

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



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|-------------------------|---------------|-----------------------|------------|
| Appeal Decision: | Dismissed | Appeal Number: | 2177862 |
| Decision Date: | 12/13/2021 | Hearing Date: | 11/15/2021 |
| Hearing Officer: | Paul C. Moore | Record Closed: | 12/07/2021 |

Appellant Representative:
Pro se (by telephone)

MassHealth Representative:
Gessica Brunot, Chelsea MEC (by telephone)



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171*

APPEAL DECISION

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|--------------------------|-------------------------------|------------------------|---------------|
| Appeal Decision: | Dismissed | Issue: | Verifications |
| Decision Date: | 12/13/2021 | Hearing Date: | 11/15/2021 |
| MassHealth Rep.: | Gessica Brunot | Appellant Rep.: | Pro se |
| Hearing Location: | Board of Hearings (remote) | | |

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 September 16, 2021, MassHealth informed the appellant that she was not eligible for MassHealth long-term care services due to missing verifications (Exh. 1). The appellant filed a request for a fair hearing with the Board of Hearings (BOH) on October 14, 2021 (Exh. 2). Denial of MassHealth assistance is grounds for appeal to BOH (130 CMR 610.032(A)).

Action Taken by MassHealth

MassHealth denied the appellant's MassHealth application.

Issue

Did MassHealth correctly determine that the appellant was not eligible for MassHealth?

Summary of Evidence

A representative from the Chelsea MassHealth Enrollment Center ("MassHealth representative") testified by telephone that the appellant, who is over age 65, filed a MassHealth application for long-term care coverage on August 6, 2021. The MassHealth representative stated that she sent the appellant a checklist in August, 2021 requesting additional information, due back to MassHealth on September 8, 2021. Not all requested missing information was timely received, so MassHealth

denied the appellant's application by notice dated September 16, 2021. Some of the requested documentation was subsequently received by MassHealth, so MassHealth relogged the case on October 19, 2021 (Testimony, Exh. 4).

As of the hearing date, the following documentation is still missing: a copy of the appellant's current pension stub from the United States Postal Service, reflecting her monthly gross pension amount; a copy of her current motor vehicle registration; for an account owned by the appellant at Bank #1, copies of monthly bank statements from January, 2020 through June, 2021, verifying the purposes of any withdrawals from the account in the amounts of \$1,000.00 or more; and an explanation for a check payable to an individual, "K," in the amount of \$1,080.51 on July 13, 2021 (Testimony, Exh. 4).

According to the MassHealth representative, the appellant was admitted to a nursing facility on [REDACTED], and the facility is requesting a MassHealth payment date of August 28, 2021 (Exh. 4A).

The appellant testified that her son is assisting her to obtain the required documentation. She stated that her son already sent a copy of her 2020 I.R.S. Form 1040 tax return to MassHealth; the MassHealth representative stated that is not sufficient, and she instead needs a current pension stub. The appellant stated that she thought her son sent all requested bank statements from Bank #1. The MassHealth representative stated that she only received July, 2021 and August, 2021 bank statements from Bank #1. MassHealth needs all bank statements from January, 2020 through June, 2021 (Testimony).

With regard to the check payable to K in the amount of \$1,080.51 in July, 2021, the appellant testified that she paid her handyman to widen doorways in her home, since she now uses a wheelchair to ambulate. The MassHealth representative stated that she accepts this explanation of the purpose of this check, and needs no further corroboration (Testimony).

At the close of the hearing, the hearing officer agreed to keep the record of this appeal open for three weeks, or until December 6, 2021, for the appellant to produce the balance of the missing documents, and also permitted MassHealth an additional week, or until December 13, 2021, to report back to the appellant and the hearing officer as to whether all required verifications have been received (Exh. 5).

The hearing officer received nothing from the appellant. On December 7, 2021, in response to an inquiry from the hearing officer, the MassHealth representative sent an e-mail communication to the hearing officer which states:

[The nursing facility] submitted all the requested verifications and MassHealth is willing to preserve the application date.

