

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2201053
Decision Date:	2/7/2023	Hearing Date:	03/11/2022
Hearing Officer:	Scott Bernard	Record Open to:	01/23/2023

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:	2/7/2023	Hearing Date:	03/11/2022
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 January 18, 2022, MassHealth denied the appellant's application for MassHealth LTC benefits because MassHealth determined that the appellant had not given it the information needed to decide his eligibility. (See 130 CMR 515.008 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on February 10, 2022. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the request of the appellant's representative at the hearing, the record was left open to allow her to submit requested documentation. (See 130 CMR 610.065(A)(4); (B)(4),(6),(8); 610.071(F)); Ex. 5; Ex. 6). At the appellant's representative's request, and for good cause, the record open was extended several times until January 10, 2023. (Ex. 6). On January 10, 2023, the MassHealth representative emailed the hearing officer and the appellant's representative stating that she did not have certain verifications requested, at which time the record closed. (Ex. 6, p. 48).

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. The appellant was admitted to the nursing facility in the late summer of 2021. MassHealth received an LTC conversion application on November 9, 2021 seeking an LTC start date of September 18, 2021. MassHealth sent a request for information on December 10, 2021. MassHealth denied the application on January 18, 2022 because the appellant had not submitted the requested verification. Specifically, MassHealth needed verification of where the appellant's monthly income was going, as well as supporting documentation. MassHealth does have a Social Security match showing that the appellant had been receiving some form of Social Security income that was not Supplemental Security Income (SSI) since 2015. (Ex. 4).

The appellant's representative stated that she needed more time to get the information MassHealth was seeking. The problem was that there was a mismatch of the appellant's Social Security number, which made getting information from the Social Security Administration (SSA) difficult. The appellant's representative had sent over requests for information to SSA, and these had been rejected. The appellant's representative had spoken to the appellant's daughter, who said that the appellant never worked. At the time of the hearing, the appellant's representative had limited information concerning the nature of the appellant's Social Security income and where it was being deposited.

The appellant's representative asked the MassHealth representative whether she knew the bank where the checks had been deposited and the MassHealth representative stated that she did not know. The appellant's representative stated that the appellant not able to call Social Security himself. The MassHealth representative suggested that perhaps the appellant's representative should file for conservatorship, which would allow her to obtain the information from Social Security. The appellant's representative stated that .

For that reason, the record was left open in order for the appellant's representative to submit the following:

1. Verification of where the appellant's monthly Social Security income (Claim No. [Redacted]) is going and supporting documentation. The Social Security income is not Supplemental Security Income (SSI);

or

2. Verification that you are filing or (preferably) have filed for conservatorship. Once the appellant's representative states an intention of filing for conservatorship, I will provide further instruction on what documentation I will need to further extend the record open on an ongoing basis until a conservatorship is established. (Ex. 5).

The appellant's representative was initially given until April 19, 2022 to submit this information. (Id.). On April 14, 2022, the appellant's representative emailed both the hearing officer and the MassHealth representative stating that the nursing facility had been named as the Social Security

representative payee and that they would be filing a petition for appointment of conservatorship. (Ex. 6, pp. 1-12). The record open was extended a further 30 days until May 19, 2022. (Ex. 6, p. 14). On May 19, 2022, the appellant's representative provided the hearing officer and the MassHealth representative an update, stating that the conservatorship petition was filed on May 6, 2022. (Ex. 6, p. 16). The record open was therefore extended until August 2, 2022. (Ex. 6, p. 29). The appellant's representative updated the hearing officer and the MassHealth representative on July 20 and July 29, 2022, stating that the facility was still awaiting a hearing date, and asking on the latter occasion for a further extension. (Ex. 6, pp. 31, 32). The record open was extended until September 1, 2022. (Ex. 6, p. 33). On August 23, 2022, the appellant's representative informed the hearing officer and the MassHealth representative that the hearing was scheduled for October 11, 2022. (Ex. 6, pp. 34, 35). The record open was therefore extended to November 1, 2022. (Ex. 6, p. 36).

