

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2202822
Decision Date:	6/23/2022	Hearing Date:	05/18/2022
Hearing Officer:	Susan Burgess-Cox	Record Open to:	06/13/2022

Appearance for Appellant:



Appearance for MassHealth:

Steven Messina



*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:	Eligibility
Decision Date:	6/23/2022	Hearing Date:	05/18/2022
MassHealth's Rep.:	Steven Messina	Appellant's Rep.:	[REDACTED]
Hearing Location:	All Parties Appeared by Telephone	Aid Pending:	No

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 March 25, 2022, MassHealth determined the appellant ineligible for MassHealth benefits for failure to provide information necessary to determine eligibility. (130 CMR 516.001; Exhibit 1). The appellant filed an appeal in a timely manner on April 14, 2022. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

In the request for hearing and at hearing, the appellant's representative referred arguments and evidence necessary to prove the appellant's right to assistance contained in documents sent on January 21, 2022. This was prior to the eligibility determination on appeal. Both parties confirmed at hearing that the forms were likely sent to MassHealth, not the Board of Hearings. As the documents were referenced in the request for hearing and repeatedly at hearing, the record was held open to provide the appellant the opportunity to submit additional evidence or arguments and MassHealth the opportunity to review and respond to the submission. The record closed on June 13, 2022.

Action Taken by MassHealth

MassHealth determined the appellant ineligible for MassHealth for failure to provide information necessary to determine eligibility.

Issue

Whether MassHealth was correct in determining the appellant ineligible for failure to provide information necessary to determine eligibility.

Summary of Evidence

All parties appeared by telephone. The appellant is over 65-years of age. The appellant submitted an application for MassHealth on November 16, 2021. On November 24, 2021, MassHealth sent the appellant a request for information listing all requested verifications. The appellant is married and living with his spouse. The appellant did not submit records related to the income and assets of his spouse. On March 25, 2022, MassHealth issued the notice on appeal determining the appellant ineligible for failure to provide information necessary to determine eligibility within the required time frame.

In a letter submitted with the request for hearing, the appellant's representative noted that all arguments and evidence necessary to determine eligibility were provided in documents submitted on January 21, 2022. The appellant's representative did not dispute the fact that the appellant failed to provide information regarding the income and assets of his spouse. The appellant's representative argued that it is forbidden under the laws of the appellant's faith to require a wife to share income or assets with her husband. Therefore, the appellant should not have to disclose income and assets that are inaccessible to him due to the laws of his religion.

The MassHealth representative responded that the regulations do not have a religious exemption to this requirement. The MassHealth representative testified that in determining eligibility for applicants or members over 65-years of age, the total countable-income amount and countable assets of the individual and the spouse who are living together are compared to an income standard and asset limit. In determining eligibility, MassHealth initiates information matches with other agencies and information sources when an application is received to update or verify eligibility. Through one of these information matches, MassHealth found that the appellant files a joint income tax return with his spouse. The joint income tax return included income and asset information of both the appellant and his

spouse. In the information request sent to the appellant, MassHealth was seeking updated records for determining eligibility as of the date of the application for benefits.

The appellant's representative argued that under the laws of the Islamic faith, a woman has financial rights including the right to earn money, own property, enter into legal contracts and manage all of her assets and financial affairs in any way she wishes. Regardless of her financial state, a man must spend on his wife and provide for her. The appellant's representative argued that this religious principal exempts a woman from shouldering any financial obligations of the family and allows a woman to have full control of her property or earnings for her use alone. Therefore, no matter how rich a wife may be, she is not obligated to act as a co-provider and MassHealth should not take the income or assets of a wife into account in determining eligibility for her husband. The appellant's representative argued that it was a violation of the Constitution to require that the appellant verify the income and assets of his spouse.

