eligible, you can enroll in Marketplace health coverage during a certain time each year called the Open Enrollment Period. If it is not Open Enrollment when you submit your application for coverage, you will have to wait until the next Open Enrollment Period, unless you have a life event that makes you eligible for a Special Enrollment Period. Examples of qualifying life events include getting married, having a baby, or losing Medicaid or other health coverage. You usually have up to 60 days after the date of the life change to apply for coverage and qualify for a Special Enrollment Period.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: January 1, 20XX  
Letter date: January 5, 20XX  
Letter number: 34567

## Why you are getting this letter

Good news for Annie, Amy, and Kate! They qualify for Medicaid health coverage. Their coverage started on January 1, 20XX.

## Using your health coverage

Annie, Amy, and Kate can start using their health coverage right away! They can get health services from any doctor, clinic, or other health care provider who accepts Medicaid. We will send you their Medicaid cards. Until you get their cards, they can use their Medicaid ID numbers to get health services. Their Medicaid ID numbers are:

- » Annie Smith: 123456789
- » Amy Smith: 987654321
- » Kate Smith: 243564798

We will also send you information about choosing a health plan for them, which you will need to do in the next 30 days. Once they join a plan, they will need to use the plan's health care providers. To learn more about plan choices and providers now, call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX) or go to [medicaid.state.gov](http://medicaid.state.gov).

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your family's application and health coverage. You can choose to get letters like this online.

To create an account, go to [medicaid.state.gov](http://medicaid.state.gov) and click "Account Setup."

## Health services and costs

Annie, Amy, and Kate can get many health services through Medicaid, like doctor's visits, hospital care, and prescriptions. They can also get dentist visits and any health services that their doctors say they need. You do not have to pay a premium (a monthly cost) for their health coverage or co-payments when they get health services. Their health plan will send you more information. To learn more now, go to [medicaid.state.gov](http://medicaid.state.gov).

## You must report changes

You must report any changes that might affect health coverage for Annie, Amy, and Kate. Please report changes for both you and other people in your household, like:

- » If someone moves.
- » If someone's income changes.
- » If your household changes. For example, someone in your household marries or divorces, becomes pregnant, or has or adopts a child.

To report changes, call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX) or go to [medicaid.state.gov](http://medicaid.state.gov).

## Renewing your health coverage

You need to renew health coverage for Annie, Amy, and Kate every year. We will send you a letter when it is time to renew.





## How we made our decisions and information about other programs

### How Annie, Amy, and Kate qualify for Medicaid

We counted their household size and income based on what you told us on your application and information we got from other data sources.

We found that their household size is 4 people and their household income is \$3,434 each month. Since their monthly household income is below the Medicaid income limit for children, Annie, Amy, and Kate qualify.

Because Annie, Amy, and Kate qualify for Medicaid, they get coverage without you needing to buy health insurance for them. This means you do not get help paying for their health insurance through the Marketplace. Medicaid offers many services at low or no cost to you.

Because Annie, Amy, and Kate qualify for Medicaid, they may also qualify for other assistance, like help buying food. To learn more, call **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

### If Annie, Amy, or Kate has special health care needs

A person may qualify to get more health services if he or she has special health care needs. A person who pays for care may also qualify to pay less. Special health care needs include if a person:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

### If Annie, Amy, or Kate have medical bills from the last three months

Medicaid may pay past bills, even if you already paid them yourself. Send your medical bills from the last three months to Billing Office, State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

We made our decisions based on these rules: 42 CFR 435.118, 435.603.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.

## If you think we made a mistake

You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by April 10, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
- » Bring someone with you to the hearing, like a friend, relative, or lawyer, or come by yourself.
- » Bring documents, information, or witnesses to show us where you think we made a mistake.

If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We will keep your information secure and private.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.



You can get this letter in another language, in large print, or in another way that's best for you. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al **1-800-XXX-XXXX** (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: January 1, 20XX  
Letter date: January 5, 20XX  
Letter number: 34567

## News for you and your family

You applied for health coverage for you, Annie, Amy, and Kate on January 1, 20XX through the Health Insurance Marketplace (Marketplace). We got your application from the Marketplace.

### Good news for Annie, Amy, and Kate

They qualify for Medicaid health coverage. The Marketplace thought they qualified, and we decided that they do.

Please read the rest of this letter to learn more.

### Update for you

You still qualify for health coverage—and help paying for it—through the Marketplace. Be sure to read the letter they sent you. You can also call them at **1-800-318-2596** (TTY: 1-855- 889-4325) or go to **HealthCare.gov** to learn more.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al **1-800-XXX-XXXX** (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: January 1, 20XX  
Letter date: January 5, 20XX  
Letter number: 34567

## Why you are getting this letter

Good news for Annie, Amy, and Kate! They qualify for Medicaid health coverage. Their coverage started on January 1, 20XX.

## Using your health coverage

Annie, Amy, and Kate can start using their health coverage right away! They can get health services from any doctor, clinic, or other health care provider who accepts Medicaid. We will send you their Medicaid cards. Until you get their cards, they can use their Medicaid ID numbers to get health services. Their Medicaid ID numbers are:

- » Annie Smith: 123456789
- » Amy Smith: 987654321
- » Kate Smith: 243564798

We will also send you information about choosing a health plan for them, which you will need to do in the next 30 days. Once they join a plan, they will need to use the plan's health care providers. To learn more about plan choices and providers now, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**.

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your family's application and health coverage. You can choose to get letters like this online.

To create an account, go to **medicaid.state.gov** and click "Account Setup."

## Health services and costs

Annie, Amy, and Kate can get many health services through Medicaid, like doctor's visits, hospital care, and prescriptions. They can also get dentist visits and any health services that their doctors say they need. You do not have to pay a premium (a monthly cost) for their health coverage or co-payments when they get health services. Their health plan will send you more information. To learn more now, go to **medicaid.state.gov**.

## You must report changes

You must report any changes that might affect health coverage for Annie, Amy, and Kate. Please report changes for both you and other people in your household, like:

- » If someone moves.
- » If someone's income changes.
- » If your household changes. For example, someone in your household marries or divorces, becomes pregnant, or has or adopts a child.

To report changes, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**.

## Renewing your health coverage

You need to renew health coverage for Annie, Amy, and Kate every year. We will send you a letter when it is time to renew.



## How we made our decisions and information about other programs

### How Annie, Amy, and Kate qualify for Medicaid

We counted their household size and income based on what you told us on your application and information we got from other data sources.

We found that their household size is 4 people and their household income is \$3,434 each month. Since their monthly household income is below the Medicaid income limit for children, Annie, Amy, and Kate qualify.

Because Annie, Amy, and Kate qualify for Medicaid, they get coverage without you needing to buy health insurance for them. This means you do not get help paying for their health insurance through the Marketplace. Medicaid offers many services at low or no cost to you.

Because Annie, Amy, and Kate qualify for Medicaid, they may also qualify for other assistance, like help buying food. To learn more, call **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

### If Annie, Amy, or Kate has special health care needs

A person may qualify to get more health services if he or she has special health care needs. A person who pays for care may also qualify to pay less. Special health care needs include if a person:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

### If Annie, Amy, or Kate have medical bills from the last three months

Medicaid may pay past bills, even if you already paid them yourself. Send your medical bills from the last three months to Billing Office, State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

We made our decisions based on these rules: 42 CFR 435.118, 435.603.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.