(Exh. 6)¹

Findings of Fact

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

1. The appellant, who is over age 65, entered a nursing facility in [REDACTED] (Testimony).
2. The appellant filed a MassHealth application for long-term coverage in August, 2021 (Testimony, Exh. 4).
3. MassHealth sent a request for information to the appellant in August, 2021 requesting additional information, due back to MassHealth on September 8, 2021 (Testimony).
4. Not all requested missing information was timely received, so MassHealth denied the appellant's application by notice dated September 16, 2021 (Testimony, Exh. 1).
5. The appellant filed a timely appeal of this September 16, 2021 MassHealth notice with the BOH on October 14, 2021 (Exh. 2).
6. As of the hearing date, the following documentation was still missing: a copy of the appellant's current pension stub from the United States Postal Service, reflecting her monthly gross pension amount; a copy of her current motor vehicle registration; for an account owned by the appellant at Bank #1, copies of monthly bank statements from January, 2020 through June, 2021, verifying the purposes of any withdrawals in the amount of \$1,000.00 or more; and an explanation for a check payable to K in the amount of \$1,080.51 on July 13, 2021 (Testimony, Exh. 4).
7. The appellant explained at hearing that she paid K to widen doorways in her home to accommodate the appellant's wheelchair (Testimony).
8. MassHealth accepted this explanation of the purpose of the check for \$1,080.51 written to K (Testimony).
9. At the close of the hearing, the hearing officer agreed to keep the record of this appeal open for three weeks, or until December 6, 2021, for the appellant to produce the balance of the missing documents (Exh. 5).
10. On December 7, 2021, MassHealth reported that all missing verifications had been received from the appellant's nursing facility, and that MassHealth will honor the appellant's application

¹ Despite the hearing officer's explanation during the hearing that the appellant should send a copy of all requested verifications to the MassHealth representative *and* the hearing officer, the appellant did not send them to the hearing officer.

date of August, 2021 (Exh. 6).

Analysis and Conclusions of Law

MassHealth regulation 130 CMR 516.001(A) states:

(A) Filing an Application.

(1) Application. To apply for MassHealth

(a) for an individual living in the community, an individual or his or her authorized representative must file a Senior Application online at www.MAHealthConnector.org, complete a paper application, complete a telephone application, or apply in person at a MassHealth Enrollment Center (MEC).

(b) for an individual in need of long-term-care services in a nursing facility, a person or his or her authorized representative must file a complete paper Senior Application and Supplements or apply in person at a MassHealth Enrollment Center (MEC).

(Emphasis added)

Also pursuant to 130 CMR 516.001(B):

Corroborative Information. 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.

Next, pursuant to 130 CMR 516.001(C):

Receipt of Corroborative Information. If the requested information, with the exception of verification of citizenship, identity, and immigration status, 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.**

(Emphasis added)

Also, pursuant to 130 CMR 515.008(A):

Responsibility to Cooperate. The applicant or member must cooperate with the

MassHealth agency in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.

Next, MassHealth regulation 130 CMR 516.005, “Coverage Date,” states in relevant part:

The begin date of MassHealth Standard, Family Assistance, or Limited coverage may be retroactive to the first day of the third calendar month before the month of 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. If more than one application has been submitted and not denied, the begin date will be based on the earliest application that is approved.

Here, the appellant, with the assistance of her nursing facility, submitted all necessary corroborative information during a record-open period. MassHealth has stated that it will honor the appellant’s August, 2021 application date.

The Fair Hearing Rules applicable in this proceeding, 130 CMR 610.051(B), “Adjustments Resolving Issues,” state in pertinent part:

The MassHealth agency or the acting entity may make an adjustment in the matters at issue before or during an appeal period.² If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. BOH will not delay a fair hearing because a possible adjustment is under consideration, unless the appellant requests or agrees to such a delay.

The only issue to be decided by the hearing officer – missing verifications – has been resolved.

As to any future MassHealth determinations, including coverage start-date, etc., the appellant will have further appeal rights.

For the reasons stated, this appeal is DISMISSED.

Order for MassHealth

Proceed to an eligibility decision using the August, 2021 application date. Send notice to the appellant of her coverage-start date, with appeal rights.

² 130 CMR 610.004 defines “acting entity” as the MassHealth agency, a MassHealth managed care contractor, or a nursing facility responsible for making a determination that can be appealed.

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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: Shelly-Ann Lewis, Appeals Coordinator, Chelsea MEC