

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2179166
Decision Date:	2/17/2022	Hearing Date:	12/23/2021
Hearing Officer:	Scott Bernard	Record Open to:	1/27/2022

Appearance for Appellant:




Appearance for MassHealth:

Jessica Barney (Taunton MEC) *via* telephone



*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:	Long Term Care (LTC) Verification
Decision Date:	2/17/2022	Hearing Date:	12/23/2021
MassHealth's Rep.:	Jessica Barney	Appellant's Rep.:	
Hearing Location:	Taunton 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 November 6, 2021, MassHealth denied the appellant's application for MassHealth LTC benefits because it determined that the appellant had not submitted requested verification in a timely manner. (See 130 CMR 515.008, 516.001, and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on December 6, 2021. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the end of the hearing, the appellant's representative requested that the record remain open to allow him to submit the requested verifications. The appellant's representative was given until January 24, 2022 to submit these verifications and the MassHealth representative was given until February 7, 2022 to respond. (Ex. 6). On January 27, 2022, in an email to the hearing officer and the appellant's representative, the MassHealth representative stated that MassHealth had not received any of the missing verifications requested. (Ex. 7). The record therefore closed on that date.

Action Taken by MassHealth

MassHealth denied the appellant's application for LTC benefits because it determined that the appellant had not given it the information it needed to decide his eligibility.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 515.008 and 516.001, in

determining that the appellant had not given MassHealth the information it needed to decide his eligibility.

Summary of Evidence

The appellant is an individual under the age of 65. (Ex. 3). The appellant signed an Authorized Representative Designation (ARD) form on June 16, 2021 naming the appellant's representative as his authorized representative. (Ex. 2, pp. 5-7). The appellant's representative signed his name electronically, and thereby agreed to be the ARD on the same date. (Ex. 2, p. 6). The nursing facility submitted the ARD form as well as a Permission to Share Information (PSI) form to MassHealth on or around June 16, 2021. (Ex. 2, pp. 3-7). These documents accompanied the Fair Hearing request on December 6, 2021. (Ex. 2).

The MassHealth representative testified that the appellant was admitted to the nursing facility at the beginning of 2021 on a short-term basis. (Ex. 5). On June 30, 2021 MassHealth received a conversion packet from the facility requesting a coverage start date of March 1, 2021. (Id.). On July 22, 2021, MassHealth sent the appellant a request for information letter (VCT-1). (Id.). In the VCT-1 MassHealth requested statements dated October 1, 2020 to the present from two different accounts at one bank¹ as well as an explanation and supporting documentation for all deposits and withdrawals of \$1500 or more. (Id.). The MassHealth representative stated that she did not receive the requested verifications. On November 4, 2021, MassHealth notified the appellant that it was denying his application for missing verifications. (Ex. 1).

The November 4, 2021 notice was appealed in a timely fashion on December 3, 2021. (Ex. 2).

The appellant's representative requested 30 days to submit the requested documentation into the hearing record. The hearing record therefore was left open until January 24, 2022 for the appellant's representative to submit the verifications MassHealth requested to both the hearing officer and the MassHealth representative. (Ex. 6). MassHealth was given until February 7, 2022 to respond to any submission from the appellant's representative. (Id.). This was memorialized in a Record Open form, which was sent to both parties by email on the date of the hearing. (Id.).

In an email dated January 27, 2022 the MassHealth representative informed the hearing officer that that MassHealth had not received any of the missing verifications requested.² (Ex. 7). The MassHealth representative did include the appellant's representative in this email. (Id.). As there was no response to the record open at any point on or before January 27, 2022, the hearing record closed as of that date.³

¹ MassHealth did identify the name of the bank and identified part of the account number for the two accounts in the hearing. These are personal identifiable information, however, and will not be stated in this decision for reasons of information security.

² The hearing officer also determined that the Board of Hearings did not separately receive the requested verifications. The record open form sent to both parties on the hearing date instructs the parties to send copies of verifications and responses to both sides with verification that they were sent. (See Ex. 6).

³ There has also been no communication with the appellant's representative since that date.