## If you think we made a mistake

You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by April 10, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
- » Bring someone with you to the hearing, like a friend, relative, or lawyer, or come by yourself.
- » Bring documents, information, or witnesses to show us where you think we made a mistake.

If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We will keep your information secure and private.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: January 1, 20XX  
Letter date: January 5, 20XX  
Letter number: 34567

## News for you and your family

Our records show that you applied for health coverage for you, Alice, and Stacie on January 1, 20XX.

### Good news for Alice and Stacie

They qualify for CHIP health coverage. Please read the rest of this letter to learn more.

### Update for you

We are still working to see what health coverage you qualify for. You might be able to get health coverage—and help paying for it—through the Health Insurance Marketplace (Marketplace). We sent your information to them. The Marketplace will send you a letter. To learn more, read the “Complete your Marketplace application” section below.

### What is the Health Insurance Marketplace?

You can use the Marketplace to shop for and buy affordable private health insurance online, over the phone, or with in-person help. There is financial help available for people who qualify.

### Complete your Marketplace application

You should complete your Marketplace application as soon as you can to see if you can get coverage now. To complete your application, you can:

1. **Wait for the letter from the Marketplace.** The Marketplace is starting a health insurance application for you. The letter will tell you how to complete your application with them.

Or

2. **Start a new application.** You can go to **HealthCare.gov** or contact the Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). You will need to:

- » Create a Marketplace user account online or with a Call Center Representative if you don't have one.
- » Have this letter with you to help answer questions.
- » Provide the information you gave us already.
- » Answer “yes” when asked if anyone has been found not eligible for Medicaid or the Children's Health Insurance Program (CHIP) in the past 90 days, if this applies.

If you have questions or need help completing your application, call the Marketplace Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). Or go to **HealthCare.gov**.

After you complete your application, the Marketplace will tell you if you qualify for health coverage and financial assistance to help pay for it.



The Marketplace will also tell you whether you can get health coverage now or if you have to wait and reapply. If otherwise eligible, you can enroll in Marketplace health coverage during a certain time each year called the Open Enrollment Period. If it is not Open Enrollment when you submit your application for coverage, you will have to wait until the next Open Enrollment Period, unless you have a life event that makes you eligible for a Special Enrollment Period. Examples of qualifying life events include getting married, having a baby, or losing Medicaid or other health coverage. You usually have up to 60 days after the date of the life change to apply for coverage and qualify for a Special Enrollment Period.







You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: January 1, 20XX  
Letter date: January 5, 20XX  
Letter number: 34567

## Why you are getting this letter

Good news for Alice and Stacie! They qualify for CHIP health coverage. Their coverage will start on February 1, 20XX, as long as you:

### 1. Pay their premium

The total premium (monthly cost) for health coverage for Alice and Stacie is \$50. We will send you a bill with payment instructions.

**AND**

### 2. Choose a health plan for them

We will send you information about choosing a health plan for Alice and Stacie. To learn more about plan choices now, call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX) or go to [chip.state.gov](http://chip.state.gov).

## Your Secure User Account

**Chip.state.gov** keeps all important information about your application and Alice and Stacie's health coverage. You can choose to get letters like this online.

To create an account, go to [chip.state.gov](http://chip.state.gov) and click "Account Setup."

**Remember, Alice and Stacie's health coverage will not start until you pay their premium and choose a health plan for them. Watch for more letters with instructions and due dates.**

## Health services and costs

Alice and Stacie can get many health services through CHIP, like doctor's visits, dentist visits, hospital care, prescriptions, and much more. You do have co-payments for some of their health services. There are different co-payments for different health services. You also have to continue to pay a premium for their health coverage. But, there is a limit to your costs each month. You will not have to pay more than \$1,953 (5% of your income) for their health care in the next 12 months. How much you pay for your premium and co-payments and the limit for your monthly costs all depend on your income. If you think we made a mistake on your household size or income, and want to see if you qualify to pay less, you can ask for a review. See the last page to learn more. Their health plan will send you more information about health services and costs. To learn more now, go to [chip.state.gov](http://chip.state.gov).



## Please report changes

Report any changes that might affect health coverage for Alice and Stacie. Please report changes for both you and other people in your household, like:

- » If someone moves.
- » If someone's income changes.
- » If your household changes. For example, someone in your household marries or divorces, becomes pregnant, or has or adopts a child.

To report changes, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **chip.state.gov**.

## Renewing their health coverage

You need to renew health coverage for Alice and Stacie every year. We will send you a letter when it is time to renew.



## How we made our decisions and information about other programs

### How Alice and Stacie qualify for CHIP

We counted your household size and income based on what you told us on your application and information we got from other data sources. We found that your household size is 3 people and your income is \$3,255 each month. Since your monthly income is below the CHIP income limit, Alice and Stacie qualify.

Because Alice and Stacie qualify for CHIP, they may also qualify for other assistance, like help buying food. To learn more, call **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Because Alice and Stacie qualify for CHIP, they get coverage without needing to buy health insurance. This means they do not get help paying for health insurance through the Marketplace. CHIP offers many services at low or no cost to them.

### We do not think Alice and Stacie qualify for Medicaid

Medicaid is a health coverage program for people with lower incomes. The Medicaid income limit for children for your household size is \$2,164 each month. Since your income is above the limit, we do not think Alice and Stacie qualify for Medicaid health coverage. But only the State Medicaid Agency can decide if they qualify. Medicaid health coverage offers more health services and lower costs. If you would like to see for certain if they qualify, you can ask for a review. See the next page to learn more.

### If Alice or Stacie has special health care needs

A person may still be able to get Medicaid health coverage if he or she has special health care needs, like:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

We made our decisions based on these rules: 42 CFR 435.603, 457.310, 457.315.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **chip.state.gov**. You can also find out how to meet with someone in person.

## If you think we made a mistake

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You can ask for a review of our decisions about health coverage. You have until February 8, 20XX to ask for a review of our decisions.

If you have an urgent health care need, you can ask for an expedited (faster) review to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for a review:

- » Call us at **1-800-XXX-XXXX** (TTY:1-800-XXX-XXXX).
- » Go to **chip.state.gov**.
- » Send us a fax at **1-800-XXX-XXXX**.
- » Email us at **info@chip.state.gov**.

If you ask for a review of whether a person qualifies for Medicaid, we will send your application to the State Medicaid Agency. They will send you a letter to let you know if the person qualifies.

Sincerely,

State CHIP  
456 Any Drive  
Any City, Any State 00101

We will keep your information secure and private.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **chip.state.gov**. You can also find out how to meet with someone in person.



You can get this letter in another language, in large print, or in another way that's best for you. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al **1-800-XXX-XXXX** (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: January 1, 20XX  
Letter date: January 5, 20XX  
Letter number: 34567

## Why you are getting this letter

Good news for you, Penny, and Anne Marie! You qualify for Medicaid health coverage. Your coverage started on January 1, 20XX.

## Using your health coverage

You, Penny, and Anne Marie can start using your health coverage right away! You can get health services from any doctor, clinic, or other health care provider who accepts Medicaid. We will send you your Medicaid cards. Until you get your cards, you can use your Medicaid ID numbers to get health services.

