

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2202450

Decision Date: 6/7/2022

Hearing Date: 05/03/2022

Hearing Officer: Patricia Mullen

Record Open to: 06/03/2022

Appearance for Appellant:




Appearance for MassHealth:

Cara Miller, Tewksbury 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:	Verifications
Decision Date:	6/7/2022	Hearing Date:	05/03/2022
MassHealth's Rep.:	Cara Miller, Tewksbury MEC	Appellant's Rep.:	
Hearing Location:	Tewksbury 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 February 11 2022, MassHealth denied the appellant's application for MassHealth Standard benefits for long term care residents because MassHealth determined that the appellant did not submit verifications necessary for MassHealth to determine eligibility. (See 130 CMR 516.002 and Exhibit 1). The appellant filed this appeal in a timely manner on March 30, 2022.¹ (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032). The record was left open for 30 days until June 3, 2022.

Action Taken by MassHealth

MassHealth denied the appellant's application for MassHealth Standard for long term care residents.

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 516.001, in determining that the appellant failed to submit verifications necessary to determine MassHealth eligibility.

Summary of Evidence

The appellant was represented telephonically by his authorized representative, who is the bookkeeper at the nursing facility. MassHealth was represented telephonically by a worker from the MassHealth Enrollment Center (MEC) in Tewksbury. The MassHealth representative testified that the appellant was admitted to the nursing facility on [REDACTED] and submitted an application for MassHealth on December 22, 2021, seeking a September 4, 2021 MassHealth start date. The MassHealth representative stated that the appellant noted on the application that he was a single individual with no spouse and he listed one bank account. The MassHealth representative stated that MassHealth sent the appellant an Information Request on January 4, 2022 seeking, among other things, statements for his listed bank account (hereinafter “bank account 1”), and any other accounts held individually or jointly, including closed accounts, for the period September, 2018 through May 26, 2021, with explanation of the source of all deposits, as well as all other transactions over \$1,000.00; the source of income from Unum; nursing facility screening form; and completed disability form. (Exhibit 1). The MassHealth representative stated that the requested verifications were not received and MassHealth denied the application by notice dated February 11, 2022.

The MassHealth representative stated that prior to the hearing, statements for bank account 1 were submitted to MassHealth. The MassHealth representative stated that the statements show many withdrawals, some into 3 other bank accounts, and many deposits from unknown sources. The MassHealth representative stated that as of the date of the hearing, the verification of income from Unum, the completed disability supplement, and explanation of withdrawals out of and deposits into bank account 1 were still outstanding. The MassHealth representative stated that in light of the discovery of the three other bank accounts noted on bank account 1, MassHealth would need to know if the appellant was on any of these accounts.

The MassHealth representative submitted an appeal worksheet and a chart of unexplained and unverified transactions for bank account 1. (Exhibit 5). These documents were emailed to the appellant’s representative and to the Board of Hearings the day prior to the hearing. (Exhibit 5, p. 3). The MassHealth representative listed the outstanding verifications including the source of income from Unum; explanation of the many transactions including sources of all deposits and withdrawals of \$1,000.00 or more for bank account 1; statements from 9/18 to current and explanation of deposits and withdrawals of \$1,000.00 or more for bank accounts 2, 3, and 4. (Exhibit 5). On the chart of unexplained and unverified transactions for bank account 1, the MassHealth representative noted that there were many unverified deposits under \$1,000.00 not listed. (Exhibit 5, p. 1). From 9/24/18 to 11/3/21, there were 18 deposits over \$1,000.00 into bank account 1, including a deposit of \$41,299.11 on 9/24/18. (Exhibit 5, p. 2). The MassHealth representative stated that MassHealth requested verification of the source of these deposits and none was submitted. The chart also lists

44 withdrawals of \$1,000.00 or more for the period 10/3/18 to 2/7/22, many for \$1,000.00 on the same day or on multiple days in the same week. (Exhibit 5, p. 2). The MassHealth representative stated that some withdrawals went into bank accounts 2, 3, or 4. The MassHealth representative stated that none of the withdrawals were explained as requested in the Information Request. The chart also lists 2 checks written in November, 2018 over \$1,000.00. (Exhibit 5, p. 2). The MassHealth representative stated that no explanation was given for these checks as requested in the Information Request.

The appellant's representative stated that he was not sure who is on bank accounts 2, 3, and 4 because he just learned of them when he received the MassHealth representative's email the day prior. The appellant's representative stated that the appellant's spouse has not provided any information about the bank accounts. The MassHealth representative noted that the appellant reported no spouse on the application and this was the first she was hearing of a spouse. The appellant's representative stated that the appellant has a spouse and a disabled adult child. The appellant's representative stated that he has no explanation for the deposits or withdrawals on any of the bank accounts. The MassHealth representative stated that a new application would be necessary with accurate information, including the spouse's information.

