

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2132925
Decision Date:	10/20/2021	Hearing Date:	05/24/2021
Hearing Officer:	Samantha Kurkijy	Record Open to:	06/21/2021

Appearance for Appellant:



Appearance for MassHealth:

Lucy Gucciardi, MEC at Chelsea



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Verifications
Decision Date:	10/20/2021	Hearing Date:	05/24/2021
MassHealth's Rep.:	Lucy Gucciardi	Appellant's Rep.:	
Hearing Location:	Remote Chelsea MassHealth Enrollment Center		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated January 21, 2021, MassHealth denied the appellant's application for MassHealth long-term care (LTC) benefits because MassHealth determined that the appellant did not give MassHealth the information it needed to determine eligibility (see 130 CMR 515.008 and Exhibit 1). The appellant, through her temporary conservator, filed this appeal in a timely manner on April 15, 2021¹ (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032). The hearing officer has taken some medical leave due to a serious illness, which extends the deadline for rendering a hearing decision pursuant to 130 CMR 610.015(D)(4):

The time limits set forth in 130 CMR 610.015(D)(1) and (3) may be extended for good cause as follows.

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

(a) When delays are caused by the appellant or his or her appeal representative, the time limits may be extended by the total number of days of such delays, which may include the advance notice period before any rescheduled hearing dates. Such delays include the appellant's delay in the submission of evidence, briefs, or other statements, rescheduling or continuances granted at the request of or for the benefit of the appellant, and any other delays caused by the actions of the appellant or his or her appeal representative.

(b) When delays occur due to acts of nature, serious illness, or other issues beyond the control of BOH that make a hearing officer unable to render a timely decision, good cause for the extension of the time limits will be deemed to exist.

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth LTC benefits for failing to verify.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008 that the appellant has failed to submit verifications necessary to determine eligibility.

Summary of Evidence

The appellant is over the age of 65 and was admitted for long-term care in a nursing facility on [REDACTED]. The appellant submitted an application for MassHealth benefits on December 14, 2020 requesting a MassHealth start date of September 20, 2020. On December 14, 2021, MassHealth requested verifications necessary to determine eligibility with a verification return date of January 13, 2021. All the requested verifications were still outstanding on the return due date and the appellant's application was denied on January 20, 2021. As of the hearing date, verifications are still outstanding (Exhibit 1).

The appellant was represented by her temporary conservator, who agreed that all the requested verifications remain outstanding. He testified that he has obtained everything except the bank statement updates and annuity beneficiary change. According to the temporary guardian, both properties are rented, and he will provide all of the information.

The appellant was provided an opportunity to submit all verifications (except bank statements and annuity verifications) by close of business on May 24, 2021. The hearing officer also left the

hearing record until June 7, 2021 for the appellant's submissions related to the bank accounts and annuity and until June 21, 2021 for MassHealth to review the submissions. The appellant submitted the requested verifications (except bank statements and annuity verifications) on May 24, 2021 but they did not transmit properly. The verifications were received on May 25, 2021 and are admitted into the record. On June 3, 2021, the appellant requested an extension to the record open period because the appellant's representative had not received the updated conservator appointment letter yet. Prior to responding to the appellant's request, on June 10, 2021, the hearing officer sought clarification of when the conservator received the appointment paperwork dated November 24, 2020 (expiring in March 2021) in the mail. The appellant's response did not include an answer to the hearing officer's question. (Exhibit 5, p. 84.) The hearing officer again asked for clarification of when the conservator received the November 2020 paperwork in the mail. The appellant's representative responded but did not include a message. (Exhibit 5, p. 88.) On June 18, 2021, the hearing officer informed the appellant's representative that she had not received a response to her question. On June 22, 2021, as the appellant did not respond to the hearing officer's question regarding the November 2020 paperwork, the appellant's request to extend the record open period was denied. MassHealth confirmed that the outstanding verifications were not received.

Findings of Fact

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

1. The appellant was admitted to a nursing facility on [REDACTED].
2. The appellant applied for MassHealth benefits on December 14, 2021 seeking a September 1, 2020 eligibility start date.
3. On December 14, 2020, MassHealth requested the appellant submit verifications necessary to determine eligibility on or before January 13, 2021.
4. MassHealth denied appellant's application on January 20, 2021 because the appellant failed to submit any of the requested verifications.
5. The record was left open for the appellant to submit all verifications (except bank statements and annuity verifications) by close of business on May 24, 2021. The record also was left open until June 7, 2021 for the appellant's submissions related to the bank accounts and annuity and until June 21, 2021 for MassHealth to review the submissions.
6. The appellant submitted the requested verifications (except bank statements and annuity verifications).
7. On June 3, 2021, the appellant requested an extension to the record open period because the appellant's representative had not received the updated conservator appointment letter yet. Prior to responding to the appellant's request, the hearing officer sought clarification several times of when the conservator received the appointment paperwork dated November 24, 2020

(expiring March 2021) in the mail.

8. The appellant did not respond to the hearing officer's question, and the appellant's request to extend the record open period was denied on June 22, 2021.
9. MassHealth confirmed that the verifications relating to the bank statements and annuity were not received.

Analysis and Conclusions of Law

Pursuant to 130 CMR 515.008(A), an "applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility..." After receiving an application for MassHealth benefits, MassHealth proceeds as follows:

The MassHealth agency requests all corroborative information necessary to determine eligibility.

- (1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of receipt of the application.
- (2) The notice advises the applicant that the requested information must be received within 30 days of the date of the request, and of the consequences of failure to provide the information.

(130 CMR 516.001(B)).

"If the requested information...is received [by MassHealth] within 30 days of the date of the request, the application is considered complete....If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied." (130 CMR 516.001(C).)

There was no dispute that, as of the time of the hearing, the appellant had not submitted bank statements and annuity verifications. These items have been outstanding since the December 14, 2020 Request for Information. (See Exhibit 4, pp. 8-11.) The appellant was given time through a record open period to submit the outstanding information. The appellant requested an extension to the record open period but did not respond to the hearing officer's question as to when the November 2020 conservatorship paperwork was received in the mail. This question was intended to help determine how much time the appellant truly had to obtain the bank statements and annuity verifications prior to the request to extend the record open period.

The appellant has not carried her burden in this case. As she has not submitted all outstanding verifications, the appeal is denied.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Samantha Kurkjy
Hearing Officer
Board of Hearings

cc: Nancy Hazlett, Chelsea MassHealth Enrollment Center