

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2200807
Decision Date:	4/22/2022	Hearing Date:	03/08/2022
Hearing Officer:	Scott Bernard	Record Open to:	04/19/22

Appearance for Appellant:



Appearance for MassHealth:

Gloria Medeiros (Taunton MEC)



*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) Verifications
Decision Date:	4/22/2022	Hearing Date:	03/08/2022
MassHealth's Rep.:	Gloria Medeiros	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 December 28, 2021, MassHealth denied the appellant's application for MassHealth LTC benefits because it determined that the appellant had not given the information needed to decide his eligibility within the required timeframe. (See 130 CMR 516.001; 515.008 and Exhibit (Ex.) 1, pp. 2-5). The appellant filed this appeal in a timely manner on January 27, 2022. (See 130 CMR 610.015(B) and Ex. 1, p. 1). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the appellant's attorney's request, the record was initially left open until March 22, 2022 to allow her to submit the remaining verifications. At the appellant's attorney's request, the record open was then extended until April 5 for the appellant's attorney and April 19 for the MassHealth representative. The appellant's attorney submitted documents on April 5 and the MassHealth representative responded on April 19 at which time the record closed.

Action Taken by MassHealth

MassHealth denied the appellant's LTC application for failure to submit requested verifications in a timely manner.

Issue

The appeal issues are whether MassHealth was correct, pursuant to 130 CMR 516.001 and 515.008, in

determining that the appellant did not submit requested verifications in a timely manner and whether the appellant was able to submit the requested verifications pursuant to the appeal process.

Summary of Evidence

The MassHealth representative testified to the following. MassHealth received the appellant's application for LTC benefits on November 17, 2021. The appellant was seeking a retroactive coverage date of August 1, 2021. MassHealth sent the appellant a request for information on November 23, 2021 with a due date of December 23, 2021. (Ex. 4, pp. 3-7). MassHealth did not receive any of the verifications specified in the request for information and for that reason issued the denial on December 28, 2021. (Ex. 1, pp. 2-5; Ex. 4, pp. 8-15).

The appellant's attorney stated that this is a messy situation because the appellant wants to go home, and his wife has dementia. The appellant's daughter in law and son have been made the appellant's health care proxy and power of attorney. They are working to obtain the requested bank statements. The bank statements are in the appellant's computer but they do not have access to the appellant's computer. The appellant's attorney stated that she went to the appellant's bank in Connecticut and was able to obtain those statements, which she sent to MassHealth prior to the hearing. The appellant's attorney requested further time to gather other requested information.

The record was therefore initially left open until March 22, 2022 for the appellant's attorney to submit the following:

1. [Community Spouse]¹
 - a. [Bank A] Other Type Of Bank Account XXXXXX: Submit complete bank statements from 1/1/2021-present; verify all transactions \$1500 or more with receipts/sources; verify all recurring transactions with receipts/sources; please submit an application page listing out all accounts -including account numbers and type of accounts.
 - b. Real Estate UNK: Real estate questions were not answered for spouse. Submit a completed page 12 - question 2 and 3 require answers for applicant and spouse. If yes verify all.
2. [The appellant]
 - a. Income from Private Pension: Submit proof of current gross income and any deductions.
 - b. [Bank A] Other Type Of Bank Account XXXXXX: Submit complete bank statements from 1/1/2021-present; verify all transactions \$1500 or more with receipts/sources; verify all recurring transactions with receipts/sources; please submit an application page listing out all accounts -including account numbers and type of accounts.
 - c. [Bank B] Checking Account [1]: This account number was picked up through bank verifications system. Submit complete bank statements from 1/1/2021-present.

¹ For reasons of confidentiality, the names of individuals, banks, and account numbers have been redacted in this decision.