Your Medicaid ID numbers are:

- » Mary Smith: 123456789
- » Penny Smith: 987654321
- » Anne Marie Smith: 243564798

We will also send you information about choosing health plans, which you will need to do in the next 30 days. Once you join a plan, you will need to use the plan's health care providers. To learn more about plan choices and providers now, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**.

### Your Secure User Account

**Medicaid.state.gov** keeps all important information about your family's application and health coverage. You can choose to get letters like this online.

To create an account, go to **medicaid.state.gov** and click "Account Setup."

## Health services and costs

You, Penny, and Anne Marie can get many health services through Medicaid, like doctor's visits, hospital care, and prescriptions. Children can also get dentist visits and any health services that their doctors say they need.

You do not have to pay a premium (a monthly cost) for Medicaid health coverage. Also, you do not have to pay co-payments for children's health services. You do have co-payments for some adult health services. There are different co-payments for different health services. But, there is a limit to your costs each month. How much you pay for co-payments and the limit to your monthly costs both depend on your income. If you think we made a mistake on your household size or income, and want to see if you qualify to pay less, you can appeal. See the last page to learn more. We will send you more information about your co-payments and monthly limit. Your health plans will also send you more information about health services and co-payments. To learn more now, go to **medicaid.state.gov**.



## You must report changes

You must report any changes that might affect health coverage for you, Penny, and Anne Marie. Please report changes for both you and other people in your household, like:

- » If someone moves.
- » If someone's income changes.
- » If your household changes. For example, someone in your household marries or divorces, becomes pregnant, or has or adopts a child.

To report changes, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**.

## Renewing your health coverage

You need to renew health coverage for you, Penny, and Anne Marie every year. We will send you a letter when it is time to renew.



## How we made our decisions and information about other programs

### How you, Penny, and Anne Marie qualify for Medicaid

We counted your household size and income based on what you told us on your application and information we got from other data sources. We found that your household size is 3 people and your income is \$1,221 each month. Since your monthly income is below the Medicaid income limits, you, Penny, and Anne Marie qualify.

Because you, Penny, and Anne Marie qualify for Medicaid, you may also qualify for other assistance, like help buying food. To learn more, call **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Because you, Penny, and Anne Marie qualify for Medicaid, you will get coverage without needing to buy health insurance. This means you do not get help paying for health insurance through the Health Insurance Marketplace. Medicaid offers many services at low or no cost to you.

### If you, Penny, or Anne Marie has special health care needs

A person may qualify to get more health services if he or she has special health care needs. A person who pays for care may also qualify to pay less. Special health care needs include if a person:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

### If you, Penny, or Anne Marie has medical bills from the last three months

Medicaid may pay past bills, even if you already paid them yourself. Send your medical bills from the last three months to Billing Office, State Medicaid Agency, 321 Any Road, Any City, Any State 00100.

We made our decisions based on these rules: 42 CFR 435.110, 435.118, 435.603.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.

## If you think we made a mistake

You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by April 10, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
- » Bring someone with you to the hearing, like a friend, relative, or lawyer, or come by yourself.
- » Bring documents, information, or witnesses to show us where you think we made a mistake.

If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We will keep your information secure and private.



Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to **medicaid.state.gov**. You can also find out how to meet with someone in person.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: November 1, 20XX  
Letter date: November 5, 20XX  
Letter number: 34567

## Why you are getting this letter

We reviewed your application. We decided that Timothy **does not** qualify for CHIP health coverage. To learn more, read the "How we made our CHIP decision" section below.

He might still be able to get health coverage—and help paying for it—through the Health Insurance Marketplace (Marketplace). We sent your information to them. The Marketplace will send you a letter. To learn more, read the "Complete your Marketplace application" section below.

### What is the Health Insurance Marketplace?

You can use the Marketplace to shop for and buy affordable private health insurance online, over the phone, or with in-person help. There is financial help available for people who qualify.

## How we made our CHIP decision

We counted your household size and income based on what you told us on your application and information we got from other data sources. We found that your household size is 3 people and your income is \$3,878 each month. The CHIP income limit for your household size is \$2,585 each month. Since your monthly income is above the limit, Timothy does not qualify for CHIP health coverage. If you think we made a mistake, you can ask for a review. To learn more, read the "If you think we made a mistake" section in this letter.

We made our decisions based on these rules: 42 CFR 457.310, 457.315.

## Complete your Marketplace application

You should complete your Marketplace application as soon as you can to see if you can get coverage now. To complete your application, you can:

1. **Wait for the letter from the Marketplace.** The Marketplace is starting a health insurance application for you. The letter will tell you how to complete your application with them.

Or

2. **Start a new application.** You can go to [HealthCare.gov](http://HealthCare.gov) or contact the Call Center at 1-800-318-2596 (TTY: 1-855-889-4325). You will need to:

- » Create a Marketplace user account online or with a Call Center Representative if you don't have one.
- » Have this letter with you to help answer questions.
- » Provide the information you gave us already.
- » Answer "yes" when asked if anyone has been found not eligible for Medicaid or the Children's Health Insurance Program (CHIP) in the past 90 days, if this applies.



Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX). You can call Monday to Friday, 8am to 8pm. The call is free. Or, go to [chip.state.gov](http://chip.state.gov). You can also find out how to meet with someone in person.

If you have questions or need help completing your application, call the Marketplace Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). Or go to **HealthCare.gov**.

After you complete your application, the Marketplace will tell you if you qualify for health coverage and financial assistance to help pay for it.

The Marketplace will also tell you whether you can get health coverage now or if you have to wait and reapply. If otherwise eligible, you can enroll in Marketplace health coverage during a certain time each year called the Open Enrollment Period. If it is not Open Enrollment when you submit your application for coverage, you will have to wait until the next Open Enrollment Period, unless you have a life event that makes you eligible for a Special Enrollment Period. Examples of qualifying life events include getting married, having a baby, or losing Medicaid or other health coverage. You usually have up to 60 days after the date of the life change to apply for coverage and qualify for a Special Enrollment Period.

### **We do not think Timothy qualifies for Medicaid**

Medicaid is a health coverage program for people with lower incomes. The Medicaid income limit for children for your household size is \$1,719 each month. Since your income is above the limit, we do not think Timothy qualifies for Medicaid health coverage. But only the State Medicaid Agency can decide if he qualifies. Medicaid health coverage offers more health services and lower costs. If you would like to see for certain if he qualifies, you can ask for a review. See the next page to learn more.

### **If Timothy has special health care needs**

A person may still be able to get Medicaid health coverage if he or she has special health care needs, like:

- » Has a medical, mental health, or substance use condition that limits his or her ability to work or go to school
- » Needs help with daily activities, like bathing or dressing
- » Regularly gets medical care, personal care, or health services at home or in another community setting, like adult day care
- » Lives in a long-term care facility, group home, or nursing home
- » Pays a lot for health care
- » Is blind
- » Is terminally ill

If a person has any of these special health care needs, and wants to see if he or she qualifies, let us know. Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX) or go to **medicaid.state.gov**. If the person has health coverage, he or she can keep it while we look at the information.

### **Your Secure User Account**

**Chip.state.gov** keeps all important information about your application and Timothy's health coverage. You can choose to get letters like this online.

To create an account, go to **chip.state.gov** and click "Account Setup."



## If you think we made a mistake

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You can ask for a review of our decisions about health coverage. You have until February 8, 20XX to ask for a review of our decisions.

