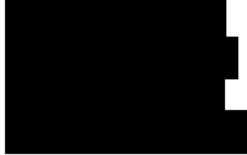


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2155796
Decision Date:	11/04/2021	Hearing Date:	9/21/2021
Hearing Officer:	Cynthia Kopka	Record Open to:	10/19/2021

Appearance for Appellant:




Appearance for MassHealth:

Gloria Medeiros, Taunton



*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:	Eligibility
Decision Date:	11/04/2021	Hearing Date:	9/21/2021
MassHealth's Rep.:	Gloria Medeiros	Appellant's Rep.:	
Hearing Location:	Taunton	Aid Pending:	No

Authority

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

Jurisdiction

By notice dated June 24, 2021, MassHealth denied Appellant's application for MassHealth long term care benefits because Appellant failed to submit required information. Exhibit 1. Appellant filed this appeal in a timely manner on July 26, 2021. Exhibit 2, 130 CMR 610.015(B). Denial of assistance is a valid basis for appeal. 130 CMR 610.032. On August 4, 2021, the Board of Hearings (BOH) dismissed the appeal for failure to demonstrate that Appellant's representative had authority to request the hearing pursuant to 130 CMR 610.035(A)(7). Exhibit 4. On August 19, 2021, Appellant's representative submitted documents demonstrating that he is an appeal representative, as defined by 130 CMR 610.004, with authority to request a hearing on Appellant's behalf. Exhibit 5. On August 31, 2021, BOH scheduled the present appeal. Exhibit 3. The hearing record was held open through October 12, 2021 at request of Appellant's representative and extended through October 19, 2021 when Appellant's representative failed to respond. Exhibits 7-10.

Action Taken by MassHealth

MassHealth denied Appellant's application for MassHealth benefits because Appellant failed to submit required verifications.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008, in denying Appellant's application for failure to provide requested verifications.

Summary of Evidence

A MassHealth eligibility representative appeared by telephone and testified as follows. MassHealth received Appellant's application for long term care benefits on March 5, 2021. MassHealth issued an information request on March 11, 2020. On April 15, 2021, MassHealth denied Appellant's application for failure to submit required information. Appellant did not appeal this denial. Exhibit 4. On May 13, 2021, MassHealth received some of the documents requested, but not all of the documents required to make an eligibility determination. MassHealth considered May 13, 2021 the reapplication date. MassHealth issued a second information request on May 19, 2021. *Id.* On June 24, 2021, MassHealth denied Appellant's application for failing to submit the corroborative information requested. Exhibit 1. MassHealth testified that the following information remained outstanding:

- Tax returns for the prior two years, as Appellant was a tax filer per the application;
- Verification of a transfer referenced on the application of \$5,400;
- Clarification of bank account summaries that were received, as the application listed no bank accounts; and
- Long term care facility documents upon Appellant's admission to a facility.

Appellant's representative testified as follows. The \$5,400 transfer was used to pay for Appellant's funeral contract. The MassHealth representative replied that this transfer could be verified with proof of payment made to the funeral home and the irrevocable funeral contract with an itemization of goods and services. Appellant's representative testified that he sent these documents to the social worker at the hospital.

Appellant has credit union accounts and sent in account summaries. The MassHealth representative replied that the documents received did not show the name on the accounts or the transactions, so MassHealth would need to see bank statements or a signed letter from the bank confirming that Appellant's name is on the account. MassHealth would also need Appellant to correct the application page which states that Appellant has no bank accounts. MassHealth had emailed a copy of the application page to Appellant's representative and instructed him how to make the change.

Appellant's representative has been trying to get the information needed from the IRS for the past six months. It has been an ordeal, as the IRS is understaffed due to COVID-19. Appellant's representative has completed and submitted the IRS form three times, but the IRS is in no rush to get the information to Appellant. Appellant's representative asked MassHealth to look at its own state records. The MassHealth representative replied that in lieu of other proof, she could accept a written and signed statement from Appellant's representative stating that he has requested the tax returns.

