

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2155607
Decision Date:	10/06/2021	Hearing Date:	08/30/2021
Hearing Officer:	Marc Tonaszuck	Record Open to:	10/01/2021

Appearance for Appellant:



Appearance for MassHealth:

Elizabeth Rodriguez, Tewksbury MEC



*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:	Approved	Issue:	Long Term Care
Decision Date:	10/06/2021	Hearing Date:	08/30/2021
MassHealth's Rep.:	Elizabeth Rodriguez	Appellant's Rep.:	[REDACTED]
Hearing Location:	Tewksbury 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 06/28/2021, MassHealth informed the appellant that he is not eligible for MassHealth Long Term Care (LTC) benefits because he did not submit all requested verifications to complete the application process (130 CMR 516.001; Exhibit 1). The appellant filed this appeal timely on 07/22/2021 (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

At the fair hearing that took place on 08/30/2021, the appellant requested additional time to submit missing verifications to MassHealth and to the hearing officer. The request was granted and the record remained open until 09/17/2021 for the appellant's submission and until 10/01/2021 for MassHealth's response.

Action Taken by MassHealth

MassHealth denied the appellant's application for Long Term Care (LTC) benefits for failure to submit requested verifications.

Issue

The issue is whether the requested verifications were submitted to MassHealth prior to or at hearing.

Summary of Evidence

The MassHealth representative testified the appellant applied for MassHealth LTC benefits on 04/27/2021 (Exhibit 4), seeking an eligibility start date of 03/04/2021. The representative indicated that on 05/19/2021 a VC-1 was mailed, requesting certain verifications be submitted within 30 days. Those verifications were not received within the 30 day period. The application was denied on 06/28/2021 for failure to submit the requested verifications (Exhibit 1). The representative stated that as of the date of the fair hearing, MassHealth had not received all the requested verifications. Specifically, the following verifications remained outstanding:

Application Page 12

Revised page 12. Applicant must provide all requested information for all accounts.
130 CMR 516.001(E)(1);

MassHealth is aware of at least four bank accounts at Webster Five:
1268, 9464, 6714, 8431. ALL accounts must be listed on application.
Applicant has closed accounts and must answer YES to question 1b.

NH Documents:

Fairlawn

Screen

PNA

Private Pay

Facility send PNA account statement from date opened to present with all activity and balances.

Send a letter with total room/board payments and DATES OF COVERAGE.

Facility must identify a START DATE and END DATE for R and B payments.

Wakefield Center

SC-1

Screen (not needed if admitted within 30 days after discharge from Fairlawn)

PNA

Private Pay statement

Webster accounts 1268 and 9464

Closing withdrawal and disbursement of funds (if over \$1000) not provided for these accounts.

Letter from bank states closed with a zero balance and does not provide required information.

Webster 6567

Requested on second Infor Request: Statements from 4/1/20 to 3/14/21 with all canceled checks, proof source for all deposits of any amount and proof disbursements \$1000 and over.

If all verifications are provided except Wakefield Center, the application can be processed. There just would be no segment for Wakefield Center until the nursing facility provides documents.

(Exhibit 4.)

The appellant's representative testified that some of the verifications were provided to MassHealth, but that she would need additional time to submit the remaining verifications. She requested that the record remain open in this matter until 09/17/2021 for the submissions. Appellant's request was granted and the record remained open until 09/17/2021 for his submission and until 10/01/2021 for MassHealth's response (Exhibit 6).

On 09/17/2021, the appellant's representative made her submission by email to the hearing officer and by fax to the MassHealth representative (Exhibit 7). On 10/04/2021, the MassHealth representative responded that not all verifications that were sent were acceptable (Exhibit 8).

On 10/05/2021, the appellant's representative requested clarification from the hearing officer as to what was requested by MassHealth and what documents would be acceptable. She noted that another MassHealth representative appeared at the fair hearing to cover for the assigned MassHealth worker who was unable to attend the hearing. Appellant's representative disputed the MassHealth worker's statements and asked that the hearing officer review the recording of the hearing.

On 10/06/2021, the hearing officer informed the parties that he reviewed the recording of the hearing and that the appellant's representative was correct and that the MassHealth representative who appeared at the fair hearing stated that the banking verifications, once they were submitted, would be acceptable to MassHealth (Exhibit 9).

Findings of Fact

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

1. The appellant applied for MassHealth LTC benefits on 04/27/2021, seeking an eligibility start date of 03/04/2021 (Testimony; Exhibit 4).
2. On 05/19/2021, MassHealth sent a VC-1 to the appellant, requesting certain verifications be submitted within 30 days (Testimony; Exhibit 4).

3. The verifications requested through the 05/19/2021 VC-1 were not received within the 30 day period. The application was denied on 06/28/2021 for failure to submit the requested verifications (Exhibit 5).
4. A request for a fair hearing was submitted by the appellant to the Board of Hearings on 07/22/2021 (Exhibit 2).
5. At the fair hearing that took place on 08/30/2021, the appellant's representative requested additional time to submit the missing verifications. Her request was granted and the record remained open until 09/17/2021 for her submission and until 10/01/2021 for MassHealth's response (Exhibit 6).
6. The appellant's representative submitted all missing verifications during the record open period.

Analysis and Conclusions of Law

The begin date of Standard, Basic, or Limited coverage may be retroactive to the first day of the third month prior to the month of initial application, if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided (130 CMR 516.005).

Prior to the hearing, the appellant's representative submitted all verifications needed to process the appellant's application for MassHealth LTC benefits.

130 CMR 518.008: Responsibilities of Applicants and Members

- (A) Responsibility to Cooperate: The applicant or member must cooperate with MassHealth in providing information to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth including recovery.

130 CMR 516.001: Overview

- (C) MassHealth may request additional information and documentation, if necessary, to determine eligibility.
- (1) MassHealth sends the applicant written notification requesting verifications to cooperate information necessary to determine eligibility, generally within five days of the receipt of the application.
 - (2) The notice must advise the applicant that the requested verifications must be received within 30 days of the date of the request, and of the consequences of failure to provide the information.

- (D) If the requested information, with the exceptions of verification of immigration status, is not provided within 30 days of the date of the request, MassHealth benefits may be denied.

130 CMR 610.071(A)(2) states as follows:

The Hearing Officer shall not exclude evidence at the hearing for the reason that it had not been previously submitted to the Division, provided that the hearing officer may permit the Division representative reasonable time to respond to newly submitted evidence. **The effective date of any adjustments to the appellant's eligibility status shall be the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted** (*Emphasis Added.*)

Prior to the close of the hearing record, the appellant's representative submitted a packet of verifications that MassHealth was seeking in the application process. The MassHealth worker who appeared at the fair hearing stated that certain banking records would be acceptable to MassHealth. The assigned MassHealth worker, a different worker than who appeared at the fair hearing, asserted that the verifications were not acceptable because they did not go back far enough in time. The hearing officer reviewed the recording from the fair hearing and confirmed that verifications submitted by the appellant's representative were adequately responsive to MassHealth's request, as articulated by the MassHealth representative who appeared at the fair hearing. In addition, all other outstanding verifications were provided within the record open period. In accordance with the 130 CMR 610.071(A)(2), this portion of the appeal is approved. MassHealth will preserve the 04/27/2021 application date and process the application.

Order for MassHealth

Rescind the 06/28/2021 denial and process the appellant's 04/27/2021 application for MassHealth LTC benefits. Determine the appellant's eligibility for benefits. Inform the appellant of the eligibility determination with appeal rights.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: Sylvia Tiar, Tewksbury MassHealth Enrollment Center

