

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2155547
Decision Date:	10/04/2021	Hearing Date:	09/27/2021
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearance for MassHealth:

Gloria Mederios



*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:	Dismissed	Issue:	Eligibility
Decision Date:	10/04/2021	Hearing Date:	09/27/2021
MassHealth's Rep.:	Gloria Mederios	Appellant's Rep.:	██████████
Hearing Location:	All Parties Appeared by Telephone		

Authority

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

Jurisdiction

Through notice dated June 6, 2021, MassHealth notified the appellant that she was not eligible for MassHealth because she did not provide information necessary to determine eligibility within the required timeframe. (Exhibit 1). An appeal was filed in a timely manner on July 22, 2021 by an individual who was designated as an appeal representative through an appeal form signed by the appellant on June 11, 2021. (Exhibit 2). The Board of Hearings scheduled a hearing for August 23, 2021. (Exhibit 3). The hearing was rescheduled due to weather conditions and held on September 22, 2021. (Exhibit 4).

The appellant passed away on ██████████. At the time of filing the appeal, the individual filing the appeal was aware of the appellant's death but did not provide that information to the Board of Hearings until the day of the hearing. Action to file for the appointment of a personal representative of the appellant's estate did not occur until a few weeks prior to the hearing in September 2021.

Pursuant to 130 CMR 610.016(B), if a timely request for a hearing is filed but the applicant or member has died prior to the filing, BOH must be informed of the death of the applicant or member at the time of a request for a hearing by the

person filing the appeal. In addition, the filing of the appeal on behalf of such a deceased individual must be accompanied by one of the following:

(1)

- (a) written proof that the person filing the appeal is a personal representative of the applicant's or member's estate with a current and valid appointment from a court of proper jurisdiction; or
- (b) if there is no such personal representative, then written proof of a currently pending petition, docketed in a court of proper jurisdiction, which seeks the appointment of such a personal representative. In addition, the person filing the appeal must notify BOH in writing of the status of the pending petition every 30 days and, once a personal representative with a current and valid appointment has been established, the personal representative must submit written proof of such authority and a desire to pursue the appeal to BOH, within ten days of the appointment.

(2) Failure to comply with all of the requirements in 130 CMR 610.016(B) may constitute grounds for dismissal. (130 CMR 610.016(B)).

Pursuant to 130 CMR 610.035(A)(10), the Board of Hearings will dismiss an appeal when the Board of Hearings learns that the applicant or member has passed away prior to the date of filing and scheduling of the hearing and is not informed until the date of the hearing and there is no full compliance with 130 CMR 610.016(B)). As noted above, the appellant was deceased at the time the appeal was filed and the Board of Hearings was not informed of the appellant's passing until the date of the hearing. Additionally, the actions of the appellant's representative were not in full compliance with 130 CMR 610.016(B).

As the appellant's representative failed to inform the Board of Hearings of the appellant's death and failed to comply with 130 CMR 610.016(B), this appeal is dismissed.

If the appeal was not dismissed it would have been denied as the parties did not dispute the fact that the appellant's representative had not provided MassHealth with information necessary to determine eligibility as of the date of the hearing.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc: Nancy Hazlett, Chelsea MassHealth Enrollment Center
Justine Ferreira, Taunton MassHealth Enrollment Center
[REDACTED]