

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2201305
<b>Decision Date:</b>	4/04/2022	<b>Hearing Date:</b>	03/16/2022
<b>Hearing Officer:</b>	Susan Burgess-Cox	<b>Record Open to:</b>	03/21/2022

**Appearance for Appellant:**



**Appearance for MassHealth:**

Ian Ticknell



*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>	Eligibility
<b>Decision Date:</b>	4/04/2022	<b>Hearing Date:</b>	03/16/2022
<b>MassHealth's Rep.:</b>	Ian Ticknell	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	All Parties Appeared by Telephone		

### 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 13, 2022, MassHealth denied the appellant's application for long-term care benefits for failure to provide information necessary to determine eligibility within the required time frame. (130 CMR 516.001; Exhibit 1). An authorized representative filed an appeal in a timely manner on February 21, 2022. (130 CMR 610.015(B); Exhibit 2; Exhibit 3). A hearing was scheduled for March 16, 2022 and at the request of the parties, the record was held open until March 21, 2022. (Exhibit 4; Exhibit 5).

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

### Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth benefits for failure to provide information necessary to determine eligibility within the required time frame.

### Issue

Whether MassHealth was correct in denying the appellant's application for failure

to provide information necessary to determine eligibility within the required time frame.

## **Summary of Evidence**

All parties appeared by telephone. A summary of the application history presented by MassHealth was incorporated into the hearing record as Exhibit 5.

MassHealth received an application for long-term care in November 2021 seeking coverage for a date in September 2021. On December 6, 2021, MassHealth issued a Request for Information seeking corroborative information necessary to determine eligibility. On January 13, 2022, MassHealth issued a notice denying the application as the appellant did not give MassHealth the information necessary to determine eligibility within the required time frame.

Both parties acknowledged that MassHealth did not receive information necessary to determine eligibility within the required time frame or as of the date of the hearing. The appellant's representative testified that they received the request for information, tried to contact the appellant's son to obtain the information but he did not respond to their calls. An Authorized Representative Designation (ARD) form was submitted with the request for hearing where the representative at hearing attested that the appellant could not provide written designation and the parties were not aware of an individual who had authority to act on her behalf. (Exhibit 3). This ARD form was signed in November 2021. The appellant's representative noted that they contacted an attorney regarding the filing a petition for the appointment of a conservator in January 2022 but did not have any evidence to verify this action on the day of the hearing. The record was held open to provide the appellant's representative the opportunity to provide any additional evidence related to the matter at issue. (Exhibit 6).

During the record open period, the appellant's representative sent a message stating that the attorney did not move forward with filing a petition for the appointment of a conservator as she never received a retainer for her services. (Exhibit 7). During the record open period, the appellant's representative contacted the bank with the appellant to try and obtain information but could not obtain the information as the appellant did not have a debit card. The representative requested an extension of the record open period. (Exhibit 7). This request was denied. (Exhibit 7). The MassHealth representative responded that the agency did not receive information necessary to determine eligibility. (Exhibit 7).

## **Findings of Fact**

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

1. MassHealth received an application for long-term care in November 2021 seeking coverage as of a date in September 2021.
2. On December 6, 2021 MassHealth issued a Request for Information seeking corroborative information necessary to determine eligibility.
3. MassHealth did not receive information necessary to determine eligibility within the required time frame.
4. On January 13, 2022, MassHealth denied coverage for failure to provide information necessary to determine eligibility within the required timeframe.
5. As of the hearing date, MassHealth had not received information necessary to determine eligibility.
6. As of the end of a record open period, MassHealth had not received information necessary to determine eligibility.

## **Analysis and Conclusions of Law**

MassHealth administers and is responsible for the delivery of health-care services to MassHealth members. (130 CMR 515.002). The regulations governing MassHealth at 130 CMR 515.000 through 522.000 (referred to as Volume II) provide the requirements for noninstitutionalized persons aged 65 or older, institutionalized persons of any age, persons who would be institutionalized without community-based services, as defined by Title XIX of the Social Security Act and authorized by M.G.L. c. 118E, and certain Medicare beneficiaries. (130 CMR 515.002). The appellant in this case is an institutionalized person. Therefore, the regulations at 130 CMR 515.000 through 522.000 apply to this case. (130 CMR 515.002).

Pursuant to 130 CMR 515.008, applicants or members must cooperate with MassHealth in providing information to establish and maintain eligibility and must comply with all of the rules and regulations governing MassHealth, including recovery. MassHealth requires verification of eligibility factors including income, assets, residency, citizenship, immigration status, and identity as described in 130 CMR 517.000: MassHealth: Universal Eligibility Requirements, 130 CMR

518.000: MassHealth: Citizenship and Immigration, and 130 CMR 520.000: MassHealth: Financial Eligibility. (130 CMR 516.003).

To obtain the necessary information and documentation, MassHealth sends the applicant written notification requesting verifications to corroborate information necessary to determine eligibility, generally within five days of the receipt of the application. (130 CMR 516.001(B)). The notice advises the applicant that the requested verifications must be received within 30 days of the date of the request, and of the consequences of failure to provide the information. (130 CMR 516.001(B)). If the requested information, with the exceptions of verification of immigration status, is not provided within 30 days of the date of the request, MassHealth benefits may be denied. (130 CMR 516.001(C)).

The appellant's representative did not dispute the fact that the appellant received proper notices requesting information. (130 CMR 516.001). The appellant's representative acknowledged at hearing that the appellant had not provided all of the information necessary to determine eligibility.

The record was held open to give the appellant's representative the opportunity to provide additional evidence regarding the matter at issue. (Exhibit 6). During the record open period, MassHealth did not receive information necessary to determine eligibility. (Exhibit 7).

The request of the appellant's representative to extend the record open period was denied as the evidence presented during the course of the appeal did not demonstrate that proactive steps were taken to obtain the information during the application process. Instead, more effective actions were taken after the denial issued by MassHealth and the scheduling of the hearing with what appeared to be an expectation that additional time would be provided after the hearing date. These actions included speaking to an attorney about filing a petition for conservatorship as well as working with the appellant herself to obtain the information. It is not clear why these actions were not taken during the 30-day period allowed by MassHealth or prior to the hearing date. Additionally, it is not clear how the appellant could work with the representative to try and obtain information during the appeal process but could not do so prior to the hearing. These actions also call into question the validity of the authorized representative designation form submitted by the appellant's representative noting that the appellant could not provide written designation on her own.

The fair hearing process is an administrative, adjudicatory proceeding where dissatisfied applicants, members, and nursing facility residents upon written request, obtain an administrative determination of the appropriateness of

certain actions or inactions by the MassHealth agency. (130 CMR 610.012(A)(1)). The hearing process is designed to secure and protect the interests of both the appellant and, as appropriate, the MassHealth agency or its personnel and to ensure equitable treatment for all involved. (130 CMR 610.012(B)). The hearing process is not an extension of the application process.

MassHealth acted within its discretion to deny the appellant's application for long-term care coverage. (130 CMR 516.001(C)). The decision made by MassHealth was correct.

This 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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