The appellant's representative requested a record open period to get the information requested. The hearing officer noted that she was not inclined to leave the record open since the appellant was not honest in completing the application and has offered no explanation as to why requested information was withheld. The hearing officer noted her reluctance, but allowed the record to be open for one month, until June 3, 2022, to give the appellant the opportunity to submit all requested verifications, including a new, accurate application with his spouse's information included, an explanation of the deposits into bank account 1, and statements for bank accounts 2, 3, and 4. (Exhibit 6). By email dated June 2, 2022, the appellant's representative requested that the record open period be extended and such request was denied. (Exhibit 7). On June 3, 2022, the appellant submitted a new application and a copy of MassHealth's Unexplained and Unverified Transactions list with type written notes on the list of withdrawals and deposits, with no supporting documentation. (Exhibit 8). The appellant wrote that the 6 deposits made from 9/24/18 to 04/27/20, including a deposit of \$41,299.11 on 9/24/18, were from the sale of his late brother's house. (Exhibit 8, p. 28). No documentation to support this was submitted. (Exhibit 8). The appellant wrote that 7 deposits made from 6/12/20 to 4/7/21 were sent by his sister-in-law for his late brother's funeral (Exhibit 8, p. 39). No documentation was submitted to support this. (Exhibit 8). The appellant wrote that a deposit on 7/6/21 was from an insurance disability check; no supporting documentation was submitted. (Exhibit 8, p. 38). The appellant wrote that 3 deposits made from 7/7/21 to 11/3/21 were for personal bill payments, but did not indicate the source of these deposits or provide supporting documentation. (Exhibit 8, p. 38). The appellant wrote that withdrawals were made to take care of his late brother while he was in a nursing facility, to pay for his late brother's funeral expenses, to pay for his late brother's past due rent payments, and to pay for household expenses. (Exhibit 8, pp. 39-40).

Findings of Fact

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

1. The appellant was admitted to the nursing facility on [REDACTED] and submitted an application for MassHealth on December 22, 2021, seeking a September 4, 2021 MassHealth start date.
2. The appellant noted on the application that he was a single individual with no spouse and he listed one bank account.
3. MassHealth sent the appellant an Information Request on January 4, 2022 seeking, among other things, statements for bank account 1, and any other accounts held individually or jointly, including closed accounts, for the period September, 2018 through May 26, 2021, with explanation of the source of all deposits, as well as all other transactions over \$1,000.00; the source of income from Unum; nursing facility screening form; and completed disability form.
4. All requested verifications were not received and MassHealth denied the application by notice dated February 11, 2022.
5. Prior to the hearing, statements for bank account 1 were submitted to MassHealth.
6. The statements for bank account 1 show many withdrawals into 3 other bank accounts, and many deposits from unknown sources.
7. As of the date of the hearing, the verification of income from Unum, explanation of withdrawals out of and deposits into bank account 1, and the disability supplement were still outstanding.
8. From 9/24/18 to 11/3/21, there were 18 unexplained deposits over \$1,000.00 into bank account 1, including a deposit of \$41,299.11 on 9/24/18.
9. From 10/3/18 to 2/7/22, there were 44 unexplained withdrawals of \$1,000.00 or more from bank account 1.
10. In November, 2018, there were 2 unexplained checks over \$1,000.00 written from bank account 1.
11. It was learned at the hearing that the appellant has a spouse, who was not reported on the MassHealth application.
12. The record was left open for one month, until June 3, 2022, to give the appellant the opportunity to submit all outstanding requested verifications.
13. The appellant submitted a new application on June 3, 2022.

Analysis and Conclusions of Law

Application for Benefits

(A) Filing an Application.

(1) Application. To apply for MassHealth

- (a) for an individual living in the community, an individual or his or her authorized representative must file a complete paper Senior Application and all required Supplements or apply in person at a MassHealth Enrollment Center (MEC); or
- (b) for an individual in need of long-term-care services in a nursing facility, a person or his or her authorized representative must file a complete paper Senior Application and Supplements or apply in person at a MassHealth Enrollment Center (MEC).

(2) Date of Application.

- (a) The date of application is the date the application is received by the MassHealth agency.
- (b) An application is considered complete as provided in 130 CMR 516.001(C).
- (c) If an applicant described in 130 CMR 519.002(A)(1) has been denied SSI in the 30-day period before the date of application for MassHealth, the date of application for MassHealth is the date the person applied for SSI.

(3) Paper Applications or In-person Applications at the MassHealth Enrollment Center (MEC) — Missing or Inconsistent Information.

- (a) If an application is received at a MassHealth Enrollment Center or MassHealth outreach site and the applicant did not answer all required questions on the Senior Application or if the Senior Application is unsigned, the MassHealth agency is unable to determine the applicant's eligibility for MassHealth.
- (b) The MassHealth agency requests responses to all of the unanswered questions necessary to determine eligibility. The MassHealth agency must receive such information within 15 days of the date of the request for the information.
- (c) If responses to all unanswered questions necessary to determine eligibility are received within 15 days of the date of the notice, referenced in 130 CMR 516.001(A)(3)(b), the MassHealth agency will request any corroborative information necessary to determine eligibility, as provided in 130 CMR 516.001(B) and (C).
- (d) If responses to all unanswered questions necessary for determining eligibility are not received within the 15-day period referenced in 130 CMR 516.001(A)(4)(b), the MassHealth agency notifies the applicant that it is unable to determine eligibility. The date that the incomplete application was received will not be used in any subsequent eligibility determinations. If the required response is received after the 15-day period, the eligibility process commences and the application is considered submitted on the date the response is received, provided that if the required response is submitted more than one year after the initial incomplete application, a new application must be completed.
- (e) Inconsistent answers are treated as unanswered.