As noted above, the record was held open to provide the appellant with the opportunity to submit any additional evidence or arguments at hearing. (Exhibit 5). Prior to the due date of his submission, the appellant's representative requested an extension of the record open period stating he did not receive correspondence from the Board of Hearings verifying the instructions regarding the record open process due to complications in receiving messages at the mailing address provided at hearing, (Exhibit 6). This request was denied as the representative had the ability to send the request to extend the record open period to the correct address as well as note the due date of the submission. (Exhibit 6). The appellant's representative did not demonstrate an inability to follow instructions presented at hearing regarding the submission of additional evidence.

During the record open period the appellant's representative provided a brief and documents that were incorporated into the hearing record as Exhibit 7. The documents include: a brief outlining arguments presented at hearing; a letter sent to MassHealth prior to the decision on appeal; a copy of a statement from the Social Security Administration regarding the appellant's receipt of benefits; and a letter from the appellant's spouse speaking to her refusal to provide information regarding her income and assets to determine the appellant's eligibility even though they are living together and the income and assets are not legally separated. Similar to the letter submitted with the request for hearing as well as testimony and arguments presented at hearing, the brief does not cite any legal or regulatory exceptions to the eligibility requirements at issue.

Findings of Fact

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

1. The appellant is over 65-years of age.
2. The appellant submitted an application for MassHealth on November 16, 2021.
3. On November 24, 2021, MassHealth sent the appellant a request for information notice listing all requested verifications.
4. The appellant is married and living with his spouse.
5. The appellant's spouse has income and assets.
6. The appellant and his spouse file a joint tax return.
7. The appellant and his spouse are not legally separated or undergoing any legal proceedings related to assets.
8. The appellant did not submit records related to the income and assets of his spouse.
9. On March 25, 2022, MassHealth issued a notice determining the appellant ineligible for failure to provide information necessary to determine eligibility within the required time frame.

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 over 65 years of age. 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. For individuals over the age of 65 who are residing in the community, in the determination of eligibility for MassHealth, the total countable-income amount and countable assets of the individual and the spouse who are living together are compared to an income standard and asset limit. (130 CMR 520.002(A)(1)).

MassHealth requires verification of eligibility factors including income, assets, residency, citizenship, immigration status and identity. (130 CMR 516.003). MassHealth initiates information matches with federal and state agencies and other informational services, as described at 130 CMR 516.004, when an application is received in order to verify eligibility. (130 CMR 516.003(A)). If electronic data sources are unable to verify or are not reasonably compatible with the attested information, additional documentation will be required from the individual. (130 CMR 516.003(B)). If additional documentation is required, including corroborative information as described at 130 CMR 516.001(B), a Request for Information Notice will be sent to the applicant listing all requested verifications and the deadline for submission of the requested verifications. (130 CMR 516.003(C)).

The following time standards apply to the verification of eligibility factors:

- (1) The applicant or member has 30 days from the receipt of the Request for Information Notice to provide all requested verifications.
- (2) If the applicant or member fails to provide verification of information within 30 days of receipt of the MassHealth agency's request, MassHealth coverage is denied or terminated.
- (3) A new application is required if a reapplication is not received within 30 days of the date of denial. (130 CMR 516.003(D)).

Except with respect to the verifications of citizenships and immigration status, MassHealth will permit, on a case-by-case basis, self-attestation of individuals for all eligibility criteria when documentation does not exist at the time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster. (130 CMR 516.003(G)).

The appellant's representative did not dispute receiving proper notice or time to produce information necessary to determine eligibility. Instead, the

representative argued that the appellant did not have access to the income and asset information of his spouse. As noted above, the total countable-income amount and assets of the individual and spouse who are living together are compared to an income standard and an asset limit. (130 CMR 520.002(A)(1)). MassHealth needs to verify these amounts to determine eligibility. Testimony and evidence presented during the hearing process demonstrate that the appellant lives with his spouse and their joint filing of a tax return shows their sharing income, expenses and assets. The appellant's representative failed to provide any regulatory, statutory or other legal authority other than a broad reference to the United States Constitution to challenge the decision made by MassHealth.

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.

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

Appellant Representative: [REDACTED]