Appellant has not yet been admitted to a facility and is still in the hospital. The hospital will not transfer Appellant until she has a place to go. The MassHealth representative told Appellant's representative to inform the nursing facility that there is a pending MassHealth application. The

business office manager would be able to contact the MassHealth representative. Appellant's representative asked if he should start looking up nursing homes. Appellant's representative is in Florida and will have difficulty finding a home.

Regarding the issue that Appellant cannot be admitted to a nursing facility without first being approved for benefits, the MassHealth representative testified that once all the verifications are in, MassHealth will issue a letter denying community benefits and establishing a six-month deductible which can be met to be eligible for MassHealth benefits. Some nursing facilities will admit residents with that denial letter, as it establishes that an applicant is otherwise eligible but for the nursing facility placement.

The hearing record was held open through October 12, 2021 for Appellant to submit and for MassHealth to review the following:

1. The IRS tax returns for the past 2 years, OR a signed letter from Appellant's guardian stating that the forms have been requested.
2. Verification to show that the \$5,400 transfer was paid to the son for purposes of entering into the funeral contract, including proof of payment to the son, proof of payment to the funeral home, and the irrevocable funeral contract with an itemization of goods and services.
3. A bank statement from the credit union with Appellant's name on it (or a signed letter from the bank which confirms Appellant's name is on the account) and an updated MH application page correcting the answer to the question about whether Appellant has any bank accounts.

Exhibit 7. Appellant's representative testified that he understood the documents that needed to be submitted and believed he could get it done. Appellant's representative agreed to exchange information by email after hearing. The parties engaged in email discussion about the submissions but no documents were forwarded in these emails. Exhibit 8. The hearing officer extended the hearing record, Exhibit 9, but as of October 19, 2021, MassHealth did not receive any of the requested verifications listed above. Exhibit 10.

Findings of Fact

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

1. On March 5, 2021, MassHealth received Appellant's application for long term care benefits.
2. On March 11, 2021, MassHealth issued a request for information to Appellant.
3. On April 15, 2021, MassHealth denied Appellant's application for failure to submit required information. Appellant did not appeal this denial. Exhibit 4.
4. On May 13, 2021, MassHealth received some of the requested information and preserved

the May 13, 2021 reapplication date.

5. On May 19, 2021, MassHealth issued a second information request. *Id.*
6. On June 24, 2021, MassHealth denied Appellant's application for failing to submit the corroborative information requested. Exhibit 1.
7. Appellant filed this appeal on July 26, 2021. Exhibit 2.
8. Appellant does not reside in a long term care facility.
9. The hearing record was held open through October 19, 2021 for Appellant to submit the following information:
 - The IRS tax returns for the past 2 years, OR a signed letter from Appellant's guardian stating that the forms have been requested.
 - Verification to show that the \$5,400 transfer was paid to the son for purposes of entering into the funeral contract, including proof of payment to the son, proof of payment to the funeral home, and the irrevocable funeral contract with an itemization of goods and services.
 - A bank statement from the credit union with Appellant's name on it (or a signed letter from the bank which confirms Appellant's name is on the account) and an updated MH application page correcting the answer to the question about whether Appellant has any bank accounts.

Exhibits 7-10.

10. During the record open period, MassHealth did not receive the required verifications. Exhibit 10.

Analysis and Conclusions of Law

An individual applying for MassHealth long term care benefits (or the individual's authorized representative) must submit a complete application and all required supplements. 130 CMR 516.001(A)(1). 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 the 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).

MassHealth received Appellant’s application on March 5, 2021. The application contained errors such as omitting bank accounts and tax return information. Appellant’s representative testified as to difficulties obtaining records from the IRS, and MassHealth accommodated this difficulty by merely asking for an attestation. Additionally, Appellant claimed to have already submitted this information and did not respond to requests by the MassHealth representative and the hearing officer to resend the information. Appellant’s representative had numerous opportunities to submit information either by fax or email.

Appellant has not met the requirements of 130 CMR 515.008(A) and 130 CMR 516.001(C) by providing the corroborative information necessary for MassHealth to determine eligibility. Accordingly, 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616