

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied-in-part; Approved-in-part	Appeal Number:	2177132
Decision Date:	11/05/2021	Hearing Date:	10/19/2021
Hearing Officer:	Casey Groff	Record Open to:	10/27/2021

Appearances for Appellant:




Appearance for MassHealth:

Tina Jarbeau, Tewksbury MassHealth
Enrollment Center



*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-in-part; Approved-in-part	Issue:	Eligibility; Verifications
Decision Date:	11/05/2021	Hearing Date:	10/19/2021
MassHealth's Rep.:	Tina Jarbeau	Appellant's Reps.:	
Hearing Location:	Telephonic	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

Through a notice dated August 18, 2021, MassHealth notified Appellant that he was not eligible for MassHealth benefits because he did not submit the information needed to determine his eligibility within the required time frame. See Exhibit 2; 130 CMR 515.008. On September 16, 2021, Appellant submitted a timely request to appeal the denial. See Exhibit 1; 130 CMR 610.015(B). Denial of assistance is a valid ground for appeal. See 130 CMR 610.032. A hearing was conducted on October 19, 2021. See Exhibit 3. At the conclusion of the hearing, the record was left open until October 27, 2021 for the parties to provide additional information. See Exhibit 5, p. 4.

Action Taken by MassHealth

MassHealth notified Appellant that he was not eligible for MassHealth benefits because he did not submit the information it needed to decide his eligibility within the required time frame.

Issue

The appeal issue is whether MassHealth was correct in denying Appellant's application for MassHealth benefits.

Summary of Evidence

A MassHealth representative appeared at the hearing via telephone and testified as follows: Appellant is over the age of 65 and living in the community. On September 30, 2020, MassHealth received a senior application from Appellant seeking MassHealth CommonHealth coverage as a disabled working adult over the age of 65. At the time of, and prior to, the application, Appellant had not been enrolled in any MassHealth program. The MassHealth representative explained that because CommonHealth is a health care reform program, individuals over the age of 65 who are disabled, must first apply for senior community benefits before their eligibility for CommonHealth can be established. As such, MassHealth has to make an asset determination, even where Appellant is seeking enrollment in CommonHealth which is not conditioned on an individuals assets. Following receipt of the application, MassHealth issued a “request for information” to Appellant, dated October 13, 2020, seeking verifications concerning his financial eligibility such as assets and income. See Exh. 4. The notice informed Appellant that all requested verifications must be provided to MassHealth by November 12, 2020; otherwise health care benefits would be denied. See Exh. 4.

MassHealth did not receive any response from Appellant by the November 12th deadline. While MassHealth typically will issue a denial at the time the verifications deadline has passed, the status of Appellant’s application remained open, because of the agency’s response to the covid-19 national emergency. On July 6, 2021, while the application was still pending, Appellant submitted a partial response to the October 13th information request. The documentation received however, did not include all necessary verifications for MassHealth to render an eligibility decision. Accordingly, MassHealth notified Appellant, via an August 18, 2021 notice, that his application was denied for failure to submit verifications within the required timeframe. See Exh. 2. The day prior to the scheduled hearing, MassHealth received an additional submission from Appellant. However, as of the hearing date, MassHealth has still not received verification of a vehicle that had been registered to Appellant; the listing of property held in an irrevocable trust associated with Appellant, updated bank statement (most ended in 2020); and a workers credit union statement, as was requested. Finally, Appellant has never been deemed “permanently disabled” by a qualifying authority, such as social security; nor has he filed a disability supplement with MassHealth’s Disability Evaluation Services (DES). Without an official disability determination MassHealth will not be able to approve him for CommonHealth benefits.

An attorney representing Appellant appeared at the hearing by telephone and testified as follows: First the attorney noted that he was covering for his colleague that had been handling this application and therefore could not speak to the details of what occurred when the application was submitted. He testified that his office has sent MassHealth almost all outstanding verifications, however there are a few final items that they are in the process of obtaining. The Appellant is not seeking benefits to start as early as September of 2020, but rather is hoping to obtain a start date of July of 2021 as he has needed personal care attendant (PCA) services. The Appellant’s delay in responding to the October 2020 information request was partly because he had been hospitalized for Covid-19. They also made attempts to contact MassHealth during this time but had no success.¹

¹ During the hearing, the parties discussed the trusts at issue, including one that Appellant had verified was a revocable unfunded trust; and one which Appellant claimed to not have any interest in.

Appellant requested a two-week extension of the hearing record for Appellant to submit the remaining items.

Appellant's request for a two-week extension was deferred and instead; a two-day extension was granted to allow Appellant's attorneys the opportunity to provide legal support for their request to preserve the September 2020 application date given the time that had passed. See Exh. 5. During the record open period, Appellant's attorneys provided additional explanation that the delay in submitting information was partly due to an unexpected leave of absence and an inability to obtain clarification by MassHealth as to what was needed. Appellant's attorney stated that Appellant is paraplegic and in the process of submitting the disability supplement. The attorney requested that MassHealth treat the July 6, 2021 verification submission as a re-application. Id.

In response, the MassHealth representative indicated MassHealth was not inclined to preserve the application date or consider a July 2021 reapplication date. Given the length of time that had passed and that Appellant had still not completed a disability supplement, Appellant should proceed by reapplying and submitting a new senior application. Id.