On October 13, 2022, the appellant's representative emailed the hearing officer and the MassHealth representative with an update stating that the October 11, 2022 conservatorship hearing had been continued until October 25, 2022. (Ex. 6, p. 38). She also informed the hearing officer and the MassHealth representative that October 13, 2022 was her last day and provided the information concerning her successor (the new appellant's representative). (*Id.*). The hearing officer extended the record open until December 1, 2022. (Ex. 6, p. 39). On November 21, 2022, the new appellant's representative notified the parties that a conservator had been appointed and asked for a copy of the record open, which the hearing officer forwarded to her. (Ex. 6, pp. 39-42). The hearing officer informed the new appellant's representative that the due date was December 1, 2022 and that she could request an extension if she did so before that date. (Ex. 6, p. 42).

On December 6, 2022, the MassHealth representative informed the hearing officer that she did not receive the verifications requested. (Ex. 6, p. 44). On December 9, 2022, the new appellant's representative asked for more time because the conservator had not yet gotten the conservator documents from the court. (Ex. 6, p. 45). The hearing officer granted one further extension until January 9, 2023 for the appellant's representative and MassHealth was given until January 23, 2023 to determine whether they had what they needed to make a determination. (Ex. 6, p. 46). On January 10, 2023, the new appellant's representative emailed both the hearing officer and the MassHealth representative stating that the conservator was having an awful time trying to find the appellant's bank. (Ex. 6, p. 47). No further information was received, and the hearing record closed on January 23, 2023.

Findings of Fact

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

1. The appellant was admitted to the nursing facility in the late summer of 2021. (Testimony of the MassHealth representative).
2. MassHealth received an LTC conversion on November 9, 2021 seeking an LTC start date of September 18, 2021. (Testimony of the MassHealth representative).
3. MassHealth sent a request for information on December 10, 2021. (Testimony of the MassHealth representative).

4. MassHealth denied the application on January 18, 2022 because the appellant had not submitted requested verification. (Testimony of the MassHealth representative).
 5. Specifically, MassHealth needed verification of where the appellant's monthly income was going, as well as supporting documentation. (Testimony of the MassHealth representative).
 6. MassHealth has a Social Security match showing that the appellant has received income from Social Security that is not SSI since 2015. (Ex. 4).
 7. At the appellant's representative's request, the record was left open to allow her to obtain the following:
 1. Verification of where the appellant's monthly Social Security income (Claim No. [Redacted]) is going and supporting documentation. The Social Security income is not Supplemental Security Income (SSI);
- or
2. Verification that you are filing or (preferably) have filed for conservatorship. Once the appellant's representative states an intention of filing for conservatorship, I will provide further instruction on what documentation I will need to further extend the record open on an ongoing basis until a conservatorship is established. (Ex. 5).
 7. The appellant's representative requested extensions in order to allow for appointment of a conservator. (Ex. 6).
 8. The conservator was appointed after an October 25, 2022 hearing. (Ex. 6).
 9. Further extensions were requested until January 9, 2023 for the appellant's representative and January 23, 2023 for MassHealth. (Ex. 6).
 10. No further information was received concerning information requested through the Record Open and the record closed on January 23, 2023. (Ex. 6).

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 days¹, MassHealth will determine the coverage type providing the most comprehensive

¹ There is an exception for information concerning citizenship, identity, and immigration status. (130 CMR

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 the appellant a request for verifications on December 10, 2021, which the appellant's representative did not dispute. MassHealth did not receive the requested verifications after more than 30 days, another fact the appellant's representative did not dispute. MassHealth then denied the appellant's application on January 18, 2022 because the appellant did not submit the verification necessary to determine his eligibility for MassHealth LTC benefits.

Pursuant to the timely appeal of the denial, and at the request of the appellant's representative the record was left open after in order to allow further time to submit the requested documents. (See 130 CMR 610.065(A)(4); (B)(4),(6),(8); 610.071(F)). There were extensions requested and approved during this period because the appellant's representative and the nursing facility were trying to have a conservator put into place in order to obtain the information MassHealth was seeking. Finally, a conservator was appointed in late October/early November 2022. This, however, did not result in submission of the requested verifications after two further months.

For the above stated reasons, 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]

516.001(C)). None of these categories of information are relevant to this case, however.