Findings of Fact

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

1. The appellant is an individual under the age of 65. (Ex. 3).
2. The appellant was admitted to the nursing facility at the beginning of 2021 on a short-term basis. (Ex. 5; Testimony of the MassHealth representative).
3. On June 16, 2021, the nursing facility submitted an ARD form signed by the appellant and the appellant's representative naming the appellant's representative as the appellant's Authorized Representative. (Ex. 2).
4. On June 30, 2021 MassHealth received a conversion packet from the facility requesting a coverage start date of March 1, 2021. (Ex. 5; Testimony of the MassHealth representative).
5. On July 22, 2021, MassHealth sent the appellant a VCT-1 requesting statements dated October 1, 2020 to the present from two different accounts at one bank as well as an explanation and supporting documentation for all deposits and withdrawals of \$1500 or more. (Ex. 5; Testimony of the MassHealth representative).
6. MassHealth did not receive the requested verifications. (Testimony of the MassHealth representative).
7. On November 4, 2021, MassHealth notified the appellant that it was denying his application for missing verifications. (Ex. 1).
8. On December 3, 2021, the Board of Hearing received a timely appeal of the November 4, 2021 MassHealth notice. (Ex. 2).
9. The appellant named the appellant as his representative on the Fair Hearing Form and also submitted the ARD form signed on June 16, 2021. (Ex. 2, pp. 2, 5-7).
10. At the hearing, the appellant's representative requested 30 days to submit the requested documentation into the hearing record. (Testimony of the appellant's representative).
11. The hearing record was left open until January 24, 2022 for the appellant's representative to submit the verifications MassHealth requested to both the hearing officer and the MassHealth representative. (Ex. 6).
12. MassHealth was given until February 7, 2022 to respond to any submission from the appellant's representative. (Ex. 6).
13. In an email dated January 27, 2022 the MassHealth representative informed the hearing officer that that MassHealth had not received any of the missing verifications requested at which point the hearing record closed. (Ex. 7).

Analysis and Conclusions of Law

MassHealth applicants must cooperate in providing information necessary to establish eligibility and must comply with all the rules and regulations of MassHealth. (130 CMR 515.008(A)). Once MassHealth receives an application for LTC benefits it will send the applicant written notification (generally within five days) requesting all corroborative information necessary to determine eligibility. (130 CMR 516.001(B)(1)). The notice advises the applicant that the requested information must be received within 30 days of the date of the request and explains the consequences of failure to provide the information. (130 CMR 516.001(B)(2)). If the requested information is received within 30 days⁴, MassHealth will determine the coverage type providing the most comprehensive benefits for which the applicant is eligible. (130 CMR 516.001(C)). If the requested information is not received within 30 days of the request, MassHealth benefits may be denied. (Id).

The record shows that MassHealth sent that the appellant a request for information on July 22, 2021. The MassHealth representative testified that MassHealth did not receive the requested documents. Although the MassHealth representative did not submit a copy of the VCT-1 into the record, the appellant's representative did not deny receiving or being aware of that notice. The appellant's representative also did not dispute that the requested documents were not submitted. It can also be inferred that since MassHealth sent the denial on November 4, 2021, the appellant was effectively given far more than 30 days to submit the requested documents. MassHealth therefore acted properly in denying the application for LTC services at that time.

Pursuant to the timely appeal of the denial, the record was left open in order to allow the appellant (through his representative) further time to submit the requested documents. (See 130 CMR 610.065(A)(4); (B)(4),(6),(8); 610.071(F)). The appellant's representative was given until January 24, 2022 (32 days after the hearing) to submit statements dated October 1, 2020 to the present from two different accounts at one bank as well as an explanation and supporting documentation for all deposits and withdrawals of \$1500 or more. The MassHealth representative reported by email on January 27, 2022 that she had not received the information requested in the record open.

For the above stated reasons, the appeal must be DENIED.

Order for MassHealth

None.

⁴ There is an exception for information concerning citizenship, identity, and immigration status. (130 CMR 516.001(C)). None of these categories of information are relevant to this case, however.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780