If you have an urgent health care need, you can ask for an expedited (faster) review to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for a review:

- » Call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).
- » Go to **chip.state.gov**.
- » Send us a fax at **1-800-XXX-XXXX**.
- » Email us at **info@chip.state.gov**.

If you ask for a review of whether a person qualifies for Medicaid, we will send your application to the State Medicaid Agency. They will send you a letter to let you know if the person qualifies.

Sincerely,

State CHIP  
456 Any Drive  
Any City, Any State 00101

We will keep your information secure and private.





You can get this letter in another language, in large print, or in another way that's best for you. Call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX).

Usted puede obtener esta carta en otro idioma, con letras más grandes, o en otro formato que sea más conveniente para usted. Llámenos al 1-800-XXX-XXXX (Las personas con problemas para oír – TTY: 1-800-XXX-XXXX).

Mary Smith  
123 Any Street  
Any Town, Any State 00111

Health coverage application date: November 1, 20XX  
Letter date: November 5, 20XX  
Letter number: 34567

## Why you are getting this letter

You qualify for limited Medicaid health coverage. This means you only get health coverage if you have an emergency. Your coverage starts January 1, 20XX. To learn more, read the "How we made our Medicaid decision" section below.

You also might be able to get more health coverage—and help paying for it—through the Health Insurance Marketplace (Marketplace). We sent your information to them. The Marketplace will send you a letter. To learn more, read the "Complete your Marketplace application" section below.

### What is the Health Insurance Marketplace?

You can use the Marketplace to shop for and buy affordable private health insurance online, over the phone, or with in-person help. There is financial help available for people who qualify.

## Using your health coverage

Your health coverage is only for emergencies, including labor and delivery if you are pregnant. It is not full Medicaid health coverage and does not cover preventive or non-emergency care. We will send you a Medicaid card. Until you get your card, you can use your Medicaid ID number: 123456789. To learn more, go to [medicaid.state.gov](http://medicaid.state.gov).

## How we made our Medicaid decision

We counted your household size and income based on what you told us on your application and information we got from other data sources. We found that your household size is 1 person and your income is \$957 each month. Since your monthly income is below the Medicaid income limit, you qualify based on income. But, our records show that you have not had qualifying immigration status for five years or more. So you only qualify for limited Medicaid health coverage.

### Your Secure User Account

[Medicaid.state.gov](http://Medicaid.state.gov) keeps all important information about your application and health coverage. You can choose to get letters like this online.

To get full Medicaid health coverage, you must:

- » Be a citizen of the United States, or
- » Have qualifying immigration status for five years or more.

To create an account, go to [medicaid.state.gov](http://medicaid.state.gov) and click "Account Setup."

To learn more, call us at 1-800-XXX-XXXX (TTY: 1-800-XXX-XXXX) or go to [medicaid.state.gov](http://medicaid.state.gov).

We made our decisions based on these rules: 42 CFR 435.119, 435.406, 435.603.



## Complete your Marketplace application

You should complete your Marketplace application as soon as you can to see if you can get coverage now. To complete your application, you can:

1. **Wait for the letter from the Marketplace.** The Marketplace is starting a health insurance application for you. The letter will tell you how to complete your application with them.

**Or**

2. **Start a new application.** You can go to **HealthCare.gov** or contact the Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). You will need to:
  - » Create a Marketplace user account online or with a Call Center Representative if you don't have one.
  - » Have this letter with you to help answer questions.
  - » Provide the information you gave us already.
  - » Answer "yes" when asked if anyone has been found not eligible for Medicaid or the Children's Health Insurance Program (CHIP) in the past 90 days, if this applies.

If you have questions or need help completing your application, call the Marketplace Call Center at **1-800-318-2596** (TTY: 1-855-889-4325). Or go to **HealthCare.gov**.

After you complete your application, the Marketplace will tell you if you qualify for health coverage and financial assistance to help pay for it.

The Marketplace will also tell you whether you can get health coverage now or if you have to wait and reapply. If otherwise eligible, you can enroll in Marketplace health coverage during a certain time each year called the Open Enrollment Period. If it is not Open Enrollment when you submit your application for coverage, you will have to wait until the next Open Enrollment Period, unless you have a life event that makes you eligible for a Special Enrollment Period. Examples of qualifying life events include getting married, having a baby, or losing Medicaid or other health coverage. You usually have up to 60 days after the date of the life change to apply for coverage and qualify for a Special Enrollment Period.



## If you think we made a mistake

You can appeal our decisions about Medicaid health coverage. For example, you can appeal if you think we made a mistake on your household size, income, citizenship, immigration status, or residency. You can also appeal what health services you get and how much you pay for them.

If you have an urgent health care need, you can ask for an expedited (faster) appeal to hear from us sooner. An urgent health care need means that it could result in serious harm to your health if it's not treated soon. You may need to give proof of your urgent health care need.

To ask for an appeal, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX). Or, go to **medicaid.state.gov** to get an appeals form. Or, you can write your own letter and send or bring it to us at the State Medicaid Agency, 321 Any Road, Any City, Any State 00100. You must ask for an appeal by February 8, 20XX.

Once you ask for an appeal, we will see if we can fix the problem over the phone or by meeting with you. If a phone call or meeting does not fix the problem, you can have a hearing.

A hearing is a meeting between you, someone from the State Medicaid Agency, and a hearing officer. At the hearing, you can explain why you think we made a mistake.

To get ready for your hearing, you can:

- » Ask for a copy of your file before the hearing.
- » Bring someone with you to the hearing, like a friend, relative, or lawyer, or come by yourself.
- » Bring documents, information, or witnesses to show us where you think we made a mistake.

If a person has health coverage, he or she can keep it during an appeal.

We will decide your appeal within 90 days of your request. If you have any questions, call us at **1-800-XXX-XXXX** (TTY: 1-800-XXX-XXXX).

Sincerely,

State Medicaid Agency  
321 Any Road  
Any City, Any State 00100

We will keep your information secure and private.



# EXHIBIT M

# Law Offices of Brian E. Barreira

Estate Planning and Elder Law

[www.SouthShoreElderLaw.com](http://www.SouthShoreElderLaw.com)

[www.ElderLaw.info](http://www.ElderLaw.info)

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MAIN OFFICE:

118 Long Pond Road, Suite 206  
Plymouth, MA 02360  
Tel. 508-747-8282  
Fax 508-746-5746

HINGHAM OFFICE:

175 Derby Street, Unit 19  
Hingham, MA  
(by appointment only)

February 13, 2018

Stanley Kallianidis, Hearing Officer  
Board of Hearings  
Office of Medicaid  
100 Hancock Street, 6th Floor  
Quincy, MA 02171

(via fax to 617-847-1204)

RE: Jean Maas, MassHealth ID: 100221015256; appeal 1717990, scheduled for March 5, 2018

Dear Attorney Kallianidis:

Although the agency's position statement provided today to the appellant in advance of the fair hearing is appreciated as an improvement in the due process in this case (despite federal law being that the reasons for the denial are required to be on the denial notice), it fails to provide the appellant with any mention of the agency's consistency or inconsistency as applied to the facts of this case. Thus, the appellant requests that the hearing officer and/or Board of Hearings issue two subpoenas, as more fully described and defined below.

Before getting to the specifics of the subpoena requests, the appellant first wishes to provide the underlying analysis as to why subpoenas are needed here.