Findings of Fact

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

1. Appellant is over the age of 65, paraplegic, and currently living in the community.
2. On September 30, 2020, MassHealth received a senior application from Appellant seeking MassHealth CommonHealth coverage as a disabled working adult over the age of 65.
3. At the time of his application, Appellant was not enrolled in any MassHealth program.
4. On October 13, 2020, MassHealth sent Appellant a "request for information," seeking verifications related to Appellant's assets and income, with an imposed deadline of 11/12/2020; otherwise health care benefits would be denied.
5. MassHealth did not receive any response from Appellant by the November 12th deadline.
6. Despite Appellant's failure to submit verifications within the required timeframe, MassHealth – as part of the Covid-19 national pandemic response - left Appellant's application open as pending.
7. On July 6, 2021, while the application was still open, Appellant submitted a partial, but incomplete, response to the October 13th information request.
8. On August 18, 2021, MassHealth notified Appellant that his application was denied for failure to submit verifications within the required timeframe.

9. Appellant submitted a timely request to appeal the August 18, 2021 denial.
10. Prior to hearing, Appellant provided MassHealth with some, but not all the outstanding verifications.
11. As of the hearing date, Appellant had never been officially deemed “permanently disabled” by a qualifying authority; nor had he submitted a disability supplement to DES to request such a determination.

Analysis and Conclusions of Law

Once an individual submits a senior application for MassHealth benefits, the MassHealth agency will then request all corroborative information necessary to determine whether the applicant is eligible for such benefits. See 130 CMR 516.001. This process, as outlined in 130 CMR 516.001(B) provides the following:

- (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.

After MassHealth issues the request for information, the applicant is responsible for providing a timely and complete response. See 130 CMR 515.008 (applicant must “cooperate with MassHealth in providing information necessary to establish eligibility... and to comply with all the rules and regulations of MassHealth.”). As described below, the applicant’s response to the information request determines how MassHealth will proceed in determining eligibility.

If the requested information...is received within 30 days of the date of the request, the application is considered complete. The MassHealth agency will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible. ***If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied.***

(1) If the requested information is received within 30 days of the date of the denial, the date of receipt of one or more of the verifications is considered the date of reapplication.

(2) The date of reapplication replaces the date of the denied application. The applicant’s earliest date of eligibility for MassHealth is based on the date of reapplication.

(3) If a reapplication is subsequently denied and not appealed, the applicant must submit a new application to pursue eligibility for MassHealth. The earliest date of eligibility for MassHealth is based on the date of the new application.

See 130 CMR 516.001(C) (emphasis added); see also 130 CMR 516.003(D)(2) (if an applicant fails to provide verification of information within 30 days of the request, MassHealth coverage will be denied).

Following receipt of Appellant's September 30, 2020 application, MassHealth properly notified Appellant on October 13, 2021 of the corroborative information he needed to send MassHealth within 30-days to determine his eligibility for benefits. By the November 12, 2020 deadline (30-days from the request), MassHealth had not received any response or verifications from Appellant. While 130 CMR 516.003, above, permits MassHealth to deny an application once the deadline has passed; MassHealth, in this case, did not issue such a denial, but instead kept the application open.

According to the evidence, neither party initiated any further action on the application until July 6, 2021 – well after the November 12th deadline – when Appellant sent MassHealth a partial response to the October 2020 information request. Because the July 6th submission did not include all necessary verifications (including a listing of property held in an irrevocable trust, a workers credit union statement, vehicle registration information, and updated bank account information), MassHealth notified Appellant, via an August 18, 2021 letter, that his September 30, 2020 application was denied.

Given that Appellant failed to submit all requested verifications within both the standard 30-day time limit, *and within* the additional 7 month period his application remained open, MassHealth did not err in issuing the August 18, 2021 denial. As a result, Appellant may not seek a benefit start date based on the September 30, 2020 application date.

However, where Appellant submitted “one or more of the verifications” *before* MassHealth denied his application, MassHealth should consider the July 6, 2021 verification submission the date of Appellant's “re-application.” See 130 CMR 516.001(C). Under 130 CMR 516.001(C)(1) MassHealth will consider the receipt of untimely verifications a “reapplication”, if such verifications are received “*within 30 days of the date of the denial* [for failure to verify].” This case, however, presents a unique set of facts because MassHealth did not, in its typical course, deny the application when Appellant missed the 30-day verifications deadline, but rather, it kept his application open for an additional seven-month period. Where MassHealth is no longer honoring the original September 30th application date, Appellant should be granted a reapplication date based upon his partial verification submission, which was made while his application was pending and *before* MassHealth issued a denial. In this sense, the verifications were submitted “within 30 days of the denial (i.e. before the denial even issued) and may be considered a “reapplication.” The date of the reapplication – July 6, 2021 - replaces the date of the denied application. See 130 CMR 516.001(C)(2).

This appeal is DENIED-in-part insofar as MassHealth's appropriately denied Appellant's September 30, 2020 application for failure to submit verifications in a timely manner.

This appeal is APPROVED-in-part insofar as MassHealth should consider Appellant's July 6, 2021 partial verification response the “re-application date” which is to replace the date of the

denied application.

Order for MassHealth

Using July 6, 2021 as Appellant's reapplication date, proceed in determining Appellant's eligibility for MassHealth benefits, including issuing additional requests for information, if necessary.

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.

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957

[REDACTED]