

I, Lucy J. Budman, on oath do depose and state as follows:

1. I am an Attorney licensed in the Commonwealth of Massachusetts with a law office at 1 Common Street, Wakefield, MA. My bar number is 657556.
2. I have earned the designation of Certified Elder Law Attorney from the National Elder Law Foundation. The focus of my law practice is exclusively Estate Planning and Elder Law. In the last 10 years, I have helped dozens of clients apply for MassHealth long-term-care benefits.
3. I am working on a case now in which my client, a current MassHealth member, received a MassHealth termination/denial notice on an eligibility review that failed to explain the basis for the termination of benefits despite not material change in circumstances. The notice states:

“You are not eligible for MassHealth long-term-care services for the following reasons:

Reason and Manual Citation

You have more countable assets than MassHealth benefits allow. 130 CMR 520.003 520.004”

4. The notice lists “MA Countable Assets” and includes a line for “Trusts”. But the notice fails to identify the basis for treating the Trusts Trust as countable for MassHealth purposes on eligibility review. This is particularly egregious in this case, since the Trust in question is a permissible Pooled Trust under 130 CMR 520.023 (D)(1), which was also disclosed and approved without comment as part of the Member’s initial application.
5. Literally nothing has changed between the date the initial application was processed a year ago and the eligibility review date regarding this Trust. Yet MassHealth now seeks to count it and has offered no basis for why it should do so.
6. In MassHealth eligibility review cases such as this one, there is no assigned worker to call and no way to determine how such previously disclosed trusts or other assets are now considered to be countable or on what basis.
7. I have not been able to reach anyone at MassHealth to make any determination as to what the basis for the denial actually is.
8. I have no clear path to preserving eligibility without an immediate appeal, which is costly to my client and her family and am uncertain how to adequately prepare for an eventual appeal hearing if MassHealth will not

provide us with the basis for the MassHealth denial notice until the actual appeal hearing date.

9. My client's right to due process is prejudiced because the MassHealth denial notice not only stands in direct contradiction to the prior approval, despite no material change in circumstances, it also fails to list any basis in fact or law for treating such assets as countable for MassHealth purposes. My client will be harmed by expending legal fees and time while suffering anxiety and distress, fearing that they will lose MassHealth benefits over an issue without explanation.
10. This is just one example of more than a dozen similar MassHealth denial notice decisions that my clients have received over the years. Denial notices routinely are devoid of any facts or law to substantiate or explain the denial decisions reached by MassHealth, and the MassHealth caseworkers never agree to provide copies of the MassHealth legal department's memoranda in advance of Fair Hearings.
11. It is impossible to preserve and pursue a MassHealth member's best interest while MassHealth refuses to provide any explanation for its denial notices and refused to provide any meaningful communication in advance of Fair Hearings.

Signed under the pains and penalties of perjury this 17th day of May, 2018.

A handwritten signature in black ink, appearing to read "Lucy J. Budman", with a long horizontal flourish extending to the right.

Lucy J. Budman, Esq.