

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2177949
<b>Decision Date:</b>	8/5/2022	<b>Hearing Date:</b>	06/13/2022
<b>Hearing Officer:</b>	Alexis Demirjian	<b>Record Open to:</b>	07/08/2022

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kim McAvinchey



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	LTC – Missing Verifications
<b>Decision Date:</b>	8/5/2022	<b>Hearing Date:</b>	06/13/2022
<b>MassHealth's Rep.:</b>	Kim McAvinchey	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings Quincy – Remote	<b>Aid Pending:</b>	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 September 2, 2021, MassHealth denied the appellant's application for MassHealth benefits because MassHealth determined that the appellant did not give MassHealth the information it needs to decide eligibility. (see 130 CMR 515.008 and Exhibit 1). On June 12, 2021 the Appellant passed away. (see Exhibit 2) On or about October 1, 2021, the a fair hearing request was filed on this matter and signed by the appellant's wife, pending her appointment as voluntary administrator of the estate. (See Exhibit 3)<sup>1</sup> On April 21, 2022, a fair hearing was scheduled. (Exhibit 7) On April 12, 2022, the appellant's representative requested that the matter be rescheduled due to a scheduling conflict. (Exhibit 7). The fair hearing was rescheduled for May 23, 2022. (Exhibit 7) On May 18, 2022, the appellant representative requested a second postponement which was granted. (Exhibit 7) The matter then was rescheduled to be heard on June 13, 2022. (Exhibit 7)

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<sup>1</sup> The Fair Hearing Request signed by the appellant's wife who was appointed voluntary administrator on March 22, 2022. An Amended Fair Hearing Request was filed on March 31, 2022. (Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6)

The appeal was filed in a timely manner on (see 130 CMR 610.015(B) and Exhibit 3).<sup>2</sup> Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## **Action Taken by MassHealth**

MassHealth denied coverage.

## **Issue**

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

## **Summary of Evidence**

The MassHealth Representative appeared at the hearing telephonically and testified that on January 27, 2021, the Appellant filed an application for MassHealth long-term-care benefits. On February 5, 2021, MassHealth sent the Appellant a request for information. On March 12, 2021, MassHealth denied Appellant's application for failure to submit the required verifications within the requested timeframe. Appellants filed an appeal docketed as Appeal No. 2154509. On June 11, 2021, the Appellant submitted outstanding verifications pre-hearing and Appeal No. 2154509 was withdrawn.

Following the withdrawal, on June 11, 2021, MassHealth sent a Long-Term Care supplement to be completed by the Appellant and an additional request for additional information. On June 12, 2021, the Appellant died. On July 13, 2021, MassHealth sent a Second Information Request and Long-Term Supplement for completion. On September 2, 2021, MassHealth denied the application for based on the Appellant/Appellant representative's failure to complete the application and provide corroborating verifications.

On September 27, 2021, in response to an inquiry from the Appellant's representative, MassHealth sent a detailed email outlining the outstanding verifications that resulted in the September 2, 2021 denial.

The Appellant representative did not supply any additional verifications to MassHealth prior to the June 13, 2022 hearing date. On June 9, 2022, the Appellant representative submitted two packets of

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<sup>2</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

information to the Board of Hearings. (Exhibit 9 and Exhibit 10). The Appellant representative failed to provide copies of those exhibits to MassHealth, accordingly MassHealth was not afforded the opportunity to review the documents prior to the hearing and could not testify to whether or not they were sufficient to satisfy the outstanding verification request.

At the hearing, MassHealth testified that the following items were outstanding and that MassHealth could not determine financial eligibility without following: 1) a fully complete application; 2) Long-Term Care Supplement; 3) Federal Tax returns from 2018 and 2019, including an explanation and verification of all sources of income and verification (1099 or Schedule B) for dividend income on 2020 tax return and for dividend income on 2019 tax return ; 4) explanation of rental property income including information regarding whether the unit is rented or empty, who lives there, proof of monthly rent and all expenses paid by the applicant; 5) statements from Bank Account 1, Bank Account 2, Bank Account 3, Bank Account 4, and Bank Account 5, to include canceled checks, proof of opening deposit, explanation/proof of disbursements \$1000 and over, proof source of all deposits of any amount.

Appellant's representative appeared at the hearing and testified that he was working with the voluntary administrator of the Appellant's estate to obtain the outstanding information. Upon Appellant's representative's request, the record was left open to submit the remaining verifications to MassHealth by July 1, 2022. MassHealth was given until July 8, 2022 to respond.

After the hearing, MassHealth reviewed the documents submitted to the Board of Hearings on or about June 9, 2022. After their review, MassHealth reported to the Hearing Officer that those documents were duplicates of documents that had been submitted to MassHealth prior to the September 2, 2021 denial. Accordingly, the submissions did not constitute new or additional documentation to corroborate eligibility.