First, the agency has a duty to be consistent. Where under M.G.L. c. 118E § 48, "[t]he decision of the referee shall be the decision of the division[,]" it is a violation of the duty of administrative consistency to issue eligibility determinations that ignore and are inconsistent with previous fair hearing decisions. "A party to a proceeding before an agency has a right to expect and obtain reasoned consistency in the agency's decisions." Boston Gas Co. v. Dep't of Pub. Utilities, 367 Mass. 92, 104 (1975). The law prohibits an agency "from adopting significantly inconsistent policies that result in the creation of conflicting lines of precedent governing the identical situation. ...[T]he law demands a certain orderliness." Davila-Bardales v. Immigration and Naturalization Service, 27 F.3d 1 (1994). "[A]n administrative agency must respect its own precedent, and cannot change it arbitrarily and without explanation, from case to case." Mendez-Barrera v. Holder, 602 F.3d 21, 26 (1st Cir. 2010). Further, under the doctrine of offensive issue preclusion, also known as offensive



collateral estoppel, an agency is prohibited from continuing to bring up issues where its position had already been ruled against, per Bellermann v. Fitchburg Gas and Electric Light Company, 470 Mass. 43, 60 (2014).

In an extensive analysis of the duties of agencies, author/attorney Gerald A. McDonough wrote, in Administrative Law & Practice, 38 Mass. Practice s. 10:49, pp. 627-629 (2016): "The problem of consistency in state administrative agency adjudicatory proceedings is fundamental in that it strikes at the very heart of the problem of administrative justice. ... Generally speaking, a state administrative agency should adhere to the doctrine of stare decisis wherever possible in its administrative adjudications. As a general proposition, a state administrative agency, just as courts, should adhere to precedent in its adjudications in order to insure insofar as possible that those similarly situated will be treated in the same manner in administrative adjudications. See Boston Gas Co. v. Department of Public Utilities, 367 Mass. 92, 104, 324 N.E.2d 372, 379 (1975). ... Where the obviously inconsistent application of agency standards to similar situations is lacking in any rational basis in the adjudicatory proceeding's final decision, the agency's final decision is arbitrary and capricious. ... M.G.L.A. c. 30A, s. 11(8) expressly provides that every final decision in an adjudicatory proceeding by a state administrative agency subject to the provisions of the Massachusetts Administrative Procedure Act must be accompanied by a statement of reasons. This statutorily imposed requirement of reasoned decision-making obliges state administrative agencies in Massachusetts to explain the reasons for their inconsistencies and departures from stare decisis in adjudicatory proceedings." Thus, under this author's analysis, any fair hearing decision rendered here could be per se arbitrary and capricious without considering other fair hearing decisions on similar facts and circumstances.

Second, every fair hearing decision contains a section entitled 'Findings of Fact.' The appellant should be entitled to know what those facts were in other fair hearing decisions on similar facts and circumstances, to determine whether the appellant is being treated fairly and consistently in this case. As part of the agency's duty of administrative consistency, the agency should always be making that determination itself and disclosing it to the appellant, but to the extent that the agency does not do so, the appellant should be entitled to the factual information contained in those fair hearing decisions.

Third, lawyers on both sides of this case may have a duty to disclose fair hearing decisions that are adverse to their positions. In the treatise The Law of Lawyering, § 29.11, at 29-16 (3rd ed. 2000), authors/attorneys Geoffrey C. Hazard, Jr. & W. William Hodes wrote: "If a lawyer deliberately omits adverse authority, there is risk that neither opposing counsel nor the court will discover the governing law and an erroneous decision (that could have been avoided) will result. ... Rule 3.3(a)(3) refers to "legal authority," which should be understood to include not only case law precedents, but also statutes, ordinances, regulations, and administrative rulings. Indeed, the duty to reveal the latter kinds of authority is of greater practical significance, precisely because they are less likely to be discovered by the tribunal itself." (emphasis added)

Exhibit A contains pages 9 and 12 of the agency's position statement provided to me earlier today. My client has two subpoena requests that relate directly to issues that are highlighted on those pages.

As to the first specific subpoena request being made in this case, the appellant points out that one of the issues raised on page 9 of the position statement was that the actions of the Trustee in distributing principal to or for the benefit of the appellant has caused the appellant's trust to be countable and available. Attorney Todd Lutsky has sent to me copies of Fair Hearing Decisions 1511164 and 1609344, whereby part of the agency's final decision in those cases was that a Trustee who violates his duties in distributing principal to or for the benefit of the appellant is not bound to repeat that error. Unfortunately, no mention of Fair Hearing Decisions 1511164 or 1609344 was made in the agency's position statement. How can an agency be fulfilling its duty of consistency without in any way mentioning those fair hearing decisions, and are there other such fair hearing decisions? If there are other such fair hearing decisions, the appellant is entitled to see them to see the facts

presented in those appeals, and the appellant therefore requests that a subpoena be issued to "Marylou Sudders, Secretary of the Executive Office of Health and Human Services, or her designee, to provide the appellant, at least ten days before the scheduled fair hearing, with all fair hearing decisions in the past six (6) years in which there is a section entitled 'Findings of Fact' wherein the factual issue of the trustee having made distributions of principal to or for the benefit of the appellant was mentioned."

As to the second specific subpoena request being made in this case, the appellant points out that one of the issues raised on page 12 of the agency's position statement was that "available-but-not-yet-paid income" of an irrevocable trust should be treated as a countable asset, and the appellant is entitled to see any fair hearing decisions where this point was made by the agency to see the facts presented in those appeals, and the appellant therefore requests that a second subpoena be issued to "Marylou Sudders, Secretary of the Executive Office of Health and Human Services, or her designee, to provide the appellant, at least ten days before the scheduled fair hearing, with all fair hearing decisions in the past three (3) years in which there is a section entitled 'Findings of Fact' wherein the factual issue of 'available-but-not-yet-paid income' of an irrevocable trust was mentioned."

These subpoena requests should not pose a burden to the agency, as at least one lawyer in the agency pays close attention to fair hearing decisions and Superior Court decisions; for example, see pages 14 and 16 (attached as Exhibit D) from a memorandum dated February 6, 2015 by Katy Schelong on Appeal 1411682, wherein she cited many decisions that supported her argument in that case (while excluding other such decisions).

After having cc-ed Attorney Jesse Caplan on a subpoena request last month, I was told by Attorney Ingrid Schroffner that the agency does not consider a subpoena request to be an ex parte communication, so I have not cc-ed any member of the agency on these requests.

Sincerely,



Brian E. Barreira

BEB/kc  
Enclosures

Exhibit A (2 pages)  
p. 1 of 2

520.023(C)(1)(a); *see generally Lebow*, at 177 ("The issue is whether Lebow, as trustee, has the power to make a distribution, not whether he is required to do so."). Perhaps such belief is bolstered by the provision in Article 9 stating that the applicant-Grantor alone is entitled to Trust accountings and the Trustee is not required "...to make any reports to any Court at any time for any purpose." Nonetheless, an applicant cannot credibly claim that Trust principal is available to her, or may be used for her benefit, when she is not under a MassHealth eligibility determination, but then claim the same Trust assets are no longer available because taxpayer funded Medicaid welfare benefits are sought. *See generally Number Three Lounge, Inc. v. Alcoholic Beverages Control Commission*, 7 Mass. App. Ct. 301, 309-310 (1979) (agency is the sole judge of credibility and weight of the evidence before it, and it is permissible to question intra-familial transactions and look to direct and circumstantial evidence to make a judgment and/or finding); *Bliscegla v. Comm'r, Div. of Mass. Div. of Medical Assistance*, 1996 WL 655713 (Mass. Super.) (1996) (Toomey, J.).

