

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2200755
<b>Decision Date:</b>	5/2/2022	<b>Hearing Date:</b>	February 28, 2022
<b>Hearing Officer:</b>	Brook Padgett	<b>Record Open:</b>	March 28, 2022

**Appellant Representatives:**




**MassHealth Representative:**

Evelyn Daniel



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> floor  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	130 CMR 610.051
<b>Decision Date:</b>	5/2/2022	<b>Hearing Date:</b>	February 28, 2022
<b>MassHealth Rep.:</b>	E. Daniel	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	Springfield	<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

The appellant received a notice dated January 28, 2022, stating: MassHealth has reviewed your application for MassHealth long-term-care services which you filed on November 04, 2021. You are not eligible because you did not give MassHealth the information it needs to decide your eligibility within the required time frame. (130 CMR 515.008). (Exhibit 1).

The appellant filed this appeal timely on February 02, 2022. (130 CMR 610.015(B); Exhibit 2).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's request for long term care benefits.

### Issue

Did MassHealth correctly determine the appellant's long-term care eligibility?

## **Summary of Evidence**

MassHealth testified that to be eligible for long term care services the appellant must verify her annuity (as listed on the 2021-1099), burial account contract, long form birth certificate, 2021 real estate assessment for property in Florida, all bank accounts, and the nursing facility screening. In the alternative the appellant can apply for a Frail Elder Waiver.

At the request of the appellant's representative the record remained open until March 28, 2022, to allow the submission of the requested information or to submit an application for a Frail Elder Waiver. (Exhibit 4).

MassHealth responded that they had received verification that the appellant had submitted a request for the Frail Elder waiver program. MassHealth stated the requested verifications are no longer required as the appellant is no longer applying for long term care coverage and there is sufficient documentation to proceed with a determination of a Frail Elder Waiver. (Exhibit 5).

The appellant appealed the denial of her long-term care application after she was denied coverage for failure to submit the required verification to make a long-term care eligibility determination. Prior to the close of the record open period on March 28, 2022, the appellant's representative indicated the appellant was no longer requesting long term care coverage but would apply for a Frail Elder Waiver. On April 12, 2022, MassHealth indicated that it had sufficient documentation regarding the Frail Elder Waiver request and attempted to contact the appellant to withdraw her appeal as the long-term care issue had been resolved. On April 20, 2022, MassHealth again attempted to contact the appellant. In each instance the appellant failed to respond.

The Fair Hearing regulation concerning Adjustment Procedures and Mediation is set forth at 130 CMR 610.051. 130 CMR 610.051(B) states, in relevant part, as follows:

MassHealth may make an adjustment in the matters at issue before or during a hearing. If the parties agree that the adjustment resolves one or more of the issues in dispute, the hearing officer, by written order, will dismiss the appeal as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement.

The appellant submitted a Frail Elder Waiver. MassHealth reversed its denial for long term care verifications as they have sufficient verification to make an eligibility determination regarding the appellant's request for a Frail Elder Waiver. The MassHealth adjustment resolves the failure to provide sufficient evidence of eligibility for long term care which was the disputed issue under appeal. The parties have reached agreement pursuant to 130 CMR 610.051(B), therefore this appeal is dismissed.

## **Order for MassHealth**

Proceed with Frail Elder Waiver determination.

## **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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Brook Padgett  
Hearing Officer  
Board of Hearings

cc: Springfield MEC