On June 27, 2022, the Appellant requested that the record open period being extended. This request was granted, and the record remained open for the Appellant to submit any additional documentation before July 15, 2022. MassHealth was given until July 22, 2022 to respond.

On July 15, 2022, the Appellant representative sent a 61-page packet of information to the Board and MassHealth. Those documents were reviewed by MassHealth.

On July 21, 2022, MassHealth reported that it had reviewed the entirety of the Appellant representative's submissions, and after a review of those submissions, MassHealth concluded that there were still several outstanding verifications including: a fully completed application, verifications related to the dividend income listed on the 2020 return, information/documentation related to the rental property and information related to the closure of Bank Account 4. MassHealth stated that it had not received all verifications requested necessary to determine eligibility, accordingly they affirmed their denial.

On July 22, 2022, the Appellant's representative sent an ex parte communication to the Hearing Officer contesting MassHealth's July 21<sup>st</sup> assessment. That communication was forwarded to MassHealth and MassHealth was allowed to respond. In response, MassHealth affirmed their July

21, 2022 position.

## Findings of Fact

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

1. On January 27, 2021, Appellant filed an application for MassHealth long-term-care benefits with a requested start date of November 11, 2020. (Testimony; Exhibit 6).
2. On February 5, 2021, MassHealth sent Appellant a request for information. (Testimony; Exhibit 6).
3. On March 12, 2021, MassHealth denied Appellant's application for failure to submit the required verifications to corroborate the Appellant's eligibility within the requested timeframe. (Testimony; Exhibit 2).
4. Appellant filed a timely appeal of the March 12, 2021, denial. (Testimony)
5. The appeal of the March 12, 2021 denial was withdrawn. (Testimony)
6. On June 12, 2021, the Appellant died. (Exhibit 2)
7. On July 13, 2021, MassHealth sent a Second Information Request and Long-Term Supplement. (Exhibit 8)
8. On September 2, 2021, MassHealth, MassHealth denied Appellant's application for failure to submit the required verifications within the requested timeframe. (Testimony; Exhibit 1)
9. Appellant filed a timely appeal of the denial on October 1, 2021. (Testimony; Exhibit 3 and Exhibit 4)
10. As of the hearing date, MassHealth identified the following outstanding items: : 1) a fully complete application; 2) Long-Term Care Supplement; 3) Federal Tax returns from 2018 and 2019, including an explanation and verification of all sources of income; 4) explanation of rental property income including information regarding whether the unit is rented or empty, who lives there, proof of monthly rent and all expenses paid by the applicant; 5) statements from Bank Account 1, Bank Account 2, Bank Account 3, Bank Account 4, and Bank Account 5, to include canceled checks, proof of opening deposit, explanation/proof of disbursements \$1000 and over, proof source of all deposits of any amount. (Testimony; Exhibit 6).
11. The record was left open for Appellant to submit the remaining verifications by July 1,

2022 and MassHealth was given until July 8, 2022 to respond. (Exhibit 12).

12. On June 27, 2022, the appellant representative requested the record open period be extended and that request was granted. The appellant was given until July 15, 2022 to submit the remaining verifications and MassHealth was given until July 22, 2022 to respond. (Exhibit 12)
13. On July 15, 2022, the appellant representative sent a packet of documents to the Board and MassHealth. (Exhibit 13)
14. On July 21, 2022, MassHealth responded that it had reviewed the submissions and several verifications were still outstanding including a complete application, and MassHealth was unable to determine eligibility without a complete application. (Exhibit 13).
15. On July 22, 2022, the Appellant's representative sent an ex parte communication to the Hearing Officer contesting MassHealth's July 21<sup>st</sup> assessment that the outstanding verifications were not received and upholding their earlier denial. (Exhibit 13)
16. That communication was forwarded to MassHealth and MassHealth was allowed to respond. In response, MassHealth affirmed their July 21, 2022 decision to deny benefits. (Exhibit 13)

## **Analysis and Conclusions of Law**

Once an application for MassHealth long-term-care benefits has been submitted, the MassHealth agency requests all corroborative information necessary to determine eligibility. See 130 CMR 516.001. MassHealth regulation 130 CMR 516.001(B) provides the following with respect to corroborative information:

- (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.

Additionally, 130 CMR 516.001(C) sets forth the process regarding the receipt of corroborative information, and provides as follows:

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.

(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.

In this case, despite being given additional time post-hearing to submit the outstanding corroborating documentation, the Appellant representative did not submit all required verifications to MassHealth in a timely manner. Therefore, I find the action taken by MassHealth is within the regulations. See 130 CMR 516.001.

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.

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Alexis Demirjian  
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

Appellant Representative: [REDACTED]

