

AFFIDAVIT OF TIMOTHY R. LOFF

I, Timothy R. Loff, Esq, do under oath depose and say:

1. I am an Elder Law attorney in good standing, licensed to practice in the Commonwealth of Massachusetts, with a principal place of business at Newton, Massachusetts. I have been working as an Elder Law Attorney for 26 years.
2. A good portion of my practice involves assisting clients who are seeking to obtain community-based or long-term care nursing home based public assistance through MassHealth.
3. The MassHealth application process is long and arduous. My clients are typically family members of the applicant: the spouse or children. The applicant needing MassHealth is seldom able to assist in the process. So the family members have to assist me in completing the documents and gathering the voluminous materials required during the application process. Often times the materials were under the control of the applicant so searches need to be undertaken to find key documents. It is stressful and creates significant anxiety in family members already stressed by the situation they find their loved one facing.
4. Once the application is submitted, the process has not ended. In virtually every case a request is sent back by MassHealth requesting more information and documentation. Each and every transaction is scrutinized and paper evidence must be supplied.
5. The hope is that once the application has been submitted and the requests for further information answered that the application will be approved so the family can relax. But more and more frequently in the last few years instead of an approval, the family will receive a denial notice. If it is a nursing home case it will result in a call from the nursing home asking the family, or me as the attorney, "do you intend to appeal?"
6. In my experience denial notices rarely, if ever, provide the basis for the denial. The notice will simply state that the application was denied, will reference in general terms a regulation which MassHealth deems applicable, and then will state the amount of the applicant's assets which exceed the standard allowance of \$2,000.00, and information regarding the right to appeal the decision. There is no other information disclosing how that number was calculated, how the applicant violated the referenced regulation or how MassHealth came to its determination; in other words, the MassHealth denial notice does not provide a clear statement of the specific reasons for the denial of benefits.
7. Instead, the intake worker who was responsible for the case must be contacted by telephone and the reason for the denial requested verbally. Depending on the particular intake worker this can be very hard, and the time limits to file an appeal once a denial has been received are stringent. If an appeal is not timely filed, and the case cannot be settled with the intake worker, the family faces the possibility of losing the original date sought for MassHealth eligibility. This could result in many thousands of dollars of private pay funds. Often times I recommend to a

client simply filing an appeal to preserve their rights-knowing that most likely the matter can be settled, but unwilling to have them take that chance.

8. My clients are often in extremely vulnerable positions. They are concerned about their loved one not being able to stay in the nursing home or continuing to pay for private home care. This pattern and practice of failing to give a clear statement of the specific reasons for the denial in the denial notice costs them time, money and anxiety. It also costs the taxpayers and state money as I frequently recommend the filing of appeals that are subsequently retracted when the reason for the denial is made clear and the matter is settled.

SIGNED under the pains and penalties of perjury on this 8th day of May, 2018.



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