(B) Corroborative Information. The MassHealth agency requests all corroborative information necessary to determine eligibility.

- (1) The MassHealth agency sends the applicant written notification requesting the corroborative information generally within five days of receipt of the application.
- (2) The notice advises the applicant that the requested information must be received within 30 days of the date of the request, and of the consequences of failure to provide the information.

(C) Receipt of Corroborative Information. If the requested information, with the exception of verification of citizenship, identity, and immigration status, is received within 30 days of the date of the request, the application is considered complete. The MassHealth agency will determine the coverage type providing the most comprehensive medical benefits for which the applicant is eligible. If such information is not received within 30 days of the date of the request, MassHealth benefits may be denied.

(130 CMR 516.001).

The hearing officer may not exclude evidence at the hearing for the reason that it had not been previously submitted to the acting entity, provided that the hearing officer may permit the acting entity representative reasonable time to respond to newly submitted evidence. The effective date of any adjustments to the appellant's eligibility status is the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted.

(130 CMR 610.071(A)(2)).

Due to the Covid emergency timelines in place, the appellant was able to file an appeal beyond the regulatory timeline of 30 days. The appellant filed the appeal of the MassHealth February 11, 2022 denial notice over 1 ½ months later on March 30, 2022. Despite this additional time, the appellant did not submit the information originally requested on the Information Request form dated January 4, 2022. Further, the appellant did not submit the requested information by the date of the hearing, 4 months later. The appellant was admitted to the nursing facility over a year ago and needs MassHealth coverage beginning in September, 2021. It is reasonable that the appellant should have begun compiling necessary financial data at that time. The appellant did not provide honest information on his application in that he did not disclose his spouse or list any of her banks accounts or other assets. Three bank accounts were discovered by MassHealth after the appellant submitted bank statements for bank account 1 prior to the hearing. The Information Request dated January 4, 2022 clearly stated that ***all*** accounts held individually or jointly needed to be submitted as well as explanations of all transactions of \$1,000.00 or more. (emphasis added). Although the appellant's representative from the nursing facility may have just learned of the 3 other bank accounts on the day prior to the hearing, the appellant knew of their existence at the time of application. The appellant could clearly see the transactions involving those accounts on the statements for bank account 1 and knew as early as January 4, 2022 that MassHealth needed explanations for those transactions and verification of all bank accounts. MassHealth needs verification of all bank accounts in which the appellant or his spouse have an interest, regardless of whether or not the appellant disclosed such accounts on his application. Further, because the appellant did not disclose he had a spouse, as was required on the MassHealth application, MassHealth was unable to do an asset match for the appellant's spouse and/or request verification of the spouse's financial information.

The hearing process is not a means of extending the MassHealth application process set forth in the above regulations. The appellant did not submit requested information by the date set forth in the Information Request, and, further, did not submit the requested information by the hearing

date nor during a one month record open period. The appellant and his spouse have access to their bank accounts and have had months to submit this requested information. The appellant's explanation of the numerous deposits into bank account 1 did not make sense. The appellant noted that 6 deposits of varying amounts made over an almost 2 year period from September, 2018 to April, 2020, were proceeds from the sale of his late brother's house. The amounts range from \$41,299.11 to \$1,000.00. There is no documentation to support where these deposits came from and the almost 2 year timeline would not support that the deposits were proceeds from a sale of real estate. The appellant stated that deposits from June, 2020 to April, 2021 were sent by his sister-in-law for his brother's funeral expenses. The 7 deposits in varying amounts, made over a 10 month period, would not seem to support this explanation and there was no supporting documentation submitted. The appellant's explanation that 3 deposits made from July, 2021 to November, 2021 were for his personal bill payments does not make sense because although it states how the money was spent, it does not explain the source of the deposits, as was requested. The explanation of the numerous withdrawals was also not supported by any documentation, however MassHealth could determine disqualifying transfers for those withdrawals. The source of the deposits and the bank statements for the three requested bank accounts are necessary to determine eligibility. Furthermore, the appellant did not submit the previously requested verification of the income from Unum or the requested disability supplement.

Because verifications necessary for MassHealth to determine the appellant's eligibility for MassHealth remain outstanding, MassHealth cannot make a determination of the appellant's eligibility. A new application was submitted on June 3, 2022 and presumably MassHealth will send out an Information Request for the outstanding verifications. MassHealth's action in denying the appellant's December 22, 2021 application for failure to submit requested verifications in a timely manner is upheld and 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.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center