✓ Moreover, an applicant cannot credibly assert that a distribution of principal or use of Trust assets would be a breach of fiduciary duties when the Trustee has, despite the Trust's terms, repeatedly used resources for the benefit of the applicant. *Andrews v. Civil Service Commission*, 446 Mass. 611, 617 (2006) (the hearing officer's credibility determinations are binding on a reviewing court); *Maguire v. Dir. Office of Medicaid*, 82 Mass. App. Ct. 549 (2012) (Assessments of the credibility of the witnesses and the weight to be given to their testimony are matters committed to the discretion of the hearing examiner). Simply put, an applicant and Trustee cannot cherry-pick when and which provisions of a Trust are applicable and operative, or reasonably expect that the Agency be bound by the terms of her Trust when the evidence shows she and the Trustee are not similarly bound. Based on the manner in which the Trust has been administered, it is evident that all Trust assets are available and countable. 130 CMR 520.023. As has been noted: "the Medicaid rules were designed to prevent people from attaining Medicaid eligibility by setting up trusts that impaired their ownership only in minor or immaterial ways, while preserving the significant incidents of ownership." *Sands v. Commonwealth of Massachusetts, EOHHS, Office of Medicaid SUCV2013-3537-A*, p. 13 (April 28, 2014) (Wilkins, J.), *citing Cohen* at 403; *Lewis v. Alexander*, 685 F.3d 325, 333 (3d Cir. 2012) ("Congress made a specific choice to expand the types of assets being treated as trusts and to unambiguously require States to count trusts against Medicaid eligibility. Its primary objective was unquestionably to prevent Medicaid recipients from receiving taxpayer-funded health care while they sheltered their own assets for their benefit and the benefit of their heirs...").

✓ Here, during the actual operation of the Trust, Trust assets were made available to the applicant and used for her benefit by the Trustee. (Ex. A, B, C). *Lebow v. Comm'r of Div. of Med. Assist.*, 433 Mass. 171, 172 (2001) (If at any time during the "operation" of the trust, its resources can be made available, the assets are countable). For the applicant to argue that the remaining trust assets, that is the New York real estate and minimal liquid resources, are not countable requires a wholesale disregard of Medicaid law. Such argument is also belied by the fact that, just as with the Massachusetts property, the Trustee could pursuant to Article 17 sell the New York real estate. Then, like the proceeds from the sale of the Massachusetts real estate, the Trustee could use those resources to provide for the applicant's care. 130 CMR 520.023(C)(1)(a); 42 U.S.C. §1396p(d). To find otherwise is to resurrect the types of trust provisions the SJC rejected in *Cohen*, *Lebow* and other line of cases in which applicants took advantage of the assets in their trusts, but then upon submission of a Medicaid application claimed the trusts were no longer available or countable. *Cohen v. Comm'r of the Div. of Med. Assist.*, 423 Mass. 399, 403 (1996) (explaining that the rule for self-settled trusts is addressed to an arrangement "concocted for the purpose of having your cake and eating it too"); *Lebow v. Comm'r of Div. of Med. Assist.*, 433 Mass. 171, 172 (2001) (Rejecting trusts "...whereby funds appear to be out of the individual's control, yet generally are administered by a family member or loved one."); *see also*

Exhibit A, p 2 of 2

✓ The position that available-but-not-yet-paid income should be treated as an asset subject to the cap of \$2,000 has been endorsed by the Massachusetts Appeals Court. In *Ford v. Commissioner of Medical Assistance*: 1) the MassHealth applicant placed her home in trust prior to the look-back period (the house was sold and the trust contained \$200,000); the applicant was indisputably the income beneficiary; 3) the parties disagreed whether trust principal was available to the applicant. *Ford v. Comm'r Div. of Med. Asslt.*, Mass. App. Ct. 1:28 Decision 08-P-2091 (October 19, 2009). The Appeals Court ultimately upheld MassHealth's determination that the principal was available to the applicant, placing her over the asset limit (the court held it did not matter if there was a time restriction on the trustee's ability to pay principal to the applicant because the any set of circumstances test concerned whether payments could be made at any time in the future). Significantly, the *Ford* case also has a footnote regarding the applicant's status as an income beneficiary which endorses the argument posed above: "the applicant appears to concede that trust income can currently be distributed to her and that this is 'countable' toward the \$2,000 threshold. On the present record, it is not entirely clear why this alone does not render the applicant ineligible." *Ford*, at fn. 1. In addition to the Appeals Court, superior court cases have also affirmed this line of reasoning. The best explanation came from the court in *Sands*:

The Trust had more than \$391,000 in assets. Even 10% per year would be \$39,100, and shopping for a favorable annuity would undoubtedly yield a higher return to [the grantor] . . . While the Trust provisions quoted by the hearing officer (Article XIV.I) may not support her inclusion of the entire Trust in countable assets, the Trustee certainly has discretion to pay [the grantor] substantially more than the \$2,000 allowed."

This reasoning has not been altered by the decision in *Heyn*. *Heyn* only rejected the idea trust principal could be paid to an income-only beneficiary under a hypothetical analysis regarding annuities. The *Heyn* court explicitly affirmed the fact that income would be available to the income-only beneficiary. See *Heyn*, 48 N.E.3d at 485 ("[o]ut of each annuity payment, only the investment income portion would be available for distribution to the grantor from the trust"). In addition to the federal statute and Massachusetts case law, other federal regulations suggest that Congress did not intend for state agencies to provide long-term care benefits to applicants who have a potential stream of income and choose not to take advantage of it. See generally 42 C.F.R. § 435.608(a) ("As a condition of eligibility, the agency must require applicants and beneficiaries to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so."). It is immaterial whether any circumstance currently exists, the potentiality ("could be paid") is sufficient to render the Trust countable when determining eligibility for Medicaid long-term care. 130 CMR 520.023(C)(1)(a); 42 U.S.C. §1396p(d)(3)(B)(i); *Cohen*, 423 Mass. at 413 ("If there is a peppercorn of discretion, then whatever is the most the beneficiary might under any state of affairs receive in the full exercise of that discretion is the amount that is counted as available for Medicaid eligibility.") (Emphasis added); see also *Doherty v. Director of the Office of Medicaid*, 74 Mass. App. Ct. 439, 443 (2009) (Medicaid applicants are prohibited from receiving public health care assistance while also preserving assets for their heirs through the use of a trust which purported to cut off applicant's ability to access the trust principal).