Verify all transactions \$1500 or more with receipts/sources. Verify all recurring transactions with receipts/sources.

d. [Bank B] Checking Account [2]: This account number was picked up through bank verifications system. Submit complete bank statements from 1/1/2021-present. Verify all transactions \$1500 or more with receipts/sources. Verify all recurring transactions with receipts/sources.

e. [Bank B] Checking Account [3]: This account number was picked up through bank verifications system. Submit complete bank statements from 1/1/2021-present. Verify all transactions \$1500 or more with receipts/sources. Verify all recurring transactions with receipts/sources OR 6 months prior to closing -verify transactions noted above.

f. [Nursing Facility] Personal Needs Allowance Account XXXXXX PNA: Please have the nursing facility send in the following:

1. Personal needs account information and running balance;
2. Private payment statement and dates covered if any.

g. Verification of your spouse's living expenses:

1. Monthly Rent/Mortgage
2. Monthly Homeowners Insurance
3. Utilities
4. Taxes

h. Residence: Notification of admission to facility (SC-1).

i. Nursing Facility Screening Notification.

(Ex. 5).

On March 21, 2022, the appellant's attorney emailed the hearing officer and requested a brief extension because she had not received the SC-1 or a nursing home screen from the nursing facility. (Ex. 6). The record open was extended a further fourteen days to April 5 for the appellant's attorney and April 19 for MassHealth. (Ex. 7). On April 5, 2022, the appellant's attorney submitted faxes totaling 188 pages to both the hearing officer and the MassHealth representative. (Ex. 8; Ex. 9; Ex. 10). On April 12, 2022, the MassHealth representative emailed the appellant's attorney and the hearing officer stating she did not have all the information she required to make an eligibility determination and providing a detailed accounting of the verifications submitted and outstanding. (Ex. 12). On April 13, 2022, the appellant's attorney offered to provide the MassHealth representative tax documents as substitutes for some verifications, as well as further bank statements.² (Ex. 13, p. 1). On April 19, 2022, the MassHealth representative stated that she received and reviewed other bank statements but that the were missing income verifications. (Ex. 13, p. 1). According to the list the MassHealth representative attached, she still had not received the following:

² This particular email was sent only to the MassHealth representative and included in a subsequent email string. The hearing officer did not receive any further proffered verifications.

- Income information concerning the appellant's private pension. The MassHealth representative also noted that the verifications submitted appeared to indicate that there were other sources of income that would need verification;
- Explanations of three specified one-time deposits and one recurring deposit for Bank B, checking accounts 2 and 3; and
- Statements for Bank B, checking account 1. (Ex. 13, p. 2).

There was no further response from the appellant's attorney and the record therefore closed on April 19, 2022. (Ex. 14).

Findings of Fact

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

1. MassHealth received the appellant's application for LTC benefits on November 17, 2021. (Testimony of the MassHealth representative).
2. The appellant was seeking a retroactive coverage date of August 1, 2021. (Testimony of the MassHealth representative).
3. MassHealth sent the appellant a request for information on November 23, 2021 with a due date of December 23, 2021. (Ex. 4, pp. 3-7).
4. MassHealth did not receive any of the verifications specified in the request for information and for that reason issued the denial on December 28, 2021. (Ex. 1, pp. 2-5; Ex. 4, pp. 8-15).
5. Pursuant to a timely appeal, and at the appellant's attorney's request, the record was kept open for submission of listed documents. (Ex. 5).
6. After one requested extension, the appellant's attorney submitted 188 pages of documents by the revised due date of April 5, 2022. (Ex. 6, 7, 8, 9, 10).
7. On April 19, 2022, the MassHealth representative stated that she had not received all the requested verifications and specified which verifications had not been submitted. (Ex. 13).
8. The record closed on April 19, 2022. (Ex. 14).

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 days³, 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 November 23, 2021. The due date for submission was December 23, 2021, 30 days after the mailing date of the request. The MassHealth representative testified that MassHealth did not receive the requested documents on or after December 23, a fact the appellant's attorney did not dispute. MassHealth therefore acted properly in denying the application for LTC services on December 28, 2021.

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 attorney was given until April 5, 2022 to submit a number of verifications. The appellant's attorney did, in fact, submit 188 pages of documents on April 5, 2022. The MassHealth representative reported by email on April 19, 2022 that she still had not received all the requested verifications and specified the verifications that were missing. For that reason, the evidence is insufficient to allow an eligibility determination to be made at this time.

For the above stated reasons, the appeal must be 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

³ 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.