Apparently here, the total value of the assets that remain in the Trust is nearly a quarter of a million dollars. An interest rate or investment return rate of 1.00% on the trust corpus from whatever type of investment the trustee may chose would yield income above the asset limit. If the New York real estate were rented by the Trustee, it would generate income for the life of the trust. See Trust Article 8(b) and Article 17. The Trustee arguably has a fiduciary obligation to the income beneficiary (applicant),

Exhibit D (pages)  
p. 1 of 2

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P014

WOCV2013-02013A (September 11, 2014) (Sullivan, J.). (Appellant's Memorandum, p. 14; Appellant's Exhibit T). As discussed *supra*, Appellant reliance on these BOH decisions is not controlling as to any other eligibility determination MassHealth is required to make. The MassHealth Agency is the single state agency charged with making eligibility determinations, while the legal role of the Board of Hearings is to provide an administrative review of the MassHealth eligibility determinations. G.L. c. 118E, § 47. Since a fair hearing is an "administrative adjudicatory proceeding", and only comes *after* the agency has taken action, it is by definition, not an eligibility determination. 130 CMR 610.001(A); 130 CMR 610.003; 130 CMR 610.004; 130 CMR 610.012; G.L. c. 30A §1; G.L. c. 118E, §48. Clearly, MassHealth finds an applicant's right to reacquire principal in a trust relevant to a determination of its countability, otherwise it would not have denied those applications. Nonetheless, there are other BOH decisions in which hearing officers have discussed the right to reacquire the corpus in support of a finding trust principal countable. *See generally* BOH 1305018, 1305949, 1306280, 1308755, 1403514.

As to the *O'Leary* Superior Court decision, the Court erroneously framed the issue as "...the interpretation of two seemingly ambiguous paragraphs in the applicable trust," and also neglected to apply the required Medicaid trust analysis. *O'Leary*, p. 3. By contrast, MassHealth discussed numerous provisions in support of its determination that the principal of the Dudley Irrevocable Trust as originally drafted would have been countable. Moreover, Appellant fails to provide a Superior Court decision from the same Judge issued eleven days later in which the Agency's determination that principal was available and countable was upheld. *Estate of Everlina Roche v. Thorn, Director of the Office of Medicaid*, WOCV2013-02261A (September 22, 2014) (Sullivan, J.). (Exhibit B attached hereto). In finding the principal countable, the Court in *Roche* reviewed more than just two paragraphs of the trust and credited that the Plaintiff had the "power to transfer assets in exchange for assets of equivalent value was explicitly held to be the power of the plaintiff alone." *Id.* at p. 5. Like the Plaintiff in *Roche*, the Appellant had, until the Trustee amended the Trust, the right, irrespective of the Trustee, "...exercisable in a non-fiduciary capacity and without the approval or consent of any person acting in any fiduciary capacity, to reacquire Trust property, other than any life insurance policies... by substituting other property of an equivalent value...." *See* Dudley Trust Article Two, Paragraph E.

A review of the *O'Leary* decision shows that the Court committed both errors of law and fact, and the further error of substituting its judgment for that of the hearing officer. In doing so, it affirmatively contravened and failed to apply the correct standard of review for administrative actions. G.L. c. 30A, § 14; *Flemings v. Contributory Ret. Appeal Bd.*, 431 Mass. 374, 375 (2000) (a reviewing court may not substitute its judgment for that of the administrative agency); *Doe v. Sex Offender Registry Bd.*, 447 Mass. 768, 775 (2006) (Judicial deference is given to the agency to ensure the proper separation of powers between the judiciary and the Legislature); *Case of Pilon*, 69 Mass. App. Ct. 167, 169 (2007) ("Findings of fact, assessments of credibility, and determinations of the weight to be given the evidence are the exclusive function of the administrative judge."); *Town of Middleborough v. Hous. Appeals Comm.*, 449 Mass. 514, 529 (2007) (court may not dispute an administrative agency's choice between two conflicting views, even though the court would justifiably have made a different choice had the matter come before it *de novo*). The Court in *O'Leary*, committed errors of law when it: (1) based the decision on its finding concerning the applicant's intent in establishing the trust, (2) provided such an

Appellant's subjective, albeit irrelevant, commentary that "...the Office of Medicaid has only recently adopted its current position about irrevocable trusts..." is belied by objective facts and evidence.<sup>10</sup> (Appellant's Memorandum, 32, 35). See generally *Doherty v. Dir. of the Office of Medicaid*, 74 Mass. App. Ct. 439 (2009); *Ford v. Comm'r Div. of Med. Assist.*, Mass. App. Ct. 1:28 Decision 08-P-2091 (October 19, 2009); *Victor v. Massachusetts Executive Office of Health & Human Services*, Mass. App. Ct. 1:28 Decision 09-P-1361 (July 21, 2010); *Bisceglia v. Comm'r Massachusetts Div. of Med. Assist.*, 1996 WL 655713, 4 (Mass. Super.); *Argentero v. Comm'r of the Div. of Med. Assist.*, NOCV2006-01039 (February 1, 2007) (Hely, J.); *Fogarty v. Dougherty*, Civil No. 10-2298-A (Mass. Super.) (August 17, 2011) (Lemire, J.); *Parsons v. Office of Medicaid et al.* NOCV2011-01564 (November 9, 2011) (Fishman, J.); *Burns v. Harris et al.* ESCV2012-02096 (April 9, 2013) (Cornetta, J.); *Montgomery v. Harris, Director of the Office of Medicaid*, BECV2012-00344 (May 8, 2013) (Kinder, J.); *Sands v. Commonwealth of Massachusetts, EOHS, Office of Medicaid* SUCV2013-3537-A (April 28, 2014) (Wilkins, J.); *O'Leary v. Thorn, Director of the Office of Medicaid*, WOCV2013-02013A (September 11, 2014) (Sullivan, J.); *Estate of Everilna Roche v. Thorn, Director of the Office of Medicaid*, WOCV2013-02261A (September 22, 2014) (Sullivan, J.). Any suggestion by Appellant that MassHealth finds all trusts countable, while immaterial, is undercut by her own eligibility determination and the within proceeding.<sup>11</sup> (Appellant's Memorandum, p. 3).

Appellant's statement that a denial of the appeal would result in the nursing facility with no recourse for payment is irrelevant and nonetheless does not allow for the disregard of Medicaid law in the eligibility determination. (Appellant's Memorandum, p.p. 32-34). To adopt such a rationale for finding this Appellant eligible would mean that the Agency could never impose a period of disqualification for nursing home benefits when any applicant gratuitously transferred assets to family members or others, thereby nullifying 42 U.S.C. §1396p(c). The Agency has no discretion to ignore or negate Medicaid law. Moreover, like the trustee of a trust, the nursing facility is not a party in Appellant's eligibility determination or the within proceeding. See *Centennial HealthCare v. Comm'r of Div. of Medical Assistance*, 61 Mass. App. Ct. 320 (2004) (the law is clear that neither a nursing facility provider nor its agents has standing to challenge the eligibility determinations on behalf of its patients, or at a fair hearing related to the same); see also generally *Doherty, Jr. et al v. Director Office of Medicaid*, ESCV2013-0457-D (August 14, 2013) (Ullmann, J.) (Court granted Defendant's motion to dismiss for lack of subject matter jurisdiction because Plaintiff-Trustees of the reformed trust had no standing.); 42 U.S.C. § 1396-1 ("For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care..."); 130 CMR 610.012(A); G.L. c. 118E, §§ 8, 9, 47; see also 42 U.S.C. § 1396a(a)(10); 42 U.S.C. § 1396d; see generally 42 U.S.C. § 1396a(n); 42 C.F.R. §§ 447.10, 447.15, 447.20.

<sup>10</sup> See generally BOH Denials involving trusts 1104515, 1208209, 1204615, 1211362, 1211060, 1214622, 1222688, 1216681, 1217298, 1303150, 1305018, 1305949, 1306089, 1306280, 1307250, 1307413, 1308151, 1308251, 1308755, 1309500, 1310333, 1401212, 1401264, 1401492 (rehearing), 1401732, 1402736, 1402864, 1403514, 1403851, 1403817, 1404930, 1405327, 1407912.

<sup>11</sup> When Appellant filed her MassHealth application, she apparently only provided MassHealth with the First Amendment and Restatement.

# ADDENDUM

75 Mass.App.Ct. 1108  
Unpublished Disposition  
NOTICE: THIS IS AN UNPUBLISHED OPINION.

**This decision was reviewed by West editorial staff and not assigned editorial enhancements.**

Appeals Court of Massachusetts.

Theresa FORD  
v.  
COMMISSIONER OF the DIVISION OF  
MEDICAL ASSISTANCE.

No. 08-P-2091.

|  
Oct. 19, 2009.

By the Court (RAPOZA, C.J., GRASSO & MILKEY, JJ.).

MEMORANDUM AND ORDER PURSUANT TO RULE  
1:28

\*1 The plaintiff challenges a Superior Court judgment on the pleadings that upheld a decision by the Division of Medical Assistance (MassHealth) that she is ineligible for Medicaid benefits (as well as rulings on two postjudgment motions). We affirm.

*Background.* At the heart of this case is a trust that the plaintiff (the applicant) and her husband established in 1990. The husband since died, and the applicant is the remaining beneficiary. This trust (the family trust) has some \$200,000 in assets, all of which came from the proceeds of the 2005 sale of the family home to one of the applicant's sons. The principal dispute is whether these trust assets are "countable" against the applicant (as MassHealth determined and a Superior Court judge upheld). There is no dispute that, if these assets are "countable," they render her ineligible for Medicaid, because they exceed the applicable \$2,000 threshold.

*Discussion.* 1. *Countability of trust assets.* In 1993, Congress modified the test used to determine the extent to which people could be eligible to receive Medicaid benefits while sheltering assets in self-settled trusts. *Cohen v. Commissioner of the Div. of Med. Assistance*,

423 Mass. 399, 405-406, 668 N.E.2d 769 (1996), cert. denied sub nom. *Koskoska by Kokoska v. Bullen*, 519 U.S. 1057, 117 S.Ct. 687, 136 L.Ed.2d 611 (1997) (*Cohen*). The new rules, which the parties agree are stricter than the old ones, apply only to trusts created after the effective date of the 1993 act. *Id.* at 406, 668 N.E.2d 769. The parties debate which set of rules apply to the family trust. The hearing officer concluded that the stricter, post-1993 standards apply, because, even though the trust was nominally created in 1990, it was not funded until 2005. The applicant argues that the family trust was funded when it was formed in 1990, albeit through the trust's being given what was, or at least approximated, an equitable interest in the family home. We agree with the Superior Court judge that we need not decide which rules apply, because the applicant's argument fails even under the more forgiving pre-1993 standard.

The meaning of the pre-1993 standard has been addressed by the Supreme Judicial Court in *Cohen, supra*, and in subsequent cases. In such cases, the Supreme Judicial Court has made it clear that where a self-settled trust provides its trustee with discretion to pay trust assets back to the settlor, such assets are countable against the settlor for Medicaid eligibility. *Id.* at 412-415, 668 N.E.2d 769.

The applicant argues that her situation can be distinguished from those at issue in *Cohen*, because under the terms of the family trust, the trustee does not *currently* have discretion to pay trust principal to the applicant.<sup>1</sup> But as the Supreme Judicial Court said in *Cohen*, we "do not consider the circumstances in which trust assets are payable to a beneficiary but rather determine the amount of assets deemed available by disregarding any limitations on trustee discretion." *Id.* at 418, 668 N.E.2d 769. Further, as the Supreme Judicial Court stated in a subsequent case:

\*2 "The issue is not whether the trustee has the authority to make payments to the grantor at a particular moment in time. Rather, if there is *any* state of affairs, at *any* time during the operation of the trust, that would permit the trustee to distribute trust assets to the grantor, those assets count in calculating the grantor's Medicaid eligibility."

*Lebow v. Commissioner of Div. of Med. Assistance*, 433 Mass. 171, 177-178, 740 N.E.2d 978 (2001) (emphasis in original). The applicant's argument is simply inconsistent with this reasoning, as her counsel appeared to concede at oral argument.<sup>2</sup> Hence, MassHealth was correct to conclude that the full assets of the family trust were countable and to deny her claim.<sup>3</sup>



2. *Disqualifying transfer.* The hearing officer found that the 2005 sale of the family home was a “disqualifying transfer” that independently prevented Medicaid eligibility at this time, because the applicant sold it to one of her sons for far less than its market value. See 130 Code Mass. Regs. §§ 520.019(C); 520.023(A). The applicant argued below that the sale was actually at market value, because the sales price was suppressed by her effectively reserving a life estate in the home (even though one was not formally recorded on the deed). We agree with the hearing officer’s reasoning rejecting that argument, and we note that if the applicant’s retained right in the home were of sufficient solidity to suppress market value, this retained interest itself would appear to be a countable asset. We also agree with MassHealth that the hearing officer properly decided this issue on the record in light of the fact that the applicant failed to bring forth evidence on the value of the home. The disqualifying transfer provides an independent basis on which to affirm the judgment below. See *Gabbidon v. King*, 414 Mass. 685, 686, 610 N.E.2d 321 (1993).<sup>4</sup>

3. *Exclusion of evidence.* The applicant also claims that

the court erred in denying her the opportunity to re-open the record to include an unpublished decision by a hearing officer in an unrelated case that purportedly involved identical trust language. Where, as here, we have concluded that an agency’s decision is legally correct, we fail to see how it could be material that a hearing officer might have made an erroneous ruling in a different case. The applicant has shown neither error nor prejudice with regard to excluded “evidence” (a conclusion we reach without even considering the fact that it was brought forward in an untimely manner).

*Judgment affirmed. Orders denying postjudgment motions affirmed.*

#### All Citations

75 Mass.App.Ct. 1108, 914 N.E.2d 989 (Table), 2009 WL 3334842

#### Footnotes

- 1 The applicant appears to concede that trust *income* can currently be distributed to her and that this is “countable” toward the \$2,000 threshold. On the present record, it is not entirely clear why this alone does not render the applicant ineligible. MassHealth has not pressed the issue.
- 2 At oral argument, the applicant’s counsel argued that while the result in *Cohen* may have been correct, the court’s reasoning was erroneous. He did not explain how we could ignore that reasoning. See *Commonwealth v. Colon*, 52 Mass.App.Ct. 725, 730 n. 1, 756 N.E.2d 615 (2001) (Appeals Court bound by decisions of the Supreme Judicial Court).
- 3 The applicant argues that—even though her husband has died—she is entitled at most to only fifty percent of the trust assets. This issue was the subject of one of the postjudgment motions. Although we are quite skeptical about her argument on this point, we need not resolve the issue since her fifty percent share would in any event exceed the \$2,000 threshold.
- 4 We note that the below-market sale of the family home is doubly relevant. Not only does it provide independent grounds for finding the applicant currently ineligible, it also further undercuts her argument about the assets of the trust not being countable against her. That is because it negates her premise that the trustees of the family trust do not currently have discretion to pay her assets from that trust, because it is undisputed that the trustees have such discretion when a transfer of assets renders her ineligible